



CENTER ON BUDGET AND POLICY PRIORITIES

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Appendix

COMPARISON OF VOUCHER POLICIES UNDER CURRENT LAW AND PROPOSED FLEXIBLE VOUCHER PROGRAM

Note: This table summarizes only the changes that would be made by Part 1 of the Administration's proposal. Sections 2 and 3 of S. 771 and H.R. 1999 would make other major changes to both the voucher program and public housing.

Policy	Current Law (Citations are to the U.S. Housing Act of 1937 and Title 24 of the Code of Federal Regulations)	Proposed Change (Citations are to sections of S. 771 and H.R. 1999, which are identical)
<i>Basic Program Characteristics</i>		
Targeting	75 percent of families that enter the program each year must have incomes at or below 30 percent of the area median income level (about \$15,000 per year). The remaining 25 percent of families may have incomes up to 80 percent of area median income. (Sections 8(o)(4) and 16(b).)	No vouchers would be reserved for the lowest income families. 90 percent of families that enter the program each year would be required to have incomes below 60 percent of area median income (about \$30,000 per year nationally). The remaining 10 percent of vouchers could go to families with incomes up to 80 percent of area median income. (Section 107(c).)
Affordability/ Rents	For rent and reasonable utility costs, families generally may not be required to pay more than 30 percent of adjusted income or 10 percent of gross income, whichever is higher. Agencies may establish a minimum rent up to \$50, subject to federally established hardship exceptions. If a family rents a unit with a rent higher than the local payment standard, it must pay the rent above the payment standard itself (in addition to the rent they would have to pay otherwise). But new participants and families moving to new units are not allowed to pay more than 40 percent of adjusted income. (Sections 3(a)(1) and (3); 8(o)(3).)	Agencies could set rental payments without regard to income. No deductions for expenses such as high medical costs would be required. Agencies could establish minimum rents or "flat" rents of any amount. No exceptions would be required for loss of employment or other good reason for hardship. Income such as food stamps or earned income tax credits now required to be excluded by other federal laws could be counted. (Sections 103(8) ("gross income"); 109(a) – (d).)

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<p>Subsidy levels</p>	<p>Agencies must set a “payment standard” for each unit size that is within 10 percent of the HUD-determined Fair Market Rent. HUD may approve lower or higher payment standards, but must consider families’ rent burdens. Payment standards may vary by neighborhood. The subsidy payment may not exceed the payment standard or the unit’s rent and utility costs, whichever is lower. The amount of the subsidy is equal to the difference between the maximum subsidy and a family’s required contribution. (Section 8(o)(1).)</p>	<p>Agencies could set the maximum subsidy for units at any level that is “reasonable and appropriate” for the market area, without any federal standards. Combined with the absence of affordability protections, this lack of standards means that agencies could provide shallow subsidies and shift rent burdens substantially to tenants. Choice of neighborhoods could be severely curtailed and the lowest income families and individuals could be unable to use vouchers at all if they cannot afford their share of the rent. (Section 109(f).)</p>
<p>Portability</p>	<p>Families with a voucher now have the right to move to any community where an agency administers a voucher program. An agency may require new participants that at the time they applied for a voucher lived outside the area served by the agency to live within the jurisdiction for one year. (Section 8(r).) The “receiving” agency may “absorb” the family into its own voucher program, thereby allowing the original agency to reissue a voucher to another family on its waiting list, or may bill the initial agency for the subsidy cost. (§982.355.) The fixed funding system adopted by the 2005 appropriations act makes it less likely that agencies will absorb families moving in and poses financial difficulties for initial agencies to meet the additional cost if families move to more expensive areas.</p>	<p>The right to move with voucher assistance would be eviscerated. Families would be able to move to other jurisdictions in the state or “region” with voucher assistance only if both of the agencies involved agreed. The definition of a “region” would be up to the agencies, and would not necessarily coincide with a metropolitan area. (Proposed regions that cross state lines would have to be submitted to HUD for review.) It is not clear what happens if different sets of agencies within a metropolitan area define regions in overlapping or contradictory ways. No interstate moves would be allowed except within agency-defined regions. No additional funding would be available to meet any increased costs of the moves that are permitted. It is not clear what would happen to families currently under a portability arrangement. (Section 113.)</p>
<p>Uses of funds</p>	<p>Agencies must use funding designated for housing assistance payments (“HAP”) only for rent and utility costs or homeownership assistance. Vouchers designated by Congress for certain populations, such as people with disabilities, must</p>	<p>Agencies could use funds for self-sufficiency activities, as well as for rental and homeownership assistance. Vouchers funded to serve special populations, such as people with disabilities who have lost housing due to restriction of public or assisted housing to</p>

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	continue to serve the designated populations. Administrative fees since 2003 are restricted to use in support of the voucher program. Agencies may use administrative reserves to supplement subsidy funding.	elderly applicants only or families unable to unite with children in foster care due to lack of adequate housing, could be used for any applicants. It is not clear whether an agency would be able to commingle HAP and administrative funds. (Sections 108, 110.)
<i>Protections for Tenants and Owners</i>		
Enhanced vouchers for families losing other assistance	Tenants in privately-owned buildings who face steep rent increases due to the end of federal subsidies now have a right to remain in their homes with “enhanced” vouchers to meet the increased rent costs. (Section 8(t).)	The bill would limit this protection from displacement to one year. Then families would receive regular “flexible vouchers,” under the rent rules and subsidy limits that apply to other families. (Section 115.)
Elderly and disabled families	Eligible for some special income adjustments for unreimbursed medical expenses and reasonable expenses for attendant care and auxiliary aids necessary for a handicapped person (or family member) to be employed. (Section 3(b)(5)(A)(i).) People with disabilities entitled to adjustment or waiver of some program rules as a “reasonable accommodation.” For example, a PHA may pay a higher subsidy for a unit with special features needed by a person with a disability.	Rent and other policy changes would not apply to existing elderly and disabled tenants until January 1, 2009. Beginning on that date, agencies are required only to adopt a policy “to ensure that the needs” of elderly and disabled families are met. It would be up to agencies to determine the “needs” of the elderly and people with disabilities, with no federal standards or review and no required community input. Elderly and disabled tenants newly entering the program could be affected by policy changes before 2009. (Section 105.)
Discrimination	Agencies are required to comply with all civil rights and fair housing laws, and to affirmatively further fair housing in carrying out the agency plan, which covers public housing and the tenant-based voucher program. (Section 5A(d)(15).)	The bill specifically permits agencies to prefer applicants with certain types of disabilities over others for any type of flexible voucher assistance. Authority to use such a discriminatory preference is not linked to the provision of a particular type of services. The bill also appears to allow agencies to deny or reduce assistance to people with disabilities and families with children based on these demographic characteristics, implicitly repealing the specific protections accorded these groups under the Fair

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		Housing Act and other laws. By removing any reference to tenant-based vouchers in the public housing agency plan, the bill would make the plan “certification” of compliance with civil rights and fair housing laws apply on to public housing. (Sections 107(e)(1)(C) and (2); 120(d).)
Public accountability and required participation by residents in policy-setting	Agencies are required to have 5-year and annual plans setting forth their goals and major policy decisions. Resident advisory boards must be consulted in preparation of these plans, and the agency must hold a public hearing each year to receive comments on its draft annual plan. Most agencies are required to have a voucher program participant or resident of public housing on their board of directors. (Sections 2(b); 5A.)	Federal law would no longer require agencies to consult with residents, other stakeholders or the public in exercising their expanded flexibility to set key policies. The bill (section 120(a)) eliminates the requirement to have a person served by the agency on the agency governing body and allows an agency to prohibit a recipient of voucher assistance from serving on the board. No voucher policy issue would be part of the public housing agency plan process (see section 120(d)).
Timely payments	Agencies are required to make timely payments to owners, and may have to pay a late fine if payments are overdue. (Section 8(o)(10)(D).)	No obligation to make timely payments to owners.
<i>Self-Sufficiency</i>		
Family Self-Sufficiency Program	Every agency is permitted to operate a Family Self-Sufficiency (FSS) program, which provides case management support and the opportunity to accumulate savings. Some agencies are required to enroll a specified number of families in FSS, based on special awards of voucher funds prior to 1998. Generally, HUD provides additional funding to cover the cost of the savings account. Depending on the level of appropriations and HUD selection criteria, agencies may receive additional funding from HUD for the cost of FSS case managers. (Section 23; Part 984.)	Bill would eliminate the obligation of some agencies to operate a Family Self-Sufficiency Program. It also appears that agencies would be free to terminate the contracts of families currently enrolled in the FSS program. Agencies would have to choose between spending scarce funds on staffing and savings incentives for FSS or other similar initiative and providing more adequate subsidies to additional families. (Sections 114 and 120(k).)

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Time limits	Time limits are not permitted for rental assistance. Homeownership assistance for families that are not elderly or disabled is limited to 10 – 15 years, depending on the term of the mortgage. (§982.634, implementing section 8(y)(4)(A).)	Agencies could impose time limits of not less than five years beginning January 1, 2008 on all families that are not elderly or disabled. (Section 107(d).) No time limit is required for homeownership assistance.
Work requirements	Families that voluntarily enter into FSS contracts are required to work in order to receive their savings. PHAs are permitted to terminate voucher assistance of families that fail to comply with their contracts under FSS or the Welfare-to-Work voucher program.	All families could be required to work, comply with a self-sufficiency contract, or meet other agency-imposed conditions in order to receive assistance. (Section 107(b), (c)(2), (g)(4).)
Administration		
Administering agencies	HUD contracts with approximately 2,500 state and local agencies to administer the voucher program. HUD may contract with non-profit entities in limited cases.	Administration of the housing voucher program by approximately 2,500 primarily local agencies would continue initially. (See “Performance” below.) Agencies designated as “troubled” under the voucher or public housing assessment systems would not be permitted to implement the changes in targeting, rent or inspection requirements made by the bill without specific permission of the Secretary. (Section 106(d).)
Performance	Agencies are evaluated based on their compliance with statutory and regulatory requirements, not on HUD’s changing policy goals. By regulation an agency has substantial time to correct inadequate performance before HUD may take away its funding.	HUD would have complete discretion to develop performance standards after a bill is enacted. (Title III of the bill indicates such performance standards could include reducing average subsidy costs and increasing homeownership opportunities, regardless of local priorities.) If HUD determines that an agency has failed to meet its performance standards, HUD may take away the agency’s funding and give it to another entity, including a for-profit company. (Sections 104(a) and 106.)

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Inspections	Agencies must determine whether a unit selected by a family complies with federal Housing Quality Standards before beginning assistance payments. Units must be reinspected each year. (Section 8(o)(8).)	HUD would continue to set Housing Quality Standards. Agencies could delay initial inspection until 60 days after initial subsidy payment. Reinspection required every four years. (Section 112.)
Recertification of income	Verification of income and amount of family contribution for rent and utilities required annually. (Section 3(a)(1).)	Recertification of income required at least every two years, except every three years for elderly and disabled families. (Section 107(f).)
Determination of “rent reasonableness”	Agencies must determine whether rent is “reasonable” in comparison to units that are of comparable quality, size, type and age at initial occupancy and if increase requested. (Section 8(o)(10)(A); §982.507.)	Agencies would be required to determine <i>annually</i> whether unit rents are reasonable compared with “modest” unassisted private units in the local market. (Section 109(e).) It appears that the proposal would allow PHAs to determine what “modest” housing is and restrict families’ choice of units.
Funding		
Agency funding levels	<p>In 2005, agencies’ renewal funding is based on the number of authorized vouchers in use in May – July 2004 and their cost, adjusted by HUD’s formula annual adjustment factor, with further adjustment only for tenant protection vouchers.</p> <p>In 2003 and earlier years, agencies received sufficient funding to support the actual cost of authorized vouchers in use.</p>	At least until 2008, each agency would receive funding “proportionate” to its 2005 funding for subsidy payments and administrative costs adjusted only for inflation. Agencies’ actual funding in 2006 and 2007 could increase or decrease, depending on appropriations. Within two years of enactment, a new funding formula for subsidy payments and for administrative fees that could reallocate funding among agencies would be established by negotiated rulemaking. (Sections 110, 117, and 118.)
Reserve funds	The 2005 appropriations act requires HUD to reduce program reserves from one month to one week by 9/30/05. The 2003 and 2004 appropriations acts provided a central fund to HUD to permit agencies to increase use of authorized vouchers.	No authorization for agencies to retain any reserve funds or for HUD to have a central fund.

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Authorization of renewal funding	Funding to renew previously awarded vouchers is permanently authorized, subject to appropriation. (Section 8(dd).)	Renewal funding is authorized for five years, through 2011. (Section 119.)
New vouchers	Authorization for new incremental vouchers expired after 2003. (Section 558 of the Quality Housing and Work Responsibility Act of 1998.) Current law provides a formula to distribute funds appropriated for new vouchers not restricted to a particular purpose. (Section 213(d) of the Housing and Community Development Act of 1974, 42 U.S.C. §1439.)	Except for new one-year enhanced vouchers, there is no authorization to appropriate funding for additional vouchers. The statutory “fair share” formula for allocating additional funding for new vouchers is repealed. (Sections 110(b), 115, 120(n).)
<i>Other Provisions</i>		
Project-based vouchers	An agency may project-base up to 20 percent of its authorized number of vouchers. The initial contract term may be up to 10 years, and PHAs may agree in advance to extend the term at expiration subject to certain conditions. Project-basing permitted only in areas consistent with the goals of deconcentrating poverty and expanding housing and economic opportunity. No more than 25 percent of units in a building may receive project-based voucher assistance, with certain exceptions. Families have a right to relocate with the next available voucher after one year. Certain special subsidy and rent rules apply, enabling higher subsidies if reasonable and restricting tenants’ contribution to 30 percent of income. (Section 8(o)(13).)	No more than 20 percent of funds could be used for project-based assistance. (It appears that the maximum number of project-based vouchers could decline if funding is reduced.) Initial contract term up to 10 years with no advance agreement to extend. No limitation on types of communities where project-basing permitted. Same provisions on mixed-income housing as current law. Similar right to relocate with voucher assistance after one year, but only if no additional cost to the agency and within service area. No special subsidy or rent rules. No waiting list restrictions. (Section 108(b).)
Downpayment assistance	Agencies may use funds to assist a participating family to meet downpayment costs. Maximum amount of downpayment assistance is equal to one year of	Agencies may use funds to assist a first-time homebuyer to meet downpayment costs. Eligible families must have received voucher assistance for at least 12 months. Maximum

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	the amount of voucher subsidy for which a family would have been eligible. (On average, the maximum would not exceed about \$6,000, and would be less for families with higher than average incomes.) (Section 8(y)(7); §982.643.)	amount of downpayment assistance is \$10,000. (Section 108(c)(4).)
“Conversion” of public housing units	A number of current policies allow agencies to move families out of public housing that is taken out of service, temporarily or permanently, if the families receive “comparable” housing. Housing is considered “comparable” only if families’ required rent contribution is substantially unchanged (in addition to other requirements). (Sections 18, 22 and 34.) In addition, section 33 requires agencies to convert “distressed” public housing to voucher assistance if the cost of vouchers will be less than the cost of repairing and maintaining the public housing. HUD is expected to issue the regulations to implement this section shortly.	Agencies could relocate families with vouchers even if they would pay more for rent, subject to possible temporary protection from the Uniform Relocation act. (Section 120(i)(demolition and disposition of public housing under section 18 of the U.S. Housing Act); (l)(HOPE VI).) Agencies could “convert” public housing to flexible voucher assistance if the reduced subsidies permitted by the new law would be less expensive than continuing to operate (and possibly rehabilitate) the public housing units. If agencies shift to shallower voucher subsidies, as they may choose to do to maintain services in the face of shrinking budgets, they may be required to convert “distressed” public housing to flexible voucher assistance. (Section 120(j)(voluntary conversion of public housing under USHA section 22), and (m)(mandatory conversion of public housing under USHA section 33).
Existing homeownership and project-based agreements	Continue under current law.	Families receiving homeownership assistance on the date of enactment would continue to receive subsidy payments based on current law. Similarly, owners with project-based voucher contracts would continue to receive subsidy payments consistent with their contracts. (Section 103(c) and (d).)