

Update on HUD funding for 2009

March 13, 2009

This week the President signed into law an omnibus appropriations act for 2009. This law provides 2009 funding for most federal agencies, including affordable housing and community development programs administered by HUD. In the sections below, we outline the major low-income housing and community development provisions of the law.

The Big Picture

The Omnibus provides a total of \$41.5 billion in discretionary funding for HUD for 2009.¹ This amount is \$3.4 billion above the funding level in 2008. However, \$1.25 billion of this increase reflects the use of a budgetary offset in the 2008 law (a rescission of Section 8 funds) that was not repeated in the 2009 law. Once adjustment is made for the differing offsets, the 2009 law actually increases HUD funding by \$2.2 billion (5.5 percent).

A major concern is renewal funding for Housing Choice vouchers. As explained below, the Omnibus does not appear to provide sufficient funding to renew all vouchers used by low-income families in 2008. Unless additional funds are made available to supplement the amount provided by the Omnibus, the program could serve tens of thousands fewer families in 2009 than in 2008, despite the fact that housing needs are growing dramatically due to the recession.

At the same time, it is important to acknowledge that, taken together, the Omnibus and the previously-passed American Recovery and Reinvestment Act of 2009 make significant investments towards preserving federal rental housing assistance for low-income families. Two areas are worth particular mention (and are discussed briefly below). First, the funding provided by Congress in these two pieces of legislation should help to restore stability to the Section 8 project-based rental assistance program, which has experienced a funding crisis since 2007. Second, Congress has provided a large increase in capital funding for public housing, which, for the first time in many years, will allow agencies to begin to address the substantial backlog of capital of repair needs. (Nonetheless, public housing operating funding remains severely underfunded.)

Housing Choice Vouchers

The new law provides \$16.8 billion for Housing Choice vouchers for 2009, including \$15.0 billion for voucher renewals. The following paragraphs explain specific provisions and provide a preliminary analysis of their impact. The law directs HUD to notify agencies of their 2009 funding levels by May 11.

Renewal Funding Based on Recent Costs

Housing agencies' calendar year 2009 renewal funding will be based on their actual leasing and costs during federal fiscal year 2008 (October 2007 – September 2008), with adjustments for

¹ This total includes advance funding amounts for fiscal year 2010.

inflation, as well as for tenant protection vouchers and Family Self Sufficiency (FSS) costs that are not adequately reflected in the fiscal year base. Of the \$15.0 billion for renewals, \$100 million is set aside for four additional types of funding adjustments: (1) increases in costs due to portability or “unforeseen circumstances”; (2) costs associated with significant increases in voucher leasing at the end of the 2008 calendar year; (3) costs related to renewal of VASH vouchers²; and (4) for project-based voucher commitments that are not captured by the fiscal year base.

The use of a recent-cost renewal formula extends the policy set by Congress in 2007 and 2008. This policy ensures a more efficient distribution of renewal funds, and encourages housing agencies to use available funds to assist families.

\$750 Million Renewal Funding Offset

The 2009 law requires HUD to reduce renewal funding eligibility for housing agencies that have “excess” reserve balances (i.e., Net Restricted Assets), with the understanding that agencies will spend down those balances to make up for the reduction in renewal funding. While the basic idea is similar to the renewal offset implemented for 2008, the specifications are different in the 2009 law — and, in fact, the law grants HUD a fair amount of flexibility to determine the exact mechanism by which it will reduce funding eligibility.

The text of the law requires HUD to reduce renewal funding allocations by a total of \$750 million. The only guidance with respect to how this is to be done is provided in the conference report accompanying the bill, which specifies that the reductions are to be based on the amount of “unusable” reserve balances.³ The report also suggests that the reductions should be made with attention to agencies that are high performers, are small, or have low levels of reserves. It appears that Congress’ intent is to preserve at least minimal reserve balances at such agencies, which may require HUD to apply a policy that is more nuanced than a uniform percentage offset, as was used in 2008. (For instance, at high-performing agencies, nearly all reserves are classified as “unusable” because they are already leasing close to 100 percent of their authorized vouchers.)

One major question concerning the renewal funding offset is whether HUD will base the calculation of the offset amount on reserve balances as of the end of 2008 or as of some later point in time. The language of the 2009 law suggests that the calculation should be based on 2008 data. However, the conference report appears to grant HUD flexibility to make adjustments for agencies with low reserve balances, and it would be good policy for HUD to use this flexibility to make adjustments for agencies that have spent down significant amounts of reserves in the early months of 2009.

Does the 2009 Law Provide Sufficient Renewal Funding?

² In 2008, Congress funded approximately 10,000 incremental vouchers to provide supportive housing for homeless veterans under the HUD-Veterans Affairs Supportive Housing program.

³ “Unusable” is merely a technical category used for the purpose of determining offset amounts. Roughly, it corresponds to the reserve balance remaining if an agency were to use available funding, including reserves, to utilize 100 percent of its authorized vouchers. The calculation of “unusable” reserves necessarily involves estimation, either by using a retrospective calculation or by projecting per-voucher costs for the remainder of 2009. Thus HUD’s designation does not prevent an agency from using such reserves to lease additional *authorized* vouchers.

The Center estimates that \$14.45 billion is required in 2009 to renew vouchers in use in 2008, including \$15.22 billion distributed via the renewal formula and \$230 million for adjustments for increases in leasing at the end of the calendar year.⁴ Overall, we believe the program faces a renewal funding shortfall exceeding \$400 million in 2009, including shortfalls of \$280 million for the base renewal formula and \$130 million for adjustments funded via the set aside.

The potential impact of the estimated shortfall could be substantial, if additional funding is not made available to supplement the amount provided under the 2009 law (more on that below). We calculate that housing agencies will be funded at roughly a 98 percent proration of formula eligibility. As a general rule of thumb, this would mean that most housing agencies will receive more renewal funding in 2009 than they did in 2008, yet they will not receive sufficient funding to renew all vouchers in use during fiscal year 2008 at their projected cost in 2009.⁵ Specifically, we calculate that about 37,000 vouchers used by low-income families during fiscal year 2008 would receive no renewal funding in 2009. An additional roughly 25,000 vouchers in use at the end of 2008 would also be left unfunded in 2009.

If HUD confirms that such a shortfall exists, it could take steps to alleviate harmful consequences. For instance, it is likely that HUD has available a modest pool of unspent funds that have been recaptured or carried over from the prior year that could be used for voucher renewals. HUD could reduce the shortfall — potentially by a significant amount — if it decides to use such funds to supplement the voucher renewal funding supplied by the 2009 law. If supplemental funds were made available in this way, the renewal funding proration would fall somewhere between 98 and 100 percent.

In addition, many housing agencies will have substantial voucher funding reserves, even after accounting for the 2009 renewal funding offset. It is critical for housing agencies to spend down funding reserves, as needed, to avoid or to minimize reductions in the number of low-income families they serve. (By sustaining their voucher leasing level, housing agencies will also increase the funding they receive for administrative expenses — see below.) At the same time, agencies must manage their voucher programs to ensure that costs will not exceed the budgetary resources available to them in 2009 (including reserves).

Administrative Expenses for Vouchers

The 2009 law provides \$1.5 billion for administrative fees. This amount includes: \$1.4 billion for administrative fee allocations via the leasing-based formula (compared to \$1.32 billion provided for this purpose in 2008). While this represents a 6 percent increase in formula funding for 2009,

⁴ This estimate is based on analysis of HUD Voucher Management System data through December 2008. These data could include errors that agencies will correct prior to HUD determining final funding allocations, making the final shortfall in appropriations lower or higher than we estimate.

⁵ Most housing agencies would receive more renewal funding in 2009 than in 2008 because leasing rates have increased and the average annual inflation adjustment for 2009 (AAF) will be 4.1 percent, which exceeds the 2 percent gap generated under a 98 percent proration of renewal funding eligibility. However, this is only a rough rule of thumb, as it ignores other factors, such as the renewal funding offset imposed in both years.

housing agencies will still receive significantly less than the amount for which they are eligible under the formula. The law also provides \$50 million for administrative expense adjustments, such as those related to tenant protection vouchers or disaster vouchers, and \$50 million for FSS coordinators. As in 2008, administrative fees will be distributed under a leasing-based formula.

Other Voucher Provisions, Including Funding for “Incremental” Vouchers

The 2009 law provides \$125 million for “incremental” vouchers, which is enough to fund about 13,000 new vouchers in 2009. This amount includes: \$20 million for the Family Unification Program, which helps families with children that are under the care of child welfare service agencies; \$75 million for vouchers tied to the development of supportive housing for veterans; and \$30 million for vouchers for non-elderly people with disabilities.

The 2009 law requires HUD to allocate tenant protection vouchers for all otherwise-eligible units that were occupied during the previous 24 months. This provision repeats the provision included in the 2008 law, with an important change: the text of the provision was modified to remove language that HUD had relied on to conclude that it was not required to issue vouchers to replace vacant privately-owned assisted housing units.

Public Housing

Public housing has been severely underfunded in recent years. The Omnibus provides \$4.46 billion for the Operating Fund in 2009, an increase of \$255 million over the 2008 funding level. While HUD has not yet released its calculation of the amount of funding that housing agencies are due in 2009 under its operating cost formula, the Center estimates that the proration will be 87 percent, a cut from the 2008 proration of 89 percent. As a result, 2009 will likely be the seventh consecutive year in which agencies have received less operating funding than they need, according to the HUD formula — and the fifth consecutive year that they have received less than 90 cents for every dollar of need. (While detailed budget figures have not yet been released, the Obama Administration has promised to fully fund the Operating Fund in 2010.)

The Public Housing Capital Fund is funded at \$2.45 billion for 2009, slightly more than Congress provided in 2008. (It should be noted, however, that the American Recovery and Reinvestment Act of 2009 (ARRA) provided an additional \$4 billion in capital funds for public housing, which represents a major investment towards meeting the substantial backlog of capital repair needs.)

The HOPE VI public housing revitalization program is funded at \$120 million in 2009, compared to \$100 million in 2008.

Section 8 Project Based Rental Assistance

The project-based Section 8 program has experienced a funding crisis since the summer of 2007, when funding shortfalls caused widespread and lengthy delays in payments to owners, and HUD notified owners that it would no longer commit to providing 12 months of payments when it executed the renewal of Section 8 housing assistance contracts. These events greatly increased the risk that significant numbers of owners would choose to terminate their participation in the program

at the first opportunity, thereby resulting in the loss of housing that is affordable to families with very low incomes.

In 2009, Congress has taken huge steps forward towards restoring stability to the program. The Omnibus provides \$7.5 billion for project-based Section 8, including \$7.25 billion for contract renewals. This appropriation follows upon a supplemental appropriation of \$2 billion that was approved as part of ARRA. Together, these actions should allow HUD to restore the policy of committing 12 months of funding when Section 8 contracts are renewed, thereby reassuring owners and their financial partners of the stability of the program.

The Omnibus funding levels for other HUD programs are provided in the table below.

| (In millions) | 2008 | 2009 Bush Budget | 2009 Enacted |
|---------------------------------|-----------------|-------------------------|---------------------|
| Housing Choice Vouchers | \$16,391 | \$15,881 | \$16,817 |
| <i>Renewals</i> | <i>\$14,695</i> | <i>\$14,161</i> | <i>\$15,034</i> |
| <i>Administrative Fees</i> | <i>\$1,351</i> | <i>\$1,400</i> | <i>\$1,450</i> |
| <i>Incrementals</i> | <i>\$125</i> | <i>\$75</i> | <i>\$125</i> |
| Public Housing Capital | \$2,439 | \$2,024 | \$2,450 |
| Public Housing Operating | \$4,200 | \$4,300 | \$4,455 |
| Project-Based Section 8 | \$6,382 | \$7,400 | \$7,500 |
| <i>Renewals</i> | <i>\$6,139</i> | <i>\$7,163</i> | <i>\$7,268</i> |
| HOME | \$1,704 | \$1,917 | \$1,825 |
| <i>Formula Grants</i> | <i>\$1,628</i> | <i>\$1,853</i> | <i>\$1,809</i> |
| CDBG | \$3,866 | \$3,000 | \$3,900 |
| <i>Formula Grants</i> | <i>\$3,593</i> | <i>\$2,934</i> | <i>\$3,642</i> |
| Homeless Assistance | \$1,586 | \$1,636 | \$1,677 |
| HOPWA | \$300 | \$300 | \$310 |
| Section 202 | \$735 | \$540 | \$765 |
| Section 811 | \$237 | \$160 | \$250 |

Note: The figures for Housing Choice voucher administrative fees exclude all funding for FSS coordinators.