

An Analysis of the Senate's FY 2017 HUD Appropriations Bill

Some Public Housing and Voucher Core Accounts Severely Underfunded, Other Accounts Addressed

[Editors note: The bill was pending on the Senate floor as this edition of the Advocate went to press.]

The Senate Appropriations Committee passed a FY 2017 Transportation-HUD (T-HUD) appropriations bill (S. 2844) which severely underfunds the capital fund, operating fund and Section 8 voucher administrative fee programs, but adequately funds other public housing and Section 8 accounts.

Core Public Housing and Voucher Program Accounts Severely Underfunded

Some core public housing and Section 8 voucher accounts remain severely underfunded because of President Obama's inadequate FY '17 budget request. Senate appropriators funded both operating fund and capital fund public housing accounts at greater levels than the President's budget request. The bill provides \$1.925 billion for

the capital fund, which is a \$25 million increase (1.3 percent) over the FY 2016 level and a 3.2 percent increase over the FY '17 budget request. An appropriation of \$1.925 billion represents only 57 percent of annual capital accrual needs. S. 2844 appropriates \$4.765 billion for the operating fund, which is a \$265 million increase (3.9 percent) over the FY '16 level and a 2.3 percent increase over the FY '17 budget request. An appropriation of \$4.765 billion would result in an estimated proration of only 87.2 percent for FY '17.

The Section 8 voucher program's administrative fee account remains severely underfunded, despite the FY '17 budget request for substantially greater increases. The bill appropriates \$1.758 billion for ongoing administrative fees, which is an increase of \$117 million over the FY '16 level, but \$319 million less than the budget request. An appropriation of \$1.758 billion represents only an 82.8 percent proration under the current formula.

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HUD Cites Use of Criminal Records in Tenant Screening as Potentially Discriminatory Under the Fair Housing Act

On April 4, 2016, the HUD General Counsel issued guidance ("Guidance") on how administrative enforcement actions and litigation under the Fair Housing Act could be used to achieve a certain policy goal. The goal sought is to make it easier for persons with criminal records to gain admission to rental housing, both subsidized and unsubsidized.

The Fair Housing Act protects the entire population of the United States. Particular categories of protected persons are specified in the Act. Discrimination with respect to various aspects of housing against persons in any of these categories is a violation of the Act. The categories are: race, color, religion, sex, disability, familial status, or national origin.

The Guidance cites statistics to show that in the United States the number of prison inmates and convicted criminals ("nearly one-third of the population have a criminal record of some sort") far exceed the norm in the rest of the world. While the Guidance doesn't

directly criticize the United States for the imbalance with the rest of the world, it does imply that there are too many crimes and too much incarceration in the United States, which is consistent with some contemporary viewpoints, including positions taken in the current presidential primaries. Of course, if there is a problem with having too many crimes and too much prison time, it is a problem created by Government, not by the owners of rental housing and their tenants.

Regardless of whether the policy sought by HUD is desirable, the method used by HUD to achieve that policy is troubling. HUD is using a controversial fair housing enforcement tool, called "disparate impact", which was created by the judiciary and federal agencies, not specifically by Congress, to further its current policy. The disparate impact tool is used against actions that cannot be found to discriminate against any protected class under the Fair Housing Act but which

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President's Forum: New Developments on MTW Expansion

PHADA Encourages HAs to Apply



*PHADA President,
Nancy Walker*

There has been some notable activity lately on the Moving to Work (MTW) front. As readers no doubt recall, Congress enacted a major expansion of MTW in the FY 2016 T-HUD Appropriations Act. HUD is now moving forward with implementation plans so I thought this would be an opportune time to elaborate on the program and the timetable. At the same time, an influential Member of Congress – the Majority Leader of the U.S. House of Representatives - has introduced legislation to further expand

this innovative program. PHADA supports Representative Kevin McCarthy's (R-CA) legislation, which is outlined below.

One Hundred More MTWs

The FY '16 Act expands MTW by 100 HAs, and we understand HUD hopes to initiate the application process later this year with the first applications granted in 2017. The expansion, pushed by Senator Susan Collins (R-ME) and strongly supported by PHADA, presents a significant opportunity for many HAs, particularly small and medium sized agencies that have not previously been players in the MTW arena.

Under the terms of the law, 100 high performing agencies (as measured by either PHAS or SEMAP) will enter the program over the next seven years. The expansion is limited to agencies with 27,000 or fewer combined public housing units and vouchers. No less than 50 agencies will have 1,000 or fewer combined PH units/vouchers and no less than 47 agencies will have between 1,001–6,000 combined PH units/vouchers. Three agencies will have between 6,001–27,000 combined PH units/vouchers and up to five high performing agencies with RAD portfolio awards may be included.

PHADA strongly encourages qualified HAs to apply for MTW status. To help promote the opportunity, we have a session planned at our upcoming Annual Convention in which representatives from existing MTWs will highlight the opportunities and potential strategies HAs may undertake.

Research and Evaluation

The law requires HUD to research and evaluate various innovations and policy changes under MTW. The Department recently issued a notice outlining its approach. The notice also solicited feedback from industry organizations, academics, resident groups, HAs and others. Related to this, HUD will be forming a Federal Advisory Committee (FACA) to advise the Department on the research and evaluation process as well as other aspects of the expansion. PHADA Policy Analyst James Armstrong is serving on the research advisory group and we are requesting membership on the FACA too.

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have an adverse impact on one or more protected groups that is disproportionately greater than any adverse effect they might have on other groups. The disparate impact tool has been approved by every federal court of appeals that has considered it and, last year, by the U.S. Supreme Court (*Texas Dep’t of Hous. & Cmty. Affairs, et al v. Inclusive Cmty. Project, Inc.*).

The Guidance reiterates recent HUD regulations (which have been found deficient by a federal district court) about the burden of proof in a disparate impact case. It does so specifically in the context of the admission to rental housing of persons with criminal histories. There are three stages to HUD’s burden of proof analysis. In the first stage, an aggrieved party can establish a prima facie case of a violation of the Fair Housing Act by showing evidence, usually through statistics, that an act by a private person or government harms it and harms it to a greater extent proportionately than it harms persons generally in a larger group.

The Guidance attempts to make a prima facie case for rental housing applicants with criminal records who are African-American and Hispanic. It states as a fact that all rental applicants with criminal histories, not just African-Americans and Hispanics, “encounter significant barriers to securing housing, including public and other federally-subsidized housing.” Particularly by the use of the word “barrier” the Guidance characterizes the screening of tenants for admission to HUD subsidized housing as a problem. Numerous statutes and HUD regulations govern the screening process. The Guidance appears to be saying that the existing statutory and regulatory framework for screening in subsidized housing is deficient and should be reformed through disparate impact enforcement or litigation under the Fair Housing Act.

Finally, the Guidance completes its prima facie case by citing **national statistics** showing incarceration rates for African-Americans and Hispanics as proportionally higher than incarceration rates for other groups. Therefore, while persons with criminal records of all races, colors, and nationalities can be adversely affected by the screening of prospective tenants, the Guidance asserts that national conviction rates for African-Americans and Hispanics suggest that these groups are disproportionately affected. The Guidance does mention in general terms the potential use of state or local statistics (presumably of prison populations and convictions) but also mentions that the national statistics would provide sufficient grounds for HUD to investigate a complaint. The Guidance also states that where, “for example,” state or local statistics are not readily available, the national statistics would be sufficient to establish a prima facie case.

If a plaintiff in private litigation uses statistics about racial or national origin disparities in prison inmates to try to establish a

prima facie case, the effort should fail, given language in the above-mentioned Supreme Court case that the defendant must have caused the statistical disparity. Housing owners are not responsible for establishing crimes and punishment that may fall more heavily on certain groups nor are they responsible for the disproportionate number of African-Americans and Hispanics in the prison populations. Housing owners did not create the economic disparities that lead to disparities in criminal acts. A disparate impact case using the statistics mentioned in the Guidance should be dismissed by a court. The Guidance suggests that a defendant may refute the claim by presenting local data. However, it is the plaintiff who must establish a prima facie case, and the use of conviction and prison statistics, which at most are merely suggestive of screening decisions that may have been made by a project owner or PHA, should not be a sufficient basis to establish a prima facie case. Of course, a court might bend the other way.

In the second stage, if a prima facie case is made and a lawsuit is not dismissed, a landlord would have to show that its screening policy is justified and reasonable. Apparently, the landlord of a subsidized project could no longer rely on its compliance with HUD screening regulations. The Guidance asserts that a housing owner has to actually prove through reliable evidence that its practice with respect to criminal records “actually assists in protecting resident safety and/or property.” It is not clear whether the “reliable evidence” mentioned by the Guidance has to be limited to a project in question or could be community wide or even nationwide. The Guidance goes on to state that “(B)ald assertions based on generalizations or stereotypes that any individual with an arrest or conviction record poses a greater risk

than any individual without such a record are not sufficient to satisfy this burden.” The Guidance further states that arrest records alone would not be sufficient grounds to deny an applicant admission to housing.

The Guidance appears to suggest what might be an acceptable screening policy in a backhanded way by stating that a policy “that fails to consider the nature, severity, and recency of criminal conduct” is unlikely to pass muster. Of course, the greater a screening policy attempts to fine tune and make distinctions among applicants, the greater the chance it might stumble into “intentional” discrimination, a subject the Guidance also discusses.

If, somehow, a housing owner meets its burden of proof under stage two, that its screening policy is legitimate and reasonable, in the final stage the plaintiff would have the opportunity to show that the housing owner’s interests could be served by another policy with less adverse impact. The Guidance suggests that an acceptable alternative could involve “individualized evidence”. As previously noted, however, individualized distinctions could lead to litigation that the distinctions are without merit and are discriminatory.

Compliance with this statute could in many instances violate another statute, the Fair Housing Act, as HUD interprets that Act. The Guidance mentions the exclusion provision contained in the Fair Housing Act that applies to persons convicted of the illegal manufacture or distribution of a controlled substance but it ignores the sex offender statutory prohibition.

Other aspects of screening applicants for admission to housing projects may be subject to further scrutiny and guidance by HUD. A likely screening tool for future guidance are credit scores, which might have a disparate impact on minorities.

It is clear that the HUD OGC, and therefore the Secretary of HUD, want to impose a nationwide policy on the admission of tenants with criminal records. They have chosen not to ask Congress to pass legislation to that effect but to propose the use of a powerful fair housing enforcement tool, disparate impact, to achieve their goals. The Guidance does not cite any disparate impact judicial decisions involving the denial of tenancy based on a criminal record, although it mentions employment cases. Implementation of this new policy need not await private litigation since HUD can pursue investigations and administrative enforcement actions.

Housing owners and managers of subsidized housing recognize that the selection of tenants is a key contributor to the successful management of a housing project. Until now, HUD has given housing owners latitude in the design of their screening policies, except for intentional discrimination. HUD's use of Fair Housing enforcement

tools to implement a new nationwide screening policy for applicants with criminal records will be fraught with ambiguities and costly disputes. The policy is effective immediately. The least HUD can do is to provide specific guidance to PHAs and owners of HUD-assisted housing projects as to what screening practices HUD considers acceptable or unacceptable. HUD should also adopt a moratorium on its own enforcement activities for a reasonable period of time for appropriate revisions in screening policies to be made.

Meanwhile, what do PHAs do about compliance with 42 U.S.C. §13663, which prohibits a PHA from ever admitting "any individual who is subject to a lifetime registration requirement under a State sex offender registration program." Compliance with this statute could in many instances violate another statute, the Fair Housing Act, as HUD interprets that Act. The Guidance mentions the exclusion provision contained in the Fair Housing Act that applies to persons convicted of the illegal manufacture or distribution of a controlled substance but it ignores the sex offender statutory prohibition.

HUD needs to clear up the confusion it has created with its Guidance. ■

...“T-HUD Appropriations Bill”

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S. 2844 continues the existing fee rate structure immediately prior to the in effect immediately prior to the *Quality and Work Responsibility Act of 1998* (QHWRA). The treatment of fees in the bill is instead of the President's budget request to change the law to enable HUD to implement fee rates based on its study formula. PHADA's position is HUD must fix its voucher administrative fee study in a way which properly deals with major issues it has inadequately addressed to date. PHADA's issue brief is accessible at: www.phada.org/pdf/30.17_Advocate_IssueBrief.pdf. PHADA's Section 8 Fee Study Resource Page is accessible at: www.phada.org/HUD_Section8_FeeStudy.php.

In a related matter to funding for administrative fees, PHADA has, and continues to, advocate for its cost-neutral fungibility proposal in annual appropriations bills. PHADA's proposal would allow HAP Reserves to be used to increase Housing Authorities' (HAs) fee prorations in addition to pay for their HAP expenses. PHADA's issue brief is accessible at: www.phada.org/pdf/Sec8_AdminFee_100K-Vouchers_FINAL.pdf.

Public Housing and Voucher Program Accounts Relatively Adequately Funded

Public Housing Program

The bill continues the existing prohibition on the use of funds to require or enforce the Physical Needs Assessment (PNA), despite the President's budget request to strike this prohibition for HAs of all sizes. PHADA strongly supports the provision in S. 2844 and worked for its inclusion in the FY '14, '15 and '16 spending legislation. At the Association's behest, hundreds of housing professionals wrote to HUD and their elected officials to express their support for this measure, in response to the Department's attempt to impose this unfunded requirement through rulemaking. PHADA and its

members argued successfully that given austere funding realities, the introduction of a burdensome and expensive new requirement would have to be paid for out of dwindling federal dollars.

Under the bill, HAs may use up to 20 percent of their operating fund for activities which are eligible for capital fund purposes but only for items in their 5-year action plan.

The bill provides \$25 million in a set-aside for competitive grants to HAs to evaluate and reduce lead-based paint hazards in public housing by carrying out the activities of risk assessments, abatement, and interim controls.

S. 2844 authorizes an increase to the current unit cap on public housing conversions to the Rental Assistance Demonstration (RAD) from 185,000 to 250,000 and eliminates the deadline of September 30, 2018 for submission of RAD applications. The bill also increases RAD by \$4 million to enable Section 202 Project-Based Rental Assistance Contracts (PRAC) properties to convert to Section 8 contracts, and includes other provisions.

The bill provides \$80 million for the Choice Neighborhoods Initiative (CNI), which is \$45 million less than the FY '16 level and \$120 million less than the budget request. Fortunately, the bill reserves two thirds of the funding or \$48 million to be awarded to projects where HAs are the lead applicant.

The bill includes an energy and water consumption conservation pilot which PHADA authored and has been seeking for years. The energy pilot would allow many more agencies (both large and small) to reap the benefits of energy savings by freezing the utility rolling base for a period of time. The freeze would free up funds for energy improvements before the base is re-benchmarked and provides HAs with the ability to reinvest such savings in their properties and operations. The saving generated by conservation efforts would be shared between the agencies and HUD. The concept was developed by former PHADA Policy Analyst Ted Van Dyke, working in conjunction with the association's policymaking committees and Board of Trustees. PHADA's original concept paper is located at: www.phada.org/pdf/Energy%20Conservation%20Issue%20Brief%20Final.pdf.

FY 2017 Public Housing and Section 8 Program Funding Comparisons

(Amounts in Millions)

	FY 2016 Enacted Funding	FY 2017 Budget Request	Senate Approps. Cmte. FY 2017 (S. 2844)	% Change FY 2017 (S. 2844) vs. FY 2016 Enacted	Proration % Estimate
Public Housing Operating Fund	\$4,500	\$4,569	\$4,675	3.9%	Approx. 86%
Public Housing Capital Fund	\$1,900	\$1,865	\$1,925	1.3%	
Emergency Capital Needs	[\$21.5]	[\$20]	[\$21.5]	–	
Resident Opportunities and Supportive Services (ROSS)	[\$35]	\$0	[\$35]	–	
Jobs Plus	[\$15]	[\$35]	[\$15]	–	
Public Housing Financial and Physical Assessment Activities	\$3	\$10	\$10	233.0%	
Section 8 Voucher HAP Renewal	\$17,681	\$18,447	\$18,355	3.8%	
Tenant Protection Voucher HAP Funds	\$130	\$110	\$110	-15.0%	
HUD-VASH Incremental Vouchers	\$60	–	\$50	-17.0%	
Family Unification Program Incremental Vouchers	–	–	\$20		
Section 8 Ongoing Administrative Fees	\$1,640	\$2,077	\$1,758	7.2%	82.8%
Special & Ongoing Fees for TPV,CNI, HUD-VASH	[\$10]	[\$10]	[\$10]	–	
Section 8 Project-Based Rental Assistance	\$10,839	\$10,816	\$10,901	0.6%	
Rental Assistance Demonstration (RAD) Renewals	[\$39]	[\$89]	[\$43]	10.3%	
Contract Administrator Program	[\$235]	[\$235]	[\$235]	–	
Mobility Demonstration	–	\$15	\$15		
Consolidated Family Self-Sufficiency (FSS) Program	\$75	\$75	\$75	–	
Choice Neighborhoods Initiative	\$125	\$200	\$80	-36.0%	

[] – Set-aside amount within main account's overall funding level

A full description of the demonstration in the bill, which was also in the bill last year, is accessible at: www.phada.org/advocate/article.php?storyid=2200.

The restrictive nature of HUD's rulemaking and guidance on the Public Housing Mortgage Program (PHMP) has been a long-standing issue and concern of PHADA's. Congress included provisions in QHWRRA to provide the tools required to mortgage or otherwise grant a security interest in any public housing project or other property owned by an HA. As a result, HUD created the PHMP. Fortunately, the Committee wrote in its recent report, "...the PHMP is not widely utilized due to HUD guidance that prohibits a first lien position of dwelling units. The Committee understands that this stipulation impedes PHAs' ability to utilize the program. The Committee is concerned that HUD's guidance with respect to section 30 may actually be preventing the intended outcomes by limiting PHAs' ability to access capital markets. The Committee directs the Department to report within 90 days of enactment of this act to the House and Senate Committees on Appropriations regarding the utilization of PHMP, specifying existing program impediments, the Department's plan to address those impediments, and if the PHMP can be a useful tool to address public housing capital needs."

Referring to the operating fund and capital fund, the Committee's report states, "A merger of these two programs has the potential to simplify the public housing program and reduce the administrative burden on PHAs that own and manage these properties." The Committee directs HUD submit to the House and Senate Committees on Appropriations an evaluation of the benefits and potential concerns of merging the operating and capital funds into a single public housing account within 6 months of the bill's enactment.

Section 8 Tenant-Based Voucher Programs

Some of the bill's significant funding, policy and programmatic provisions affecting the Section 8 tenant-based voucher programs includes a 3.8 percent increase for Housing Assistance Payments (HAP) over the FY '16 funding level.

S. 2844 continues an open-ended offset of HAs' "excess" HUD-Held Program and Reserves Restricted Net Position which would allow the HUD to determine what constitutes an "excess" level subject to offset.

The bill appropriates \$2.8 million for HUD-REAC to support its oversight of HCV inspection process including funding to maintain

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HUD Hosts UPCS-V Feedback Session with Housing Partners

Publishes Demonstration Notice Shortly Thereafter

On April 28, 2015, PHADA staff and a number of housing authority (HA) members attended a feedback session on the Department of Housing and Urban Development's (HUD) planned replacement of Housing Quality Standards (HQS) in the Housing Choice Voucher (HCV) program – Uniform Physical Condition Standards – Voucher, or UPCS-V. The feedback session at HUD Headquarters was well attended, including all three industry groups, advocacy groups, inspection contractors, HUD staff from various departments and a large number of HAs from around the country. The session included a welcome, UPCS-V update and overview from DJ Lavoy, Deputy Assistance Secretary of the Real Estate Assessment Center (REAC), Milan Ozdinec, Deputy Assistant Secretary for Public Housing and Voucher Programs, and Dan Williams, Director of the Oversight and Evaluation Division of REAC.

PHADA has consistently expressed concerns and presented important questions related to the institution of a new inspection standard in the voucher program to Congress, the Department and our members. UPCS-V, formerly modified-UPCS, has been a priority for HUD since at least 2010 and its development has gained significant momentum since 2014.

Fortunately, the HUD session did address some of PHADA's questions and concerns. For example, the Department has made it clear that it intends on proceeding slowly with the development and implementation of the demonstration; the demonstration lasting up to three years, if necessary, per the Department. Dan Williams stated that the demonstration would evaluate three subject areas: the standard itself and its terminology; IT components like software; and, HUD's oversight approach. HUD also addressed the need for the demonstration to be "budget neutral," and the need to move to a more objective and consistent inspection standard that would not increase administrative or regulatory burdens for agencies. Further, it appears that the Department has become more receptive to feedback from key stakeholders. The Association hopes that the more recent development of transparency and communication continues throughout the development of the standard and the implementation of the demonstration.

The session did not, however, answer all of PHADA's primary questions and concerns, and also produced a number of new ones. Following the overview and update, all participants separated into smaller, focused break-out groups to provide feedback specifically to: business processes, the UPCS-V protocol and the impact on the voucher program. PHADA would like to thank those agencies that participated on its behalf and provided valuable input and posed important questions throughout the feedback session.

Shortly following this meeting, the Department issued a notice in the Federal Register entitled "Notice of Demonstration to Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing" on May 4, 2016. Comments to the notice are due no later than July 5, 2016 and can be submitted online at www.regulations.gov. PHADA will submit comprehensive comments specific to both the demonstration and the standard that was provided by the Department earlier this year and we encourage your agency to submit comments, as well.

According to the Department, the demonstration would commence the process for implementing a single inspection protocol for public housing and voucher units, as directed by Congress in the Joint Explanatory Statement accompanying the Fiscal Year 2016 Appropriations Act. Further, the notice solicits HAs to "...voluntarily move to the single inspection protocol, conduct field testing, and participate in oversight and monitoring activities related to the

new standard." HUD anticipates that, "[i]n addition to improving outcomes for families and aligning program standards, this demonstration will provide valuable feedback to HUD about how to efficiently and effectively implement UPCS-V at all PHAs." HUD further states that UPCS-V, if implemented effectively, would: incorporate modern health and safety standards; provide a universal list of life threatening or emergency deficiencies; apply objective, well defined deficiency descriptions; capture granular unit data; reduce

reliance on paper and enhance data standardization and information exchange electronically; improve the assessment of the physical condition of assisted housing; improve service delivery; and, enhance oversight and risk management capabilities.

Here is what members need to know, in general, about the UPCS-V demonstration:

- HUD will test UPCS-V for up to three years, at up to 250 agencies. HUD may expand the number of participating agencies, revise the selection criteria, or both, to reflect HUD's experience in the implementation of the demonstration.
- Participating HAs will receive hands-on training and technical assistance from the Department.
- Agencies chosen to participate will have the opportunity to provide feedback to HUD that could further improve the UPCS-V standard and/or processes, as well as evaluate and test systems.
- As mentioned briefly above, there will be three components of the demonstration, which could run concurrently:
 1. Evaluation of Revised Inspection Model;
 2. Data Standardization and Information Exchange; and,
 3. Oversight and Performance Improvement.

Under component 1, HUD will conduct extensive field tests of the standards and protocol with a representative sample of HCV units to verify that the UPCS-V model is consistently, accurately and objectively evaluating housing conditions. It is PHADA's understanding, based on a discussion with the Department, that demonstration participants would conduct HQS inspections concurrently with HUD inspectors utilizing the UPCS-V standard at the initial stage of component 1. The Department states that after this initial round of testing has been completed, HAs would then conduct a portion "...depending on the PHA's capabilities, of up to 100 percent of their required HCV physical inspections..." HUD staff emphasized that it is generally the goal of the Department to have the HA completing the majority, if not all, of the inspections as soon as possible. However, agencies should consider the potentially onerous nature of managing concurrent inspections for an indeterminate amount of time when determining whether or not it would be advantageous to apply. Lastly, Component 1 will also test the feasibility of implementing UPCS-V and will identify potential barriers to the successful implementation of the new standard by agencies

Component 2 will test the transition from a "...paper-based to an electronic inspection approach." Inspections in this component will be completed utilizing HUD provided software. It will also evaluate the feasibility of different methods of transferring physical inspection information between agency and HUD systems in cases where HAs have their own IT systems already in place. Based on the electronic inspection submissions, HUD intends to review, analyze and potentially transform the inspection data into "...value-added information, such as a scoring report, healthy homes report, and relative

risk reports, for electronic transmission back to the PHA for its use."

The last component, oversight and performance improvement, aims to ensure that the new protocol is consistently identifying substandard housing, remedying such cases appropriately and in a timely manner and accurately reporting inspection outcomes to the Department. HUD seeks to analyze participating HAs' capacity, competencies, inspection processes and systems, management controls and to develop an inspector performance baseline. HUD will conduct quality assurance inspections on HCV units to ensure compliance to the new standard and provide technical assistance when needed.

Based on the notice, it appears that different agencies could potentially participate in different components of the demonstration concurrently. It is peculiar that component 2 and 3 could potentially occur alongside component 1. It seems ill-advised to concurrently test IT strategies, as well as oversight and compliance assessments before a full evaluation of the revised inspection model to determine if UPCS-V is consistent, accurate, objective and feasible.

Agencies who are selected to participate in any of the components detailed above will be required to participate in focus groups, conference calls and training sessions on policies and procedures. HUD will conduct all required training of inspectors, administrators and quality control staff on UPCS-V, as well as on the use of the inspection software. Agencies will also be required, if selected, to participate throughout the duration of the testing period for at least one calendar year, with the possibility of an extension, at the discretion of the

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Session 2: September 12-13, 2016

Session 3: September 15-16, 2016
Session 4: September 19-20, 2016

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Speaker Ryan Gathers Ideas to End Poverty

Republican Study Group Submits Disjointed Housing Ideas

Ryan's "Path" Budgets

The nation's social safety net – including HUD rental assistance programs – has been receiving sustained attention from former House Budget Chairman and current Speaker Paul Ryan (R-WI). When Ryan took the gavel in the Budget Committee in 2011 he put forth a budget proposal for FY 2012 called the "Path to Prosperity: Restoring America's Promise." The proposal garnered most of its attention for its radical reorganization of Medicaid and Medicare and for ending the Affordable Care Act. Healthcare was not the only target for fundamental change in Path to Prosperity. Many domestic discretionary programs were included as well. Housing, food stamps and welfare payments also caught Ryan's interest.



Rep. Paul Ryan
(R-WI)

He stated that there are too many social safety net programs and too much overlap among them. He said social programs tended to trap poor families in poverty, and that programs cost too much in relationship to the modest outcomes they produce.

The FY 2013 version of the Ryan budget was called "Path to Prosperity: A Blueprint for American Renewal." Like the previous version, this budget document also targeted social programs philosophically while providing little detail and few useful numbers. These "Path" budget documents passed the House on a party-line vote and without any support from Democrats. These plans to reorganize poverty programs were also criticized by the White House and widely panned by advocacy groups that represent the interests of poor families, seniors, children and persons with disabilities.

"Expanding Opportunity"

In 2014, Chairman Ryan added more specificity to his poverty proposals when he published "Expanding Opportunity in America" (see August 13, 2014, *Advocate*: "Budget Chairman Ryan Rolls Out Anti-Poverty Plan"). That Plan called for combining the funding for eleven key programs like public housing, tenant-based housing assistance, food stamps, welfare cash payments and passing that funding to the states to operate those programs. States would be asked to develop an implementation plan but would have wide latitude about how the money is spent. This devolution to the states would lock in the low-funding levels experienced by most human need programs over recent years. It would also allow funds to be provided in block grants which could effectively separate the funds from the needs

they are targeted to solve. The PHADA article pointed out that: 1) block grants are easier to cut than categorical program levels tied to specific human needs; 2) that states' involvement would add another costly layer of program administration and bureaucracy; and 3) the individual case management of poor households prescribed by Ryan would add enormous costs and slow down the provision of services.

"Poverty, Opportunity, and Upward Mobility"

In February of this year, Speaker Ryan took another step toward fixing problems he saw in the nation's safety net for poor households. He established a poverty forum with task forces to gather and refine ideas. One task force called Poverty, Opportunity, and Upward Mobility (POUM) includes a number of safety net issues including affordable housing issues. The POUM task force is comprised of key House committee leaders including Agriculture Committee Chairman Mike Conaway (R-TX), Budget Committee Chairman Tom Price (R-GA), Education and the Workforce Committee Chairman John Kline (R-MN), Financial Services Committee Chairman Jeb Hensarling (R-TX) and Ways & Means Committee Chairman Kevin Brady (R-TX). Goals established for this Task Force include:

1. Reduce poverty by helping people move from welfare to work;
2. Promote opportunity for every American to get ahead and stay ahead by removing government-imposed barriers to success;
3. Increase knowledge and skills of workers and job-seekers, so they are equipped to compete and succeed in a rapidly changing economy;
4. Support and protect healthy families and a vibrant civil society;
5. Secure and strengthen social safety net programs by making them financially healthy and sustainable;
6. Better prepare America's youth to be successful in school and the workplace; and
7. Fight fraud that comes at the expense of the needy.

Task Force Policy Reforms

1. Ensure states, non-profits, employers, welfare recipients, and taxpayers all benefit when someone moves from welfare to work;
2. Increase flexibility to state and local governments to promote new ways to help those in need and foster seamless cooperation across assistance programs;
3. Expect able-bodied adults receiving welfare to work or to prepare for work in exchange for receiving benefits;

The RSG again mentions the need to "unleash market forces to make housing authorities more competitive and economical." This is an unusual statement given the fact that public housing serves the same population as TBRA and PBRA at costs that are approximately 35% lower than either TBRA or PBRA.

4. Increase long-term personal income security through improved retirement savings and access to affordable financial services;
5. Remove government-imposed barriers to success;
6. Make programs accountable by focusing on results, not inputs;
7. Reform job training support, career and technical education, and higher education so workers and job-seekers have the skills and the education they need to succeed;
8. Strengthen early childhood education and care by improving coordination between existing federal and state efforts and empowering families with a variety of choices; and
9. Deliver the efficiency and effectiveness hardworking taxpayers deserve by attacking waste, fraud, and abuse.

RSG Submission

The Republican Study Group (RSG), the 170-member House conservative caucus, recently submitted a proposal to Speaker Ryan's Poverty, Opportunity and Upward Mobility Task Force. The submission was entitled "Strengthening Our Safety Net to Empower People" and includes four main recommendations: 1) eliminate marriage penalties; 2) implement work requirements, 3) reform the earned income tax credit; and 4) streamline federal housing assistance. The Study Group proposal points out that the House Budget Committee has "identified 92 federal programs designed to assist low-income Americans." It goes on to state, "This system is a mess. The War on Poverty has spawned an enormous federal government bureaucracy.

It has absorbed resources that could be better spent helping people and prevented reform by enshrining a political class of vested interests. Worst of all, this labyrinth of programs, offices, and paperwork is confusing for those who are forced to navigate it in their time of need."

The proposal offers a jumble of ideas and some serious misinterpretations about life in poverty. In its discussion of marriage penalties it makes no mention of assistance that might make marriage work for poor families like educational supports, childcare, job training, or jobs that pay wages that could sustain households independent of government assistance. Merely adding another person to a household – a spouse – requires more money not less for the household to be successfully self sufficient.

The RSG recommendation to implement work requirements would certainly benefit poor households if they could find and secure skilled jobs that would lift them into self sufficiency. The work requirement recommendation does not discuss the current federal minimum wage of \$7.25 per hour that is too low to allow an individual, much less a family, to live independently of federal assistance programs. A \$7.25 wage at 40 hours per week for 52 week provides a worker just \$15,080 in gross income – leaving that wage-earner with far too little to afford housing, food, utilities, transportation, childcare, healthcare and other basic necessities. The current average income of a public housing household is \$14,455. Without public

See "Path' Budgets" continued on page 16



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...“President’s Forum”

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PHADA will file comments before the May 18 deadline. We are stressing several key points. First, a major advantage of MTW status is the flexibility granted to local HAs to alter, or be relieved of, “one size fits all” federal policies and regulations based on their local needs and priorities. Any research HUD or others conduct should be driven by **local** decisions HAs make to alter policies, not Washington’s priorities concerning those decisions. Similarly, PHADA believes that the research should be geared to policy modifications that emerge from local input and development. As it stands now, we are concerned that the main research priorities are being driven too much by those in Washington, and are heavily focused on the topic of “mobility” (helping residents move to “high opportunity” areas). We feel this is an important point because Washington’s objectives often change following elections or for other reasons. HAs, residents and their communities need stability in planning and operations, a point that should be respected in the research and evaluation process.

We are also concerned that there is excessive focus on what housing providers can do for residents **outside the housing realm** (i.e. education, job training, transportation opportunities etc.). While not discounting the importance of these types of initiatives, we strongly believe that a major priority should be the CORE HOUSING MISSION. HUD needs to keep this in mind as it moves forward since most of the new MTWs will be small and medium sized HAs, many of which do not possess the capacity or resources to delve into non-housing matters. On this point, it must be noted that small and rural agencies often possess insufficient resources and their partnering opportunities are limited.

Another preference we will express is that the Department should encourage all new MTW HAs to experiment with ways to help them reduce costs and improve operations. This is, after all, one of the major objectives of the program. Moreover, it is absolutely essential given the poor budget/appropriations environment that is not likely to improve much in the foreseeable future.

We also are recommending that HUD stress other policy objectives for MTWs to pursue including alternative rent setting methods, such as flat or tiered rents. PHADA also thinks “controversial” policies such as time limits and work requirements should be instituted if the locale (after soliciting resident and community input) decides they want to experiment with such policies.

The House Majority Leader’s Bill

Rep. McCarthy’s bill, H.R. 5137, was introduced in late April, and PHADA immediately endorsed it. The legislation would ultimately allow for an unlimited number of MTWs with the total fixed at 25 per year initially. A link to Rep. McCarthy’s bill along with a summary of it can be found at: www.phada.org/news.php?id=2482.

Among other things, the bill would require HUD to provide training and technical assistance to HAs participating in the program, and allow HAs to combine their various revenue streams into a single fund for flexible use. The legislation would also require an evaluation component similar to the one referenced above.

In a summary accompanying the bill, the Majority Leader pointed out that the ongoing expansion represents a step forward, but that

“the degree of need facing the public housing program in America requires a more robust solution.” He added that “MTW represents the best and most efficient way to administer federal housing assistance” so “why would it not be in the national interest to allow all responsible Public Housing Authorities to apply?”

PHADA could not agree more. We will work with Rep. McCarthy and others to pursue passage of this important bill and other measures that provide HAs with more local flexibility as a means to preserve and expand affordable housing opportunities for low income households. ■

...“UPCS-V Feedback”

Continued from page 7

Department, for a maximum total of up to three years. In addition, selected agencies will be required to provide internet connected electronic handheld devices for each HA staff inspector participating that have the capability to download the required HUD inspection software. Agencies are encouraged to thoroughly weigh the many advantages and disadvantages of participating in a demonstration. For example, the demonstration is likely to be both burdensome and time-consuming. However, participants will also receive a great deal of training and technical assistance from the Department that other agencies may not receive if UPCS-V is fully implemented in the HCV program at a later date.

The demonstration is anticipated to begin 60 days following the date of publication of this notice, so at any point after July 5. HA participants will include a diverse set of agencies that should be a representative sample of the types of HAs, properties and tenants found nationwide. Agencies will be added to the demonstration on a rolling basis until a representative sample has been reached and will be selected based on the characteristics of the organization and the type of properties and tenants it administers. If, after reading the notice in its entirety, your agency is interested in participating in the demonstration, HAs must notify the Department no later than July 5 by emailing UPCSV@hud.gov, and providing the following information: The PHA name; PHA address; contact name and contact phone number; and an email address.

Selected agencies will be announced after the notice has closed and all agency specific data has been compiled. At the conclusion of the demonstration, HUD intends to assess its success and determine whether to implement UPCS-V on a permanent basis throughout the country.

While the notice does provide some valuable and important information related to the demonstration, there are still a number of unanswered questions. Further, the notice does little to alleviate ongoing questions and concerns that PHADA has raised with the Department since the inception of UPCS-V. For example:

- Does HUD-REAC intend to work with the HUD Office of Policy Development and Research (PD&R) to ensure that the correct and precise impacts and outcomes are evaluated? Further, will HUD PD&R be involved in the administration and implementation of the demonstration to ensure proper methodology and sampling is utilized in a scientifically valid approach?
- While HUD does incorporate transparency between HUD and

participating agencies during the demonstration, there are no assurances of transparency and participation made for other key stakeholders, like industry groups, landlords, advocacy groups, tenants, etc.

- After review of the draft deficiencies to be incorporated into the new protocol, it is clear that a number of inconsistencies and a great deal of subjectivity still exists within the UPCS-V standard. Further, UPCS-V and UPCS are not a single standard by any means. Due to this, PHADA anticipates the Department will generate a great deal of modifications to the protocol based on the results of the demonstration. As a result, UPCS-V may ultimately vary drastically from its current form. Does HUD plan to provide regular updates to the industry related to specific revisions to the protocol so that the public may have the opportunity to comment and provide feedback? This ongoing transparency should be a condition of the demonstration.
- Does HUD have the capacity to implement and administer such a large-scale and elaborate electronic inspection program considering the status of existing Department IT systems?
- How will the implementation of the demonstration change the relationship between HUD and participating agencies? For example, the demonstration appears to include a great deal of oversight, technical assistance and generally overly burdensome management of individual participating agencies. This includes a number of instances where HUD will actually complete the UPCS-V inspections. Some agencies may be reluctant to participate for this reason. Also, will that affect the required representative sample required for a meaningful UPCS-V evaluation?

Moreover, it seems that Congress' confidence with the Department's abilities to implement such far-reaching and ambitious inspection reforms has waned, as well. The Senate's Fiscal Year 2017 T-HUD Bill Report language states that, "The Committee has been apprised of the action items developed by HUD's inspection working group and is underwhelmed by the results...The Committee further directs the Department to solicit comments from stakeholders, including tenants, to identify ways the Department can improve its inspection protocols and oversight."

PHADA intends to submit thorough comments to the demonstration notice, as well as the draft protocol that was provided to the industry by the Department, and encourages all agencies to do so. The Association also plans to communicate with HUD PD&R to express questions and concerns related to the demonstration sample selection, methodology, implementation and evaluation, as well as to request that the office is actively engaged in the entire process. The UPCS-V demonstration will be discussed at length at PHADA's Annual Convention & Exhibition in Las Vegas, Nevada. This will provide members with the opportunity to offer comments, questions, concerns and suggestions for next steps.

PHADA will continue to keep members apprised as the demonstration progresses and requests that agencies convey to us if they have or plan to apply for the demonstration, as well as if they are selected by the Department to participate. Please notify Crystal Wojciechowski at: cwojciechowski@phada.org. ■



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HUD's FY 2016 Notices of Funding Availability and Other Competitive Grant Opportunities

Listed below are a number of current and future competitive grant opportunities for Housing Authorities, non-profits and other entities to consider. All of this information is accessible at: www.phada.org/news.php?id=2475

Additional information including HUD's NOFA forecast of other pending competitive grant opportunities that may be available for FY 2016 is accessible at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/grants/fundsavail

Funding Opportunity Number	Opportunity Title	Agency	Posted Date	Close Date
FR-6000-N-01	General Section to HUD's Fiscal Year 2016 Notice[s] of Funding Availability for Discretionary Programs (General Section)	Department of Housing and Urban Development	09/24/2015	12/30/2016
FR-6000-N-14	Jobs Plus Initiative	Department of Housing and Urban Development	04/11/2016	06/13/2016
FR-6000-N-34	Choice Neighborhoods Implementation Grant Program	Department of Housing and Urban Development	03/31/2016	06/28/2016

HUD's FY '16 Income Limits

HUD published its FY 2016 income limits that determine the eligibility of applicants for HUD's assisted housing programs. The major active assisted housing programs are the Public Housing program, the Section 8 Housing Choice Voucher program, Section 202 housing for the elderly program, and Section 811 housing for persons with disabilities program.

- Notice of FY 2016 Income Limits for the Public Housing and Section 8 Programs: <http://bit.ly/1TC7uSB>
- Tables for Section 8 Income Limits: <http://bit.ly/1ZN7ROn>
- Data for Section 8 Income Limits: <http://bit.ly/1rK2SDu>
- Frequently Asked Questions: <http://bit.ly/1WuD0bP>
- Area Definition report: <http://bit.ly/23NxgIR>
- FY 2016 Income Limits Briefing Material: <http://bit.ly/27jQVog>

FUP & FSS Demonstration

Housing Authorities have the opportunity to participate in a demonstration testing the effectiveness of combining housing choice vouchers for eligible youth lacking adequate housing under the Family Unification Program (FUP) with assistance under the Family Self Sufficiency (FSS) program. The purpose is to increase opportunities for housing youth with support to achieve self-sufficiency. Specifically, this demonstration extends the 18-month time limit to match the length of the FSS contract, typically five years. HUD must receive all requests to participate in the demonstration on or before Friday, July 15, 2016. Details are included in PIH Notice 2016-1 accessible at: <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-01.pdf> ■

HUD Notice: IMS/PIC FSS Reporting & FSS Program Portability Provisions

HUD recently issued a notice to provide information to Housing Authorities (HAs) on how to improve the accuracy of the FSS information submitted into IMS/PIC. Specifically, HUD's notice provides:

- Reporting and transmission requirements for the FSS addendum (i.e., when must a FSS addendum be completed and submitted into IMS/PIC);
- Guidance on how to overcome challenges in submitting FSS addendums to IMS/PIC;
- Guidance on how to complete the FSS reporting in IMS/PIC for certain situations such as portability, changes to head of household, and families in the FSS program that are converting to a project-based program through the Rental Assistance Demonstration (RAD) program; and
- Examples of best practices used by HAs to improve the accuracy of FSS information reported to HUD.

HUD's notice (PIH Notice 2006-8) also provides clarity on specific portability provisions under the FSS program. Section 6 of HUD's notice focuses on FSS-specific portability provisions, including IMS/PIC reporting requirements for FSS families that move under portability.

HUD's notice supersedes the guidance provided in Section 4(B) of Notice PIH 2011-65 related to FSS Reporting Requirements. All other sections of Notice PIH 2011-65 remain in effect. HUD's notice is accessible at: <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-08.pdf> ■

Small and Medium Sized Housing Authorities Gaining Interest from Firms Looking to Invest in Energy Efficiency

Recently, smaller housing authorities are gaining increased visibility. On March 21, 2016 Congressmen Steven Palazzo (R-Miss.), Sanford Bishop (D-Georgia), and Brad Ashford (D-Nebraska) introduced The Small Public Housing Agency Opportunity Act of 2016 (H.R. 4816). This legislation addresses the administrative burden facing small housing authorities across the nation by allowing them to operate more effectively and efficiently.

In addition to support in Congress, smaller agencies are garnering support from the commercial sector in the area of energy efficiency. Energy service companies, mechanical equipment vendors, and financing companies have taken notice that many smaller agencies have been unable to capitalize on HUD's Energy Performance Contracting and RAD programs the way the larger agencies have. Derek Mitchell, Vice President at Grant Capital Management said, "There are roughly 3,400 Public Housing Authorities in the country today. Small and medium sized Authorities represent over 80% of them, and have largely been unable to take advantage of energy efficiency programs due to lack of funding, time, and resources." Private firms such as these are looking to help small and mid-size agencies by

providing consultation, implementation and the financing of energy efficient equipment such as lighting and controls, water conservation equipment etc. which help the Authority to reduce its utility costs. High efficiency lighting and controls alone can reduce an Authority's electric consumption significantly and has the fastest payback of any energy investment. This is especially important as factors such as increasing utility rates and funding proration force agencies to constantly evaluate ways to manage operating expenses more efficiently. Small Authorities can save significantly by implementing renovations such as lighting and can benefit from this increased interest from private companies.

With the introduction of H.R. 4816, small housing agencies have the opportunity to see reduced paperwork, elimination of non-essential environmental reviews and a reduction in HUD inspection requirements to once every three years; all the while gaining increased interest from the private sector in the area of energy efficiency.

More information on Grant Capital Management and energy efficiency programs can be obtained by contacting Derek Mitchell at: 443-766-7375, or email: dmitchell@grantcapitalmgmt.com. ■

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...“T-HUD Appropriations Bill”

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20 Full-Time Permanent (FTP) staff and approximately \$4.2 million for implementation and evaluation of its UPCS-V demonstration. PHADA supports adequate funding for the UPCS-V *demonstration* and *evaluation* costs. However, because HUD’s UPCS-V demonstration and evaluation has not begun yet, Congress has not had the opportunity to hold hearings regarding HUD’s future evaluation results, and/or to hear from other voucher program stakeholders like HAs, participating property owners, residents, etc. Until such actions occur, the Association believes it is premature for Congress to fund full *implementation* of UPCS-V. Please refer to PHADA’s related article on page 6 of this issue of the *Advocate* titled, “HUD Hosts UPCS-V Feedback Session with Housing Partners – Publishes Demonstration Notice Shortly Thereafter.”

Separate and apart from HUD-REAC’s development of its UPCS-V protocol and implementation of its pending demonstration, the Committee expresses substantial concerns about its oversight and enforcement capacity and additional funding for HAs to address lead-based paint hazards in Section 8 voucher programs. Among a long list of concerns, a portion of the Committee’s report states, “The Committee understands that HUD is in the midst of hiring additional staff within REAC to increase quality assurance of physical inspections; continuing work on implementing a single inspection protocol for public housing and voucher units, including the review of voucher standards; and developing notices to address inspection changes. Rather than direct additional requirements and changes at this time, the Committee expects the Department to move swiftly to implement previously identified deficiencies in physical condition inspection protocols. The Committee further directs the Department to solicit comments from stakeholders, including tenants, to identify ways the Department can improve its inspection protocols and oversight. The Committee will continue to closely monitor the Department’s efforts and progress and directs the Department to submit to the House and Senate Committees on Appropriations within 60 days of enactment of this act a report identifying how HUD is improving the inspection process and related protocols, including quality assurance of inspections, identified actions yet to be implemented, the status of actions undertaken, and a timeline for completion of all actions.”

The bill provides \$50 million for approximately 6,200 incremental HUD-Veteran Assisted Supportive Housing (HUD-VASH) vouchers.

Senate appropriators provide \$20 million for approximately 2,500 incremental Family Unification Program (FUP) vouchers. The Committee made substantial changes to the program’s design which include but are not limited to: 1) directing HUD to prioritize the award of these new vouchers to HAs which will target them to youth and HAs which have partnered with their local public child welfare agency to ensure youth referrals for these vouchers; 2) permit FUP vouchers to be used by youth who have left, or will shortly leave, foster care, to be used for up to 36 months or longer if the youth is participating in a family self-sufficiency program; 3) increase the age range of eligible youth from 18 to 24 years old and who have left foster care at age 14 or older, or will leave foster care within 90 days and are homeless or at risk of becoming homeless; and 4) allow HUD to recapture voucher assistance from HAs which no longer have a need

for the assistance, and reallocate to it to HAs with an identified need.

The bill level-funds the Family Self-Sufficiency (FSS) program at \$75 million. In response to HUD’s recent solicitation for regulatory comment regarding its Multifamily Family Self-Sufficiency (MF FSS) housing program, PHADA wrote a comment letter. PHADA supports HUD’s approach to using existing funding sources for the FSS program in HAs’ voucher and public housing programs versus multifamily owners’ FSS programs. HUD’s funding system uses appropriations for annual competitive FSS grants between HAs and all allows multifamily owners with Section 8 contracts to voluntarily implement an FSS program with funding from their residual receipt accounts or other sources.

The bill contains a regional housing mobility demonstration which is designed to help voucher holders move to lower-poverty areas and expand their access to jobs, better schools, and economic opportunity. This competitive grant program of \$11 million would deliver regional mobility services to families, including pre- and post-move counseling, rent deposits, as well as to offset the administrative costs of operating a mobility program as requested in the budget. The competitive demonstration would fund approximately ten HAs which volunteer to use a portion of their vouchers for the demonstration. HUD may require HAs to use a randomized selection process among the households eligible to receive regional mobility assistance. The bill includes an appropriation of \$3 million for HUD to evaluate the demonstration to identify regulatory and administrative barriers to housing mobility and cost-effective strategies to facilitate and promote mobility.

Directives to HUD’s on Policy Issues Crosscutting Both Public Housing and Voucher Programs

There are a number of significant provisions in Committee’s bill and/or accompanying report’s directives to HUD’s various offices regarding policy and programmatic issues which cut across both public housing and voucher programs.

Unfortunately, the Senate Appropriations Committee appears to share the view of HUD’s Inspector General regarding HUD’s fee for service model for public housing operating and capital funds. A directive from the Committee states, “Accordingly, and consistent with the June 2014 Office of Inspector General report, HUD is directed to evaluate this model to gauge whether it is actually increasing the overall efficiency and effectiveness of administering the program and that the fee structure is reasonable...”

As previously reported in the April 6 issue of the *Advocate* (www.phada.org/advocate/article.php?storyid=2461), HUD plans to initiate rulemaking to re-federalize fees paid into the Central Office Cost Center (COCC) with a goal of implementing a final rule by no later than December 2017. On March 16, 2016, Nancy Walker, PHADA President and Tim Kaiser, Executive Directors co-signed and sent a letter (www.phada.org/pdf/SecCastroASSTMGMT.pdf) to HUD and Congress raising serious concerns about HUD’s decision.

The bill continues of the existing cap on HA employees’ salaries at the Executive Schedule IV for FY ’17, which is \$160,300 in FY ’16. While objectionable, this limit is more workable for HAs because it let them pay salaries exceeding the cap, provided the supplemental amount did not come from Section 8 or Section 9 funding. The Administration’s proposal is much more prescriptive and would tie executive director salaries directly to federal government employee

salary ranges, based on size and geographic location, three tiers of caps would be set for housing agencies.

The Senate Appropriations Committee continues its rejection of HUD's request to adjust each HA's operating fund formula distributions, voucher HAP renewals (and PBRA funding) based on changes in medical and disability expense thresholds raised from 3 to 10 percent of gross household income. However, it is worth noting HUD's FY '17 budget provision regarding applicable elderly and disabled households' medical and disability expense deductions, is in the *Housing Opportunity Through Modernization Act of 2015* (H.R. 3700) but with an increase to the household allowance from \$400 to \$525 and adjusted for inflation. PHADA's summary of this provision in H.R. 3700 (page four) is accessible at: www.phada.org/pdf/TableofHR3700AsAmended02062016.pdf.

The bill appropriates \$41.5 million to HUD to pay for local rental market surveys of areas affected by changing economic conditions and natural disasters rather than applicable HAs having to bear this expense themselves. Referring to HUD's inadequate FMRs, the Committee's report states, "...in certain counties the current methodology does not accurately reflect the current housing market, and additional local area surveys are necessary. The Committee further notes that proposals such as Small Area Fair Market Rents do not fully address the undervaluing of Fair Market Rents in many areas where rents have risen quickly. The Committee recommends that HUD designate funding for additional local surveys for communities where the data used by HUD does not accurately reflect the market.

The Committee encourages the Department, to the extent practicable, to work with communities to use local rent survey data made available in the preceding year to inform the calculation of Fair Market Rents..." PHADA's recent coverage of these issues in the *Advocate* article titled, *Senators and Representatives Urge HUD to Correct Its Flawed FMRs and Inflation Factors*, is accessible at: www.phada.org/advocate/article.php?storyid=2472.

The Committee directs HUD to align its blood lead level standard for children under 6 years-old with the Center for Disease Control's standard from 2012, and calls on HUD-REAC to expand its oversight and enforcement capacity and additional funding for HAs and low-income homeowners to address lead-based paint hazards in the home.

Senate appropriators direct HUD-REAC to deal with the inadequacies in its UPCS contractor solicitation process and express concerns about issues impacting the health of residents, including mold, not triggering a sufficient subtraction of points to the UPCS inspection score and the need for the Department to adjust the scoring system.

Finally, the Committee directs HUD to ensure communities conducting assessments with the Department's Assessment of Fair Housing (AFH) Tools receive a certification from HUD Office of Fair Housing and Equal Opportunity (FHEO) that they have effectively assessed or met their fair housing obligations under the Fair Housing Act. The office in charge of reviewing AFH Tool – FHEO – receives flat funding in the bill. ■

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housing assistance, these households would be at risk of homelessness or of spending most of their modest income on housing and utilities.

It would be time well spent for the Republican Study Group to read through the National Low Income Housing Coalition’s (NLIHC) “Out of Reach” report. This periodically updated research provides state-by-state data on current rental housing costs for low-income households. The current NLIHC report indicates that Arkansas residents have the “lowest wage requirement” in the nation. Arkansans need only to earn \$12.95 per hour to be able afford the rent on a modest 2-bedroom apartment. In nearby Texas, renters need to earn \$16.62 per hour, in California a renter needs \$26.65 per hour and \$28.04 in the District of Columbia. The national average hourly renter income is \$15.16 meaning that even modest rental homes are unaffordable to most low-wage renters. The Out of Reach report also indicates that renters earning the federal minimum wage income of \$7.25 typically need to work 85 hours per week to pay for a 1-bedroom apartment – and 102 hours per week to afford a 2-bedroom unit at Fair Market Rents.

RSG on Streamlining Housing Assistance

The final RSG recommendation to the POUM Task Force sends out a series of contradictory and confusing messages. In the first paragraph under “Federal Housing Reform” the RSC says that the two largest housing assistance programs – **TBRA and PBRA** “are in much need of reform, as evidence suggests that beneficiaries do not experience substantial improvement in education or earnings” when receiving assistance.” Oddly, housing programs are being judged not on the provision of safe, decent and secure homes, but by a measure that housing agencies have no control over. Is the RSG grading education programs by how well families are housed? It seems that housing programs should be measured by the number of families that are decently housed and can thus function productively and independently as family members, employees, students, and members of the community.

In the very next paragraph the RSG proposal calls for “**a more efficient system by transforming the model for public housing assistance to one of real estate management assistance.**” In fact, this is how public housing has operated since 2007 when HUD instituted asset management based on the private sector management costs norms (per the 2004 Harvard Cost Study). Housing agencies have already “unleashed market forces” by operating properties independently by earning fees for management, bookkeeping, etc to support their streamlined central office costs. The HUD OIG recently decided this private sector approach and the de-federalization of earnings was not as documented and justified as it should be. As a consequence HUD and housing agencies are being forced to dismantle “market forces” and to revert to older, more costly cost-allocation procedures. Congress could step up and codify the asset management system to allow PHAs to continue to operate along the same lines as the private sector properties.

In the next paragraph, the RSG suggests that Congress “**link housing assistance with the Temporary Assistance for Needy Families (TANF) program and other welfare initiatives** to make it easier

for beneficiaries to receive assistance and work.” There is no explanation about how separate stream of assistance could be coordinated to “**allow Congress to take a more holistic view when reforming and improving welfare programs.**” The RSG may not fully understand how difficult it would be to link these services for families. In the District of Columbia, for example, there are 41,000 households on the waiting list for housing. Needy families need immediate access to TANF and yet might need to wait months or years to secure a public housing unit or a housing voucher. Public housing is a small and shrinking resource that serves only one in every four eligible households.

“**The program should also be reformed to make vouchers more accessible so that participants can move to areas where jobs are available and their skills are valued.**” The voucher program is designed for choice. Theoretically, the voucher-holder can carry the voucher to anywhere in the country within applicable Fair Market Rents (FMRs). Annual Congressional funding allocations for the voucher program cover just the vouchers in use so there are typically long wait lists that means it often takes longer for new households to go onto the program. Flat funding also means shallower subsidies per household in order to continue to serve the same number of families. This can have a limiting effect on voucher-holder choices about where to live. The shallower subsidy level and low FMRs can limit voucher households to less desirable properties and neighborhoods. Extremely low Administrative Fee funding has also limited staff time devoted to helping voucher holders with searching and counseling assistance as case management loads have ballooned.

In the next paragraph the RSG again mentions the need to “**unleash market forces to make housing authorities more competitive and economical.**” **This is an unusual statement given the fact that public housing serves the same population as TBRA and PBRA at costs that are approximately 35 percent lower than either TBRA or PBRA.** The annual per unit cost of a PBRA unit is approximately \$8,850 while a housing voucher cost is \$8,787. A public housing unit, in contrast, is funded at \$5,818 per unit. This does not demonstrate extraordinary efficiency but rather severe under funding by Congress of both the Operating and Capital Fund. As a consequence, ever-larger portions of the public housing inventory face an existential threat. Public housing units that become uninhabitable will need to be replaced with fully funded housing vouchers. Public housing’s lower per unit cost comes at a price. Severe underfunding has caused a \$26 billion capital needs backlog. The Operating Fund is provided just 84 percent of what is needed to manage and maintain public housing. If agencies apply their allocation per the negotiated funding formula, approximately 165,000 public housing (out of 1.1 million nationwide) receive no federal subsidy – but still carry HUD’s heavy regulatory burden.

“**Congress should expand the Rental Assistance Demonstration (RAD) program to continue to allow housing authorities to leverage public and private debt and equity.**...” Congress has limited the number of public housing properties that can take advantage of the RAD program. Bankable deals require enough future rent revenues to operate the renovated properties, establish reserves and to pay the debt service. However, severely underfunded Operating and Capital Funds make it impossible for many public housing properties to establish future rents that can carry the project over the life of the financial proforma.

“Housing authorities should be encouraged to take advantage of economies of scale through consolidation.” Consolidation does not in and of itself create cost savings. Public housing authorities are distinct creations of state and local government. Decisions about consortia or consolidation should be made locally and only if it is agreeable to agencies, their boards of directors, communities and residents. Many agencies have already established many avenues to save and share costs including joint operating and procurement agreements. It is not unusual to have one executive director running two or more agencies. HUD regulations, culture and IT systems are bigger obstacles to both consortia and consolidation.

“It is unclear whether the federal government should play a central role in subsidizing housing, but if these program are to exist, then they should focus on moving the poor away from dependence on federal subsidies.” It would be difficult to make a case for eliminating the federal government’s role in subsidizing housing for the poor when we are simultaneously subsidizing middle and upper income households with the mortgage interest deduction through the tax code. Tax expenditures for more well-off American approach \$100 billion annually – a number far exceeds direct expenditures for the poor – many of whom that are senior citizens, disabled persons or single parent families.

“According to the HUD Inspector General, over 25,000 families are receiving public housing benefits despite not meeting the income guidelines.” Much has been made about “over-income” households in public housing. Income limits are used to determine eligibility upon admission. After families reside in public housing they are encouraged to pursue better employment and higher income. Congress established the rules used for public housing admission and occupancy so there is no issue of accountability or fraud. Since Congress has created 165,000 public housing units that are “funding orphans,” perhaps Congress should consider allowing agencies to rent these units to tenants that can actually cover the operating costs. Agencies would still serve a housing need for PHA-eligible families (up to 80 percent of the area median income) and slow down the loss of housing units from the inventory. ■

On the Hill



Rick Gentry (San Diego HC) and Greg Russ (Cambridge HA) testified on May 12 before the House Financial Services Subcommittee on Housing and Insurance at a hearing entitled, “The Future of Housing: A Comparison of the United Kingdom and United States Models of Affordable Housing.” Both are knowledgeable and widely respected professionals, who Congress frequently calls on for their housing expertise. Russ served as PHADA President while Gentry is a former NAHRO President.



Jobs and RFPs

Executive Director

Helena Housing Authority

Helena Housing Authority (HHA) seeks an Executive Director to provide leadership in providing quality affordable housing for eligible neighbors in the Helena community and promoting opportunities to enhance life skills and personal achievement.

Requires the equivalent of a bachelor’s degree & three (3) years experience including management, planning, fiscal & communication skills. \$64,723 – \$80,000 DOQ plus generous benefits.

More information is available at: hhamt.org or the Montana Job Service.

To apply, send a cover letter, resume, and three professional references to: HHA Board of Commissioners Hiring Committee, PO Box 1251, Helena, MT 59624.

Open until filled. First screening deadline: 5:00 pm, June 27, 2016.

Deputy Commissioner of Project Finance and Development

Housing Authority of Baltimore City

The Housing Authority of Baltimore City (HABC) is looking for a well-qualified Deputy Commissioner of Project Finance and Development. This executive level position is responsible for overseeing real estate development programs for the HABC Development Division and acts as liaison with federal, state, and local agencies. HABC serves the City of Baltimore; the twenty sixth-largest city in the United States.

HABC is the fifth largest public housing authority in the country, with more than 700 employees and an annual budget of approximately \$300 million. The Agency currently serves over 20,000 residents in more than 10,000 housing units. HABC’s portfolio includes 11 family developments, and scattered sites throughout the City. Baltimore’s Housing Choice Voucher program provides an additional 12,000 families with rental housing subsidies each year. There is a residency requirement for this position. If you are interested in this position, please send your resume to Ernest Barefield with Gans, Gans & Associates at: ernest@gansgans.com or contact him at: 813-986-4441 x7127 and we will be glad to send you the full position description so you can see what the ideal candidate would need in order to interview for this outstanding opportunity.

LET'S MOVE SHARP THIS SESSION!

(SMALL HOUSING AUTHORITY REFORM PROPOSAL)

We need your Senators to sign onto SHARP legislation – S.2292 with:

Sen. Jon Tester (D-MT)
Sen. Deb Fischer (R-NE)
Sen. Tom Cotton (R-AR)

Sen. Roy Blunt (R-MO),
Sen. Kelly Ayotte (R-NH)
Sen. Jeanne Shaheen (D-NH)

→ **Your Sen.** _____

→ **Your Sen.** _____

AND

We need your Representative to sign onto SHARP legislation – H.R. 4816 with:

Rep. Steven Palazzo (R-MS)
Rep. Sanford Bishop (D-GA)
Rep. Brad Ashford (D-NE)
Rep. Chuck Fleischmann (R-TN)
Rep. Rodney Frelinghuysen (R-NJ)

Rep. Gregg Harper (R-MS)
Rep. Vicky Hartzler (R-MO),
Rep. Ann Kuster (D-NH)
Rep. Bill Posey (R-FL)
Rep. Bennie Thompson (R-MS)

→ **Your Rep.** _____

WHAT YOU CAN DO TO HELP:

1. Make calls or send emails to your Senators asking them to co-sponsor SHARP legislation: [S.2292 in the Senate](#)
2. Make a call or send an email to your Representative and ask him/her to co-sponsor SHARP legislation: [H.R. 4816 in the House](#)

For more information, visit PHADA's website at: www.phada.org/pdf/SHARPPublication.pdf

PHADA'S 2016 ANNUAL CONVENTION & EXHIBITION



ED Sessions offered specifically for executive directors and HA staff
C Sessions offered specifically for commissioners

Convention Agenda

May 22–25, 2016, Las Vegas, Nevada, Planet Hollywood Hotel

**Agenda items and times are subject to change*

Sunday, May 22

7:30 am–6:00 pm	Conference Registration
8:00 am–9:30 am <i>Celebrity 1</i>	Legislative/Regulatory Briefing
9:40 am–10:40 am <i>Celebrity 3</i>	Small PHA Committee Meeting
10:50 am–11:50 am <i>Celebrity 2</i>	Bollinger Committee Meeting
10:50 am–12:20 pm <i>Celebrity 3</i>	Housing Meeting
1:00 pm–2:30 pm <i>Celebrity 2</i>	Professional Development Committee Meeting
2:30 pm–4:00 pm <i>Celebrity 3</i>	Legislative Committee Meeting
4:10 pm–5:30 pm <i>Celebrity 2</i>	Membership Committee Meeting
5:30 pm–7:30 pm <i>Celebrity 5–8</i>	Welcome Reception in Exhibit Hall

Monday, May 23

7:30 am–6:00 pm	Conference Registration
7:30 am–8:15 am <i>Celebrity 5–8</i>	Continental Breakfast in the Exhibit Hall
8:15 am–10:15 am <i>Celebrity 4</i>	Annual Business Session
10:30 am–12:00 pm <i>Celebrity 1</i>	C The Top Legal Issues for Commissioners
10:30 am–12:00 pm <i>Celebrity 3</i>	ED Trends in PHA Technology Strategy
10:30 am–12:00 pm <i>Celebrity 4</i>	ED The New MTW Expansion – Tips for Successful Applications
12:00 pm–1:15 pm <i>Celebrity 5–8</i>	Lunch in the Exhibit Hall
12:05 pm–1:05 pm <i>Sunset 2</i>	Personnel Committee Meeting
1:30 pm–3:00 pm <i>Celebrity 3</i>	ED 40 Things You May Not Know About Housing Agency Procurement – But Really Need To, Part I
1:30 pm–3:00 pm <i>Celebrity 4</i>	ED C How Mobility Can Improve the Lives of Low Income Children & Families
2:15 pm–3:15 pm <i>Sunset 2</i>	Finance Committee Meeting
3:15 pm–4:45 pm <i>Celebrity 1</i>	C Policy Oversight for Commissioners
3:15 pm–4:45 pm <i>Celebrity 3</i>	ED 40 Things You May Not Know About Housing Agency Procurement – But Really Need To, Part II

3:15 pm–4:45 pm <i>Celebrity 4</i>	ED C Defining Our New Direction – The Private Sector Model
5:00 pm–7:00 pm <i>Celebrity 5–8</i>	Reception in the Exhibit Hall

Tuesday, May 24

7:30 am–3:00 pm	Conference Registration
7:30 am–8:15 am <i>Celebrity 5–8</i>	Continental Breakfast in the Exhibit Hall
7:30 am–12:00 pm <i>Celebrity 5–8</i>	Exhibit Hall Open
8:00 am–9:30 am <i>Santa Monica 2</i>	Executive Board Meeting
8:30 am–10:00 am <i>Celebrity 1</i>	ED Using Small Area FMRs as a Tool to Maximize HAP and Expand Opportunity
8:30 am–10:00 am <i>Celebrity 3</i>	C Accounting for Commissioners 101: What You Need to Know
10:15 am–11:45 am <i>Celebrity 1</i>	ED The AFFH Rule and AFH Tool – The Way Forward For HAs, Part I
10:15 am–11:45 am <i>Celebrity 3</i>	C Effective Advocacy Techniques for Commissioners, Part I
12:00 pm–1:30 pm <i>Celebrity 4</i>	Bollinger Scholarship Luncheon
1:45 pm–3:15 pm <i>Celebrity 1</i>	ED What's New with RAD (Rental Assistance Demonstration)
1:45 pm–3:15 pm <i>Celebrity 3</i>	ED C Accreditation Initiative Update
3:15 pm–conclusion <i>Celebrity 2</i>	Board of Trustees Meeting
3:30 pm–5:00 pm <i>Celebrity 1</i>	ED The AFFH Rule and AFH Tool – The Way Forward For HAs, Part II
3:30 pm–5:00 pm <i>Celebrity 3</i>	C Effective Advocacy Techniques for Commissioners, Part II

Wednesday, May 25

7:30 am–12:00 pm	Conference Registration
7:30 am–8:15 am	Continental Breakfast
8:15 am–9:45 am <i>Celebrity 1–3</i>	ED C Smoke Free Housing Regulation
9:45 am–11:15 am <i>Celebrity 1–3</i>	ED C The End of Asset Management? HUD to "Re-federalize" Fees Earned in Central Office Cost Center (COCC)
11:15 am–12:45 pm <i>Celebrity 1–3</i>	ED C Currents Events in Housing
6:00 pm–8:00 pm <i>Celebrity 1–3</i>	Closing Dinner



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PHADA Calendar 2016-2017

September 11-13, 2016 Legislative Forum Washington Court Hotel Washington, DC <i>EDEP courses to be held September 9-10</i>	January 8-11, 2017 Commissioners' Conference Hilton Orlando, Lake Buena Vista Orlando, Florida <i>EDEP courses to be held January 6-7</i>	April 30 - May 3, 2017 Annual Convention & Exhibition Hilton Chicago Chicago, Illinois <i>EDEP courses to be held April 28-29</i>	September 10-12, 2017 Legislative Forum Washington Court Hotel Washington, DC <i>EDEP courses to be held September 8-9</i>
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