

Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

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NAHMA Analysis 2009-1218

FY 2010 Appropriations for Affordable Housing Programs

Effective Date or Deadline

President Obama signed H.R. 3288, the FY 2010 Consolidated Appropriations Act, into law on December 16, 2009 as P.L. 111-117. The President also signed H.R. 2997, the Agricultural Appropriations Act, into law on October 16, 2009 as P.L. 111-80.

Background

President Obama submitted an outline of his Fiscal Year (FY) 2010 budget request to Congress in February 2009. However, the request was preliminary because the Administration lacked the manpower and the time to adequately assess the funding needs of federal programs by their typical February submission date. After extensive review, the Obama Administration submitted a more detailed budget with line-by-line funding levels for FY 2010 to Congress on May 5, 2009.

The new federal fiscal year 2010 began on October 1, 2009. By that date, all annual appropriations bills that fund federal agencies were supposed to have been signed into law. This year, only the Legislative Branch appropriations were enacted by the October 1 deadline.

So far, government funding for FY 2010 has been provided by two continuing resolutions (CR) which funds programs at FY 2009 levels unless the bill specified a specific level for a program. The current CR expires December 18, 2009. Both CRs were passed to give the House and Senate additional time to complete the 11 remaining appropriations bills. The Agriculture, Energy & Water, Homeland Security, Interior, and Legislative Branch appropriations bills were passed before the October 31 deadline of the first CR. The second CR was passed in order to give the House and Senate more time to consider the remaining seven appropriations bills. Five of those bills were consolidated into H.R. 3288, the FY 2010 Transportation-HUD (THUD) Appropriations, to create the FY 2010 Consolidated Appropriations legislation. Congress has begun processing a third CR, which would extend funding for the Department of Defense through December 23, 2009 and give Congress additional time to complete the FY 2010 Defense Appropriations. The CR has been passed in the House and awaits a vote in the Senate.

H.R. 3288, the FY 2010 Consolidated Appropriations Act, provides \$450 billion to fund the government programs that fall under the jurisdiction of the THUD, Commerce-Justice-Science, Labor-HHS-Education, Veterans, and State/Foreign Operations appropriations bills.

H.R. 3326, the FY 2010 Defense Appropriations Act, is the only appropriations bill that has not been passed. The legislation would provide funding for the Department of Defense and additional riders including extensions for unemployment insurance, COBRA health benefits and other programs. No riders in this legislation apply to affordable multifamily rental housing programs.

The House also passed H.R. 2847, the Jobs for Main Street Act of 2010, on December 16, 2009, which provides \$1 billion for the National Housing Trust Fund. The Fund would provide communities with money to build, preserve, and rehabilitate rental homes that are affordable for extremely and very low-income households. The legislation also sets aside \$65 million for project-based vouchers to support units built by the Fund. The legislation is now being considered in the Senate

Summary

Funding for the U.S. Department of Housing and Urban Development (HUD) multifamily housing programs was provided by H.R. 3288, the FY 2010 Consolidated Appropriations bill, while the U.S. Department of Agriculture-Rural Housing Service (USDA-RHS) multifamily housing programs were funded by H.R. 2997, the Agricultural Appropriations bill. Overall, HUD programs received considerable increases in funding, while rural programs were a mixed bag.

In terms of FY 2010 appropriations for HUD programs, Tenant-Based Section 8 vouchers received large increases above the FY 2009 appropriation and budget request levels. Project-Based Section 8 funding received a large boost and an advanced appropriation for FY 2011 to help cover the program shortfalls between fiscal years. NAHMA is also pleased to report that Congress has once again appropriated \$500,000 for LEP translations. This funding represents significant continued progress in our efforts to offset the costs to housing providers associated with HUD's LEP guidance, while at the same time, ensuring those with limited English proficiency have access to low-income housing. Hope VI received an \$80 million increase over FY 2009 levels. CDBG received a significant boost while HOME remained flat funded, when compared to FY 2009 appropriations. Three of the President's proposed programs also received funding. The Choice Neighborhoods Initiative received \$65 million, while the Energy Innovation Fund received \$50 million for two pilot programs, one of which would improve energy efficiency in multifamily housing. Finally, Congress authorized the Transformation Initiative, which would allow HUD to transfer up to 1 percent of all accounts for information technology improvements and technical assistance.

Except for Sec. 521 for Rental Assistance and the Multifamily Housing Revitalization Program, USDA-RHS programs were flat-funded for FY 2010. Rental assistance received an \$80 million increase over FY 2009 levels. The Multifamily Housing Revitalization Program saw \$15 million increase to the account for FY 2010.

The funding for key affordable multifamily housing program accounts is summarized below. Figures are rounded.

Key HUD Appropriations Accounts

FY 2010 Tenant-Based Rental Assistance Appropriation: \$18.2 billion (total); \$16.34 billion (contract renewals)

Budget Request: \$17.84 billion total funding; \$16.19 billion for renewals
FY 2009 Appropriation: \$16.8 billion (total); \$15 billion (renewals)

Within this account, money is to be distributed as follows:

- Voucher renewals: \$16.34 billion
- Adjustment of voucher costs: Up to \$150 million
- Section 8 renewal and replacement of units: \$120 million
- Tenant protection vouchers: \$120 million
- Administrative fees: \$1.58 billion
- Family Unification Program: \$15 million
- HUD-Veteran Affairs Supported Housing (VASH) vouchers: \$75 million
- Family Self-Sufficiency Coordinators: \$60 million

The program received a \$1.4 billion increase in total funding for FY 2010. The majority of that increase (\$1.3 billion) went towards voucher renewals. The statement of the managers also stresses the importance of addressing portability needs when allocating the additional voucher money. To that end, the statutory language requests HUD to take “need” into account when allocating additional adjustment funding.

FY 2010 Project-Based Rental Assistance Appropriation: \$8.5 billion (total); \$8.33 billion (renewal); \$393 million as an FY 2011 advanced appropriation included in the total funding level

Budget Request: \$8.1 billion total; \$7.4 billion for contract renewals; and an additional \$400 million in advanced appropriations for FY 2011

FY 2009 Appropriation: \$7.1 billion (total); \$6.87 billion (renewal) and an additional \$400 million for FY 2010 advanced appropriation

Total funding for Project-Based assistance will be distributed as follows:

- Contract Renewals: \$8.33 billion
- Contract Administrators: At least \$232 million, but up to \$258 million

Project-Based Section 8 funding received a \$1.4 billion increase in funding over FY 2009 levels. The FY 2010 funding levels are also above the Presidential budget request of \$8.1 billion.

Congress has also recognized the need for a “cushion” to provide funding during the FY 2010 and FY 2011 overlap. Although Congress has not provided the \$400 million requested, it has provided a \$393 million advanced appropriation for FY 2011 to cover potential funding gaps between fiscal years.

FY 2010 Limited English Proficiency (LEP) Funding: \$500,000

Budget Request: \$0

FY 2009 Appropriation: \$500,000

In terms of Fair Housing, NAHMA was instrumental in encouraging Congress to designate funds for LEP translations. Congress has approved the use of \$500,000 to create and promote translated materials to assist those with LEP in using HUD services.

FY 2010 Section 202 Housing for the Elderly: \$825 million

Budget Request: \$765 million total; \$522 million for new construction, \$153 million for contract renewals; \$90 million for service coordinators

FY 2009 Appropriation: \$765 million

Total funding for Section 202 in FY 2010 is allocated accordingly:

- \$582 million for capital advance and project-based rental assistance awards;
- \$90 million for service coordinators;
- Up to \$40 million for the conversion of 202 units to assisted living facilities; and
- \$20 million for making competitive grants to private nonprofit organizations and consumer cooperatives for covering planning, work, and site control costs.

The FY 2010 appropriations represent the first major increase in funding the Section 202 program has received in the last several years. However, the capital advance and project-based rental assistance account saw a funding decrease of \$40 million. The line-item for converting 202 units to assisted living facilities received an increase of \$15 million. We believe the additional funding is going to fund PRAC renewals. NAHMA is disappointed Congress did not provide increased funding for new construction in the Section 202 program.

The FY 2010 appropriations also did not fulfill the budget request to separate the new construction and continuing contract renewal accounts. Congress also ignored the Obama Administration's request to cut line-item accounts like the conversion of 202 units to assisted living facilities.

FY 2010 Section 811 Housing for the Disabled Appropriation: \$300 million

Budget Request: \$250 million total; \$114 million for expansion; \$129 million for contract renewals

FY 2009 Appropriation: \$250 million

Total funding for Section 811 is allocated as follows:

- \$186 million for capital advances and project-based rental assistance contracts; and
- \$87 million for amendments or renewal of tenant-based assistance contracts entered into prior to fiscal year 2005.

The FY 2010 appropriations represent the first major increase in funding the Section 811 program has received in the last several years. The Section 811 account received a \$50 million increase above both the FY 2009 appropriations and the FY 2010 budget request. The capital advances and project-based rental assistance line-item received an increase of \$25 million. The amendments/renewal of tenant-based assistant contracts were flat-funded for FY 2010.

The FY 2010 appropriations also did not fulfill the budget request to separate the new construction and continuing contract renewal accounts.

FY 2010 HOME Appropriation: \$1.83 billion

Budget Request: \$1.83 billion
FY 2009 Appropriation: \$1.83 billion

Congress has followed HUD's budget request and flat-funded the HOME program while consolidating FY 2009's line-items into the main account. HUD's budget request estimates that the funding will help produce almost 78,000 units of affordable housing through new construction, rehabilitation, and/or acquisition. It also estimated that communities will use a portion of their funding to support tenant-based rental assistance for over 17,000 units.

FY 2010 CDBG Appropriation: \$4.45 billion

Budget Request: \$4.45 billion
FY 2009 Appropriation: \$3.9 billion

While CDBG received a large boost to the overall account, the block grants themselves only received an additional \$90 million over FY 2009 levels. HUD received \$65 million to allocate as grants to Indian tribes and \$172 million for the Economic Development Initiative, a new line-item requested in the budget that will finance approved economic initiatives. Congress has allocated \$22 million to improve the conditions of distressed and blighted areas and neighborhoods and provided \$150 million to the budget proposal for the Sustainable Communities Initiative to improve regional planning by integrating housing with additional transportation options.

FY 2010 HOPE VI Appropriations: \$200 million

Budget Request: \$0
FY 2009 Appropriation: \$120 million

Hope VI provides funding to public housing agencies for demolition, site revitalization, replacement housing, and tenant-based assistance grants to properties.

Congress has provided substantially more funding to the HOPE VI program than they have appropriated in previous years and the FY 2010 budget request. They have also included a line-item to fund the Choice Neighborhoods demonstration program through this account.

FY 2010 Choice Neighborhoods Appropriations: Up to \$65 million from the HOPE VI program account for the Choice Neighborhoods demonstration program

Budget Request: \$250 million
FY 2009 Appropriation: n/a

Congress has approved funding for HUD to conduct a demonstration program for the Choice Neighborhoods Initiative within the HOPE VI program account. Although this is much less than the FY 2010 budget request, the program will open up the HOPE VI funding beyond the scope of PHAs to the community and privately owned affordable housing to help alleviate concentration of poverty in urban areas.

Energy Innovation Fund: \$50 million; \$25 million for an Energy Efficient Mortgage pilot program and \$25 million for a Multifamily Energy Pilot program

Budget Request: \$75 million
FY 2009 Appropriation: n/a

In the FY 2010 Budget Request, HUD requested \$75 million for the Energy Innovation Fund to improve the energy efficiency of the HUD portfolio. Congress has also approved the \$25 million requested for a Multifamily Energy Pilot (MEP) to provide financial incentives for borrowers in the several FHA Multifamily programs to provide energy efficiency improvements in multifamily rehabilitation projects. The conference agreement does not include funding for the Local Initiatives Fund within this account, as proposed by the budget request. The conference report said Congress was concerned that the Energy Innovation Fund would be duplicative of other Federal programs, but they would consider this proposal in the future if the unique role of HUD is better defined and justified.

Transformation Initiative: \$20 million to combat mortgage fraud and allows the transfer of up to 1 percent of all program accounts to an account for IT improvements and technical assistance

Budget Request: Ability to transfer up to 1 percent of all program accounts to an account for IT improvements and technical assistance
FY 2009 Appropriation: n/a

At the request of the Administration, Congress has provided \$20 million to combat mortgage fraud and allowed HUD to transfer up to 1 percent of all program accounts to a Transformation Initiative to improve IT and technical assistance in selected HUD programs. Of that 1 percent, not less than \$80 million but not more than \$180 million will be used for: research, evaluation, and program metrics; program demonstrations; technical assistance and capacity building; and information technology. At least \$45 million will be used for technical assistance.

Noteworthy Policy Riders

Section 212 allows HUD to authorize the transfer of some or all project-based assistance, debt, and low-income and very low-income use restrictions associated with one or more multifamily housing project to another multifamily housing project or projects in FY 2010 and FY 2011.

Section 215 sets forth requirements for eligibility for Section 8 voucher assistance, and includes a consideration for persons with disabilities. No assistance will be provided to students attending an institution of higher education who are: under 24, not a veteran, unmarried, do not have dependent children, do not have a disability, is otherwise ineligible, or have parents who are not eligible to receive assistance. Any financial assistance (in excess of tuition) that an individual receives under the Higher Education Act of 1965 from private sources, or an institution of higher education, will be considered income to that individual, except for a person over the age of 23 with dependent children.

Section 217 instructs HUD on managing and disposing of any multifamily property that is owned by HUD. HUD is required to maintain Section 8 rental assistance payments and project programs unless it is not feasible to continue rental assistance because of the costs of rehabilitation and operation and environmental conditions. HUD has the option of providing rental assistance if the costs or conditions above are the case. If HUD does dispose of a multifamily property, the contract and allowable rent levels

will be subject to the requirements under section 524 of the Multifamily Assisted Housing Reform and Affordability Act.

Section 220 allows the recipient of a Section 202 grant to establish a single-asset nonprofit entity to own the project and may lend the grant funds to such entity, i.e. a private non-profit organization.

Section 222 extends the HOPE VI program through September 30, 2010.

Section 224 restricts HUD from imposing any requirement or guideline relating to asset management that restricts or limits the use of capital funds for central office costs, up to the limit established in the Quality Housing and Work Responsibility Act.

Section 226 requires that HUD shall report quarterly on the status of all Project-Based Section 8 housing.

Section 228 requires HUD to publish NOFAs online.

Section 229 allows refinancing and prepayment of certain Section 202 loans if the project sponsor agrees to operate the project until the maturity date of the original loan and the prepayment may involve refinancing of the loan.

Section 239 allows the Disaster Housing Assistance Programs to be considered a HUD program for the purpose of income verifications and matching.

Key RHS Accounts in the Agriculture Appropriations Bill

FY 2010 Section 515 Appropriation: \$69.5 million; \$18.9 million for rehabilitation and new construction

Budget Request: \$69.5 million

FY 2009: \$69.5 million

Congress has once again flat-funded the Section 515 program. Congress has also directed RHS to transfer any remaining balances from previous appropriations to the program to the Multifamily Housing Revitalization Program.

FY 2010 Section 521 and Rental Assistance Appropriation: \$980 million

Budget Request: \$1.09 billion

FY 2009: \$902.5 million

Congress appropriated almost \$80 million more than FY 2009 levels and almost \$30 million below the Obama Administration's request. RHS has told NAHMA that this funding level will be sufficient to cover all existing contracts and that they do not anticipate any shortfalls.

FY 2010 Section 538 Loan Guarantee Program Appropriation: \$129 million

Budget Request: \$129 million
FY 2009: \$129 million

Congress flat funded the Section 538 program for a second year. Congress, pursuant to the Obama Administration's budget request, did not provide the Section 538 loans with a guarantee fee or interest subsidies. The interest subsidy allows owners to carry higher value loans on the properties, which in turn allows owners to make improvements and provide a better quality of life for the resident in the project and keeps rents affordable. While a year has not been enough time to fully see the impact of the program without the interest subsidy, many industry members fear the lack of the interest subsidy makes the program less attractive for completing rural housing deals.

NAHMA will continue to advocate for higher funding for the Section 538 program and the inclusion of the interest subsidy in the FY 2011 budget request and the FY 2011 appropriations.

Multifamily Housing Revitalization Program Account: \$43.2 million

The Multifamily Housing Revitalization Program includes funds for the rural housing voucher program, multifamily revolving loan demonstration program, and the Section 515 preservation demonstration program.

Budget Request: \$27.7 million total; \$2 million for revolving loans; \$5 million for rural housing vouchers; and \$20 million for demonstration program grants
FY 09 Appropriation: \$27.7 million

Total funding for the Multifamily Housing Revitalization Program is allocated as follows:

- \$25 million for a revitalization demonstration program
- \$16.4 million for rural housing vouchers
- \$1.8 million for revolving loans.
- \$1 million for administrative expenses

In the FY 2010 budget request, the Administration determined that USDA's multifamily housing portfolio needed to be overhauled and upgraded. To that end, they requested an additional year of funding for the revitalization demonstration program. Congress has appropriated funding well above the Administration's budget request and the FY 2009 appropriations levels. Congress has also provided an increase of more than \$10 million in rural housing vouchers for low-income families, partially due to the Senate Appropriations Committee's recognition that the current demand for vouchers did not meet the supply in the rural housing portfolio. However, the Multifamily Revitalization Program was not intended to be permanent. The Senate Committee Report directs RHS to review the program and propose a new transitional program with a set timeframe.

Rural Housing Assistance Grants for Rehabilitation and Repairs: \$45 million

In previous years, Congress had incorporated rural housing assistance grants for rehabilitation and repairs into each program's account. This year, Congress has removed the line item from each account and has consolidated it into a separate item within the appropriations.

Positive Aspects of This Legislation

On the whole, NAHMA is pleased with the HUD funding levels. The \$1 billion increase in the Project-Based Section 8 account will help ensure that all contracts are funded for the full 12 months at renewal. Nevertheless, NAHMA will stay vigilant and ensure Congress provides enough appropriations to fully fund all HUD multifamily housing programs.

NAHMA was instrumental in procuring LEP translation funding for FY 2010. However, this was done as an unauthorized appropriation. Because of the tight budget environment, unauthorized appropriations for these services cannot be guaranteed in the future. Authorizing funding for LEP translations, interpretation assistance and services would provide greater assurance that a reliable stream of funding will be available to provide persons with LEP a consistent level of service and quality translations in future years. It would also guide HUD in the use of authorized LEP appropriations. Therefore, NAHMA will continue working with Congress to move forward with the authorization language, either through SEVRA or stand-alone legislation.

We are also pleased to see that HOPE VI funding has been increased in the FY 2010 appropriations and that the program has been extended through the end of the fiscal year, giving Congress time to reconsider HOPE VI reauthorization legislation. NAHMA is interested in the Choice Neighborhoods program and looks forward to seeing how it will extend additional funding to revitalize communities and privately-owned affordable housing in distressed areas.

NAHMA is also supportive of the ideals behind the Energy Innovation Fund's Multifamily Housing Energy Pilot program to improve energy efficiency in the multifamily housing portfolio. We are interested to see how HUD will develop the pilot and will keep members informed of developments in the program as they arise.

We agree with the overall goals of HUD's Transformation Initiative. Congress has approved funding for a number of multifamily housing programs that need technical updates, including: REAC within the Public Housing Capital Fund, HOPE VI, the Energy Innovation Fund, CDBG, HOME, Section 202, Section 811, Lead Hazard Reduction, Rental Housing Assistance, and Fair Housing Activities. NAHMA will watch the program to ensure that the programs that affect our members receive the attention and the funding they need to update and streamline their operations.

Finally, NAHMA supports the additional funding Congress provided in the RHS Multifamily Housing Revitalization Program. The multifamily rural housing portfolio is in desperate need of rehabilitation and the demonstration program will help RHS determine the best course of action for preserving rural units.

Issues of Concern to NAHMA

We remain concerned over the continued delays in completing the appropriations process. While this last year presented a unique situation with a late budget request, Congress did set a schedule that would allow them to complete the FY 2010 appropriations by the September 30, 2009 deadline. Delayed appropriations followed by temporary continuing resolutions have been on-going problems for a number of years. Funding the federal government at the previous fiscal year's level for extended periods deny federal government programs crucial funding increases. Also, each time Congress approves a continuing resolution, funding can be delayed due to the number of financial controls and the time it takes to process the funding through the Administration, then HUD, and, finally, to the owners and agents. For federal funding recipients, like NAHMA members, who have monthly bills and expenses, these delays and initial

lower funding levels can cause problems for effective and efficient operations. NAHMA will continue to strongly urge Congress to complete the process before the new fiscal year begins.

Although Congress increased total funding for the Section 202 program, it did cut the funding available for new construction and rental assistance. The elderly population is increasing at a high rate and many elderly properties experience long waiting lists. New construction funding is critical to increasing the number of units to this growing demographic. NAHMA will work to restore these cuts in FY 2011.

NAHMA was disappointed with the flat-funding to the Section 515 and Section 538 RHS programs. With increased operating costs and rising inflation, there is less and less money available for new construction or rehabilitation when these programs are flat-funded. Providing additional appropriations for rural housing will produce new affordable housing units in rural markets and will provide much needed additional jobs and investment opportunities in these areas. Increased rural rental assistance is not a substitute for these loan programs. NAHMA will continue to advocate for higher funding for the Section 515 and Section 538 programs in the FY 2011 budget request and the FY 2011 appropriations.

NAHMA's position

NAHMA is pleased with the funding levels Congress has provided for the HUD multifamily housing portfolio for FY 2010. The increased funding levels are a strong testament to the effectiveness of NAHMA and the continued grassroots advocacy by our members.

We urge our members to continue their grassroots efforts to show how low-income housing programs benefit the tenants as well as the community. To that end, NAHMA would like to encourage our members to take advantage of the new NAHMA Maps program, located at <http://nahma.apartmentsmart.com>. The NAHMA Maps program provides an affordable housing overview for each state and Congressional district and helps affordable housing providers show the impact the affordable multifamily rental programs are having in a particular area. Please share this information when discussing affordable housing issues with your Congressional representatives and their staff.

We remain pleased that Congress continues to take action to ensure that HAP contracts are fully funded and is continuing its oversight of Project-Based Section 8 payments. Nevertheless, we encourage members to keep us informed if there are disruptions in the HAP payment process or other ongoing problems. We also recommend that members promptly communicate HAP payment problems to their Congressional delegations. NAHMA will work to ensure the necessary appropriations to fully fund all affordable housing programs for the FY 2011.

In the meantime, we encourage members to continue communicating with NAHMA and their elected officials to ensure an exceptional quality of living for all Americans.

If you would like to contact your Senators, please visit:

http://www.senate.gov/general/contact_information/senators_cfm.cfm

If you would like to contact your Member of the House of Representatives, please visit:

<http://www.house.gov/writerep/>

You may also visit NAHMA's grassroots page for more information meeting with your representatives and for additional information on affordable housing issues at:

<http://www.nahma.org/content/grassroots.html>