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ADMINISTRATION HOUSING PROPOSAL LAYS GROUNDWORK FOR PLANNED FUNDING REDUCTIONS

Plan Turns Voucher Program into Block Grant and Provides HUD Sweeping Authority to Override Laws Governing Housing Vouchers and Public Housing

by Will Fischer and Barbara Sard

An Administration proposal, recently introduced in Congress as the “State and Local Housing Flexibility Act,” would make fundamental changes to two of the nation’s primary low-income housing assistance programs — the housing choice voucher program and public housing.¹ The proposal would lay the groundwork for future cuts in funding for housing assistance and leave the more than 3 million low-income households assisted by these programs vulnerable to sharp rent increases and other harmful changes.

The Administration’s plan contains three parts. It would:

- **Replace the existing housing voucher program with a block grant, called the Flexible Voucher Program.** Under the proposed block grant, nearly every current protection for low-income families in the voucher program would be weakened or eliminated, and housing agencies would receive a set amount of funding each year with no adjustment for changes in actual voucher costs. These changes would increase the chances that the future reductions in housing assistance funding called for in the Administration’s budget will be carried out, and would leave low-income households vulnerable to harsh cuts in housing assistance.
- **Allow local housing agencies to raise rent burdens of low-income families in public housing to virtually any level they choose.** Funding provided to local housing agencies for public housing has been cut repeatedly in recent years, and the Administration has proposed further cuts in 2006 and beyond. These cuts would place pressure on agencies to use the flexibility the Administration’s proposal would provide to shift costs to low-income tenants, in the form of higher rents.
- **Grant HUD authority to waive nearly all of the provisions of the laws that govern the public housing and voucher programs.** This authority — which is framed as an expansion of the existing “Moving-to-Work” demonstration program, but is similar to the “superwaiver” authority the Administration has

¹ The Administration’s proposal was first introduced as S. 711 by Senator Wayne Allard (R-CO) on April 13, 2005. Representative Gary Miller (R-CA) introduced a similar bill as H.R. 1999 in the House on April 28, 2005.

proposed to create for public housing and an array of other low-income programs — would allow HUD and state and local agencies to overturn Congressional decisions with no input from Congress and no advance input from the local community. HUD could use this authority to make sweeping changes in the housing assistance programs, which could include weakening protections for low-income families in public housing and permitting state and local housing agencies to use public housing and voucher funds for purposes other than those Congress intended.

While the Administration has proposed these three changes as a package, it is important to note that any one of the three would open the door to fundamental, damaging changes in the housing assistance programs. For example, if Congress granted HUD superwaiver authority but rejected the voucher block grant and public housing rent proposals, it would allow the Department a back door means by which it could make many of the changes contained in the other two proposals, despite a Congressional decision to reject them.

Block Grant Would Pave Way for Funding Cuts in Future Years

The Administration's block grant proposal is not accompanied by a proposal to cut voucher funding immediately. This represents a significant departure from the proposal that the Administration submitted last year, which would have cut funding by \$1.6 billion in 2005, the same year that a voucher block grant was to be implemented.

The Administration does, however, plan for large cuts to housing assistance funding in future years. Administration budget documents propose a funding level for housing assistance programs in 2010 that is 11 percent below the funding level the Administration proposes for those programs in 2006, adjusted for inflation. If this funding were distributed among the various housing assistance programs in the same proportion as the Administration proposes to distribute funding among these programs in 2006 (which would maintain the relative priorities the Administration has set among the programs), the funding level for the voucher program would fall about \$2.9 billion short of the amount needed to cover the vouchers funded in 2005.²

It is by no means inevitable, however, that the large cuts in housing assistance contained in the Administration's budget plans will actually occur. Congress rejected large cuts to voucher funding that the Administration proposed for fiscal years 2004 and 2005. Even if Congress adheres generally to the budget policy outlined by the Administration, it is quite possible that

² The \$2.9 billion figure is based on a funding need estimate that does not include any "tenant protection" vouchers issued after 2005. HUD estimates indicate, however, that well over 100,000 such vouchers could be needed to aid low-income households that are losing other forms of federal housing assistance. The figure also assumes that no unspent prior-year funds will be available to help fund the voucher program in 2010. (The Administration is assuming that \$2.5 billion in 2006 funding for the voucher program and the separate Section 8 "project-based" housing assistance program will be drawn from unspent appropriations from 2005 and previous years, but OMB documents released in 2004 indicated that prior-year Section 8 funds will be exhausted by 2008.) For additional information on the methods used to calculate these estimates, see "The Basis for the Estimate That the Budget Would Support 370,000 Fewer Vouchers in 2010," CBPP, February, 2005, available on the internet at <http://www.cbpp.org/2-18-05hous-app.htm>.

Congress will adopt appropriations bills in future years that do not include major reductions in housing assistance funding.

The odds that Congress will adopt cuts of the depth proposed by the Administration, however, will be significantly higher if the Administration's block grant proposal is adopted first. This is the case for several reasons:

- A block grant would enable Congress to freeze or reduce funding for housing assistance programs without having to bear responsibility for making painful cuts; the tough choices about how and when to cut in response to federal funding reductions would be passed down to state and local agencies, with Congress insulating itself from both the hard decisions and much of the ensuing criticism.
- The proposed block grant also would completely eliminate funding adjustments in response to changes in actual voucher costs that result from changes in tenant incomes or other factors.
- Finally, the block grant would blur the distinction between the voucher program and other housing assistance programs, and thereby weaken the rationale for voucher funding.

State and Local Housing Agencies Would Bear Responsibility for Determining How Funding Cuts Are Carried Out

Under the Administration's proposal, it would no longer be possible for Congress to determine the amount of funding required to provide housing assistance to a particular number of families. As a result, it would be far more difficult for the public to hold Congress accountable for cuts in housing assistance stemming from future funding reductions.

Currently, it is possible to estimate the amount of funding needed to support the vouchers that Congress has authorized. This is the case because housing agencies are required to provide assistance to low income families in accordance with certain federal standards, including rules that target 75 percent of vouchers on families with incomes below 30 percent of the local area median, limit the amount of rent a voucher holder can be required to pay to 30 percent of the family's income, and require that local caps on the amount of rent a voucher can cover be set high enough to enable voucher holders to afford housing units outside the poorest neighborhoods. Local housing agencies have some flexibility to set the parameters of their programs, but only within the framework that these federal standards set. Congress established these standards over the years because it considered them necessary to ensure that the voucher program provides effective assistance to the neediest families. Often the standards reflect lessons learned from other federal housing programs, which did not contain similar standards and for one reason or another proved ineffective at providing the type of assistance Congress intended.

If Congress does not provide sufficient funding to support all existing vouchers in accordance with these standards, then state and local agencies will be required to reduce the

number of families they assist, and the consequences of the Congressional decision will be apparent to the public. In recent years, the costs of voucher assistance rose substantially, primarily because of earlier Congressional decisions to expand the number of vouchers and a period of unusually rapid growth in the gap between market rents and the incomes of low-income families. (Recent HUD and Treasury data indicate that growth in voucher costs is now slowing markedly, as the factors that drove that growth have eased.) Despite a tight fiscal environment and Administration proposals to cut voucher funding in 2004 and 2005, Congress proved reluctant to reduce funding below the level needed to provide assistance under the standards it had established.

Under the Administration's block grant proposal, by contrast, the federal standards regarding tenant rent burdens and voucher subsidy caps essentially would be eliminated and the income targeting standard would be eased to allow agencies to issue 90 percent of their vouchers to households with incomes below 60 percent of the area median income.³ As a result, agencies would be permitted, although not directly required, to reduce the average cost of vouchers through steps such as serving higher income families (which require smaller subsidies and are consequently cheaper to serve), raising the rent burdens of low-income families, or setting subsidy caps at levels that force poor households to use vouchers in extremely low-rent neighborhoods, which tend to have high crime rates and poor schools. It would therefore be possible for Congress and the Administration to assert accurately that state and local agencies *could* serve the same number of families with less money, and it would be difficult to hold Congress accountable for the harmful actions that state and local agencies would have to take to cut spending per voucher (or to reduce the number of families assisted if agencies chose to maintain the current federal standards).

The notion that elimination of federal standards in the voucher program could be used to justify funding cuts is not hypothetical. It is precisely what the Administration did last year, when it proposed that funding cuts occur at the same time as a new block grant was implemented. In the period after that proposal (which, aside from the funding cuts, was quite similar to this year's block grant proposal) was submitted, the Administration argued repeatedly and explicitly that the block grant would serve as a means to reduce the funding needs of the voucher program.

A HUD paper, for example, described how the block grant would enable agencies to take a series of actions that would reduce spending by \$1.8 billion "in FY 2005 alone."⁴ Some of the savings that HUD estimated were exaggerated, and several of the actions it pointed to — such as shifting vouchers away from the poorest families and reducing the amount of rent a voucher can cover — would have cut assistance to needy families significantly, but these facts would only have become apparent as state and local agencies went through the painful process of choosing how to implement the cuts.

³ See appendix for detailed information on these and other aspects of the Administration's proposals.

⁴ HUD, "The Flexible Voucher Program: Why A New Approach to Housing Subsidy Is Needed," May 18, 2004, p. 13.

The experience of the Public Housing Operating Fund underscores the point that it is easier for Congress to freeze or to cut funding when the consequences of the reduction are not readily apparent. Congress frequently provides less money for the Operating Fund than the fund's formula calls for, even though the formula is designed to set funding at a level that is adequate (in combination with rental income) to cover the day-to-day costs of running public housing. In under-funding the Operating Fund, Congress leaves many local housing agencies no choice but to reduce costs by cutting back on activities such as maintenance or security. When a roof leaks or the crime rate rises, it is the local housing agency — rather than Congress — that appears to be responsible. The Administration's voucher proposal would shift apparent responsibility for voucher cuts to housing agencies in a similar manner.

Link Between Funding and Actual Voucher Costs Would Be Severed

In addition to eliminating and weakening federal standards in a manner that would make it impossible to determine the amount of funding needed to support a certain number of vouchers, the Administration's proposal also would end the use of actual voucher costs to determine funding levels for individual state and local housing agencies. While these two changes (the evisceration of federal standards and the elimination of the link between funding and actual costs) are related, each on its own would serve to increase the likelihood that funding would be cut sharply in the future.

Under the proposed Flexible Voucher Program, each housing agency would be provided with a set amount of funding each year, with no adjustment for changes in the number of the vouchers administered by the agency that are in use or in the cost of those vouchers. This represents a major departure from the manner in which vouchers have been funded previously. Traditionally, housing agencies have received funding based on the actual cost of the vouchers they administered, so that if costs rose because rents surged in the local housing market or because the incomes of voucher holders fell, the agency would still receive sufficient funding to cover the cost of the vouchers. In 2004, HUD modified this system somewhat by distributing funding based on the actual cost of an agency's vouchers *in the previous year*, plus an adjustment based on regional rent inflation factors, and Congress enacted a similar system for 2005. The regional rent inflation factors cover areas as large as eight states and ignore changes in tenant incomes entirely, so they are a poor proxy for trends in voucher costs for a particular states or local agency and often result in funding levels for agencies that are too high or too low. But because actual costs in the previous year are used as the base for setting funding levels, changes in actual costs can eventually be reflected in agency funding levels, albeit a year after the fact.

Under the Administration's new proposal, however, changes in actual voucher costs or in the number of an agency's vouchers in use would have no impact on the agency's funding level, even in the year after the changes occur. Funding for individual agencies during at least the first two years after the block grant is enacted would be based on the amount of funding an agency received in 2005 adjusted for inflation. After that, funding would be based on a formula to be developed by HUD.

Without a cost-based adjustment in funding levels for individual state and local housing agencies, Congress is unlikely to adjust overall funding for the voucher program based on changes in voucher costs. Consequently, voucher funding would likely fail to keep pace with trends in housing costs and in the incomes of low-income families. Funding would likely fall further behind the amount needed to maintain current levels of assistance with each passing year.

State and Local Flexibility — or HUD Flexibility?

The title of the Administration’s bill — the State and Local Housing Flexibility Act — suggests that it shifts authority over the housing assistance programs to state and local housing agencies. On their face many of the bill’s provisions in fact would provide those agencies with broadly expanded discretion. But the bill also would grant HUD extraordinary power over state and local agencies. HUD could, if it chose, use that power to pressure housing agencies to run their programs according to the priorities of the Administration in power, rather than the priorities of the local community or state.

As is discussed elsewhere in this analysis, the Administration is proposing to grant HUD the authority to waive almost any provision of the main law governing public housing and the voucher program. In addition, HUD would receive extensive new powers to reward or punish agencies under the provisions of the proposed Flexible Voucher Program block grant. HUD would set the block grant funding formula after the program has been in place for two years, and would have complete discretion to change that formula in later years. In addition, the proposal allows HUD to pick standards for evaluating the performance of state and local housing agencies in administering the voucher program and to punish agencies it deems out of compliance with those standards. There would be no constraints on HUD’s discretion to set performance standards, so the standards could be designed to give high marks to agencies that advance certain policy priorities — rather than give high marks to the agencies that simply manage the program efficiently.

HUD also would be free to set the standards as high or as low as it wished. If HUD set the standards at a level that many agencies could not realistically meet, large numbers of agencies could be determined to be out of compliance. Once an agency has been determined to be failing to meet any one of HUD’s standards, HUD would have virtually unlimited authority to reduce funding for the agency under the voucher program or any other HUD program or to impose civil fines on the agency. HUD also would be free to take away administration of the voucher program from any “failing” agency, and to divert the funds allocated to that agency to a contract with a private company, a faith-based or community-based organization, or any other entity to administer the agency’s vouchers. HUD could pick the entity to receive the “failing” agency’s funds behind closed doors and would not be required to allow other entities to compete for the funds or even to disclose the criteria it used to select the entity that would receive the funds.

Block Grant Could Lay Groundwork for CDBG-Style “Consolidate-and-Cut” Plan

The income targeting rule that the Administration has proposed for the new voucher block grant (requiring that 90 percent of vouchers go to households with incomes below 90 percent of the area median income) is identical to the rule currently used in the HOME housing block grant. If the new block grant the Administration is proposing is enacted, there will be two block grants under which funds can be used for many of the same purposes: homeownership

assistance, tenant-based rental assistance, and housing construction or rehabilitation projects (through “project-basing” of vouchers in the case of the voucher block grant).⁵

It is quite possible that in future years, this or a subsequent Administration could seek to justify substantial cuts in housing assistance funding by arguing that it is redundant to have two block grant programs providing similar assistance to the same population. Such an Administration could propose to consolidate the two programs into a single housing assistance block grant, funded at a lower level than the two block grants combined.

This is the approach that the Administration has taken this year with community and economic development programs. In its fiscal year 2006 budget, the Administration proposed to merge the Community Development Block Grant with 17 other programs (of which CDBG is the largest) into a single block grant with an annual budget at least \$1.6 billion — or 30 percent — below the current funding level of the affected programs.

Elimination of Federal Standards Would Leave Low-Income Families Vulnerable to Harsh Cuts in Assistance

If the level of program funding is reduced over time by an amount close to the magnitude called for in the Administration’s budget plans, state and local housing agencies will be forced to reduce expenditures under their voucher programs sharply. The only way in which agencies could achieve large cuts would be to scale back assistance for low-income families.

As noted above, the Administration’s proposal would eliminate a number of federal standards that currently protect low-income families. This added “flexibility” would expand the menu of steps that agencies could take to cut assistance but would not alter the fact that agencies would have no choice but to scale back assistance to needy families. Most cuts would need to be carried out through one or more of four types of measures: reducing the number of families assisted; raising rent burdens on low-income families; limiting the ability of families with vouchers to move out of high-crime, high-unemployment areas; and shifting assistance away from families with the lowest incomes.

⁵ Vouchers can currently be used to help homeowners cover mortgage payments, but only a small percentage of vouchers are actually used for this purpose. By contrast, close to half of the families assisted in recent years through HOME funds are homeowners. One reason that relatively few vouchers are now used for homeownership is that many households with incomes below 30 percent of the local area median income have difficulty affording the costs of homeownership (and maintaining the steady income that is required to consistently make mortgage payments) even with a voucher. It is likely that the higher income targeting levels that the Administration is proposing would result in broader use of vouchers for homeownership. As result, the types of assistance provided through the voucher program would likely come to resemble more closely those provided through the HOME program.

The Elderly and People with Disabilities, Including Those with Special “Enhanced Vouchers,” Would Have Only Temporary Protection Against Cuts

The Administration’s Flexible Voucher Proposal delays the effect of increases in rent burdens and other policy changes until January 1, 2009 for elderly people and people with disabilities using vouchers at the time the law is passed. After that date, there would be little protection for these tenants. Housing agencies would be required to ensure that the “needs” of these households are “addressed,” but this vague requirement would not protect the elderly and people with disabilities from increased rent burdens and other harmful changes.

Elderly people and people with disabilities who begin using vouchers after the bill is enacted would be vulnerable to cuts in assistance at any time. This would include households that are due to lose assistance under other federal housing programs and have been promised a voucher to prevent them from being forced to leave their homes.

Households that receive special “enhanced vouchers” would be among those vulnerable to cuts. When owners of federally subsidized apartment buildings decide to stop accepting federal project-based subsidies and to increase the rents for units in the buildings, low-income tenants who reside in these buildings can face displacement from their homes. To prevent that from occurring, Congress established rules under which tenants in these buildings can receive an “enhanced” voucher. Under the rules that govern enhanced vouchers, the rent levels that the vouchers can cover may be set at the levels charged for comparable units, even if such rent levels exceed the rental charges that vouchers normally can cover.

The Administration’s new proposal would repeal the carefully designed rules that allow these vouchers to cover rent levels higher than the levels that vouchers otherwise can cover. Under the Administration’s proposal, the rules requiring housing agencies to allow these vouchers to cover high rent levels would be abolished after a family has had an enhanced voucher for 12 months. In addition, rules that require owners to continue to accept these tenants’ vouchers would be eliminated.

Roughly 100,000 households, most of them senior citizens and people with disabilities, now receive higher rent subsidy assistance through these enhanced vouchers. If their subsidies are substantially reduced or if the owner decides to stop accepting their vouchers altogether, many of these households are likely to face substantial hardship. Some are likely to lose their homes because they can no longer pay the rent.

Rent Burdens on Low-Income Families Could Be Raised

Since the 1980s, the amount that recipients of federal housing subsidies can be required to pay for rent and utilities has been capped at 30 percent of the family's income. This requirement, often referred to as the "Brooke rule" after former Republican Senator Edward Brooke of Massachusetts, is designed to ensure that families have sufficient income remaining after they pay for rent to cover other basic needs such as food, clothing, and transportation.

The Administration's proposal would eliminate the Brooke rule rent cap for both the voucher program and public housing.⁶ Housing agencies would be permitted to set rents in virtually any manner they choose, including establishing flat rents that bear no relation to a family's income. In order to reduce their spending in the face of funding cuts, agencies would face substantial pressure to raise the rent burdens of low-income households.⁷ Such increases often would be difficult for families in the voucher program and public housing to bear. Most of these families have incomes below the poverty line. To pay more of their income for rent they would have to divert scarce resources from other basic needs, such as food, transportation, or clothing for school or work.

If rent burdens are increased sharply above 30 percent of income or set at a flat level that is unrelated to a household's income, some families with the lowest incomes might not be able afford housing at all. As a result, rent increases could have the effect of rendering vouchers ineffective as a form of assistance for the most destitute families. Some current voucher holders could consequently have to leave their homes and double up in overcrowded apartments or move to substandard housing. In some cases, families might be forced to resort to living in shelters or on the streets.

Housing Choice Could Be Restricted

Housing agencies could also reduce costs by lowering the maximum amount of rent that a voucher can cover, which is referred to as the "payment standard." If a family rents a unit with a rental charge that exceeds the maximum rent a voucher can cover, the family must pay all of the extra cost. Currently, housing agencies are required, in most cases, to set maximum rents within 10 percent of the "Fair Market Rent." The Fair Market Rent for each local area is the amount estimated to be needed to rent a modest housing unit in that area, as determined by HUD each year based on rental market data. Under the proposed legislation, housing agencies could set their payment standard essentially at any level.

If a housing agency reduced its payment standard significantly below the Fair Market Rent in response to reductions in federal funding, families would be forced either to pay more

⁶ The 30-percent-of-income cap on rents also applies to the separate project-based Section 8 program and several smaller federal housing programs. The Administration's proposal would not remove the cap for those programs.

⁷ The funding provided by the federal government to local housing agencies for public housing has been cut each year since 2001, and the Administration has proposed further cuts in 2006, so housing agencies would immediately face financial pressure to raise rent burdens on public housing tenants. This pressure could grow even more intense if the large cuts in housing assistance contained in the Administration's budget planning documents for years after 2006 are carried out.

themselves in rent (which would have the same effect as if housing agencies raised rent burdens directly by requiring families to pay more than 30 percent of their income) or to move to a housing unit with a rent at or below the new, reduced “payment standard.” In many parts of the country, very low-cost units are located disproportionately in neighborhoods with higher concentrations of poverty, higher rates of crime, poorer schools, and fewer job opportunities. If housing agencies reduce the maximum voucher payment significantly, the voucher program will become less effective in enabling families to live in neighborhoods with less concentrated poverty, lower crime, better schools, and more jobs.

The Administration’s proposal would also allow agencies to restrict the housing choices available to low-income families by preventing them from using a voucher to move from the jurisdiction of one housing agency to the jurisdiction of another. Under current law, voucher holders are permitted to move anywhere in the country where there is a voucher program. This right to move beyond the jurisdiction of the agency that issued the voucher, referred to as “portability,” is a crucial underpinning of the voucher program’s effectiveness. For example, a worker who is laid off but finds a new job in a neighboring county can use his or her voucher to move to an apartment within commuting distance of the new employer. Similarly, portability can enable a victim of domestic violence to flee an abuser or allow an elderly person whose need for assistance has increased to move closer to family members who can provide support.

The Administration is proposing to curtail voucher portability sharply. Voucher holders would not be permitted to use their vouchers to move across state lines, except in cases where a “region” includes more than one state.⁸ This in itself is a major restriction, since the employment opportunities and family ties that drive a low-income family to move will not always be located within state or regional boundaries. But even within states and regions, portability would be permitted only if both the agency that originally issued the voucher and the agency with jurisdiction over the voucher holder’s destination assented.

Housing agencies may block cross-jurisdiction moves because of funding constraints. If a household moves from the jurisdiction of one housing agency to the jurisdiction of another, the cost of the voucher must be covered by one of the two agencies. Both may be reluctant to use limited resources for this purpose. The destination agency may prefer to use its funds to grant vouchers to households on its own waiting list, while the agency that originally issued the voucher may be reluctant to provide on-going assistance to a family living outside its jurisdiction. When a family wishes to move from an area with very low rents to an area with higher rents (for example, from a high-poverty rural or inner-city area to a suburban area with a stronger economy), the agency that originally issued the voucher will face higher costs if it continues to pay for the voucher and consequently may be under especially strong fiscal pressure to deny the move.

Agencies may also refuse to allow portability for non-financial reasons. In some suburban areas, for example, there is significant resentment among residents against families who move to the area from nearby central city areas. Often, these suburban areas are predominantly white, while the central city areas have largely minority populations. Under the Administration’s proposal, suburban housing agencies— without offering any explanation —

⁸ Interstate regions would be defined by housing agencies, but would require approval from HUD.

could ban families with vouchers issued by the central city housing agency from using the voucher to move to the suburban community.⁹

Vouchers Could Be Shifted from the Poorest Families to Those with Somewhat Higher Incomes

The Administration's proposal would replace the current requirement that three-quarters of families entering the voucher program be "extremely low-income" households — that is, those with incomes below 30 percent of the local area median income. Nationally, 30 percent of median income is about \$17,000 a year for a family of four, close to the poverty line.

Instead, 90 percent of vouchers would be required to go to households with incomes below *60 percent* of the area median income, nationally about \$35,000 for a family of four. As a result, agencies would be permitted to reduce sharply the proportion of their vouchers that would go to households with incomes below 30 percent of the local area median income or even to cease serving those households altogether.

Because vouchers make up the difference between the rent for a modestly priced apartment and 30 percent of a family's income, poorer families receive larger subsidies, on average. Shifting more vouchers to families at higher income levels would enable housing agencies to spread an inadequate amount of funding among a larger number of families than would otherwise be served. In some areas, there also could be political pressures on state and local agencies to use the flexibility the block grant would provide them to shift vouchers from poor families to families at higher income levels.

The "extremely low-income" households that could be harshly affected consist primarily of working-poor families, poor elderly households, and poor people with disabilities. HUD data show that in 1999, one million "extremely low-income" renter households with housing problems were elderly. Another 370,000 were individuals with disabilities severe enough to qualify for the Supplemental Security Income program, which has a stringent disability test and pays benefits equal to about 75 percent of the poverty line. The Census data also show that in 1999, more than half of the "extremely low-income" renter households who either lived in substandard housing or paid more than half of their income for rent were working households (i.e., households whose income came primarily or entirely from earnings).¹⁰

The existing targeting requirement was established as part of major housing assistance reforms enacted in 1998. In carefully-crafted bipartisan legislation, Congress opted to allow the two large "project-based" housing assistance programs — public housing and the project-based Section 8 program — to limit to a much smaller percentage the share of newly admitted households that must be "extremely low-income" households. This decision was made out of

⁹ Such actions would be prohibited by fair housing laws only if the action could be *proven* to be racially motivated.

¹⁰ Office of Policy Development and Research, U.S. Department of Housing and Urban Development, *Trends in Worst Case Needs for Housing, 1978- 1999*, December 2003, Tables A-6a and A-7a. In these data, a household is considered to have a housing problem if its rent burden is more than 30 percent of income or if it occupies a unit that is substandard or overcrowded.

concern that concentrating large numbers of very poor people in housing developments would have a negative impact on a range of social outcomes. To balance the decision to serve fewer of the neediest families through the “project-based” programs, Congress required that 75 percent of families entering the voucher program be “extremely low-income” families. Since families with vouchers are scattered in private rental housing and are *not* concentrated in particular projects or developments, concerns about concentrating too many poor families in particular projects or developments do not apply to vouchers.

Number of Families Assisted Could Be Reduced

Some housing agencies may opt to leave the existing program standards largely in place so that they can continue to assist the lowest-income households without imposing high rent burdens on those families or limiting their housing choices. To maintain the current standards in the face of funding cuts, however, agencies could have to reduce the number of families that they assist. If the entire cut that could result from the Administration’s budget plans for 2010 were carried out in this manner, 370,000 fewer families would receive assistance nationally than are likely to be assisted this year.¹¹ The number of vouchers already falls far short of the number of households in need of assistance. Only between one in three and one in four of the households eligible for vouchers currently receive any form of federal housing assistance. In many areas, there are long and growing waiting lists for vouchers.

The effects of reductions in the number of vouchers would extend beyond the families who lose their vouchers or are stuck on waiting lists for longer periods because fewer vouchers are available. Major reductions in the number of voucher tenants also could reduce demand for rental units and raise vacancy rates, which already are at high levels in a number of areas across the country. Such higher vacancy rates could be harmful both to neighborhoods in which substantial numbers of voucher holders live and to landlords who rent units to families with vouchers. Most landlords who rent to voucher holders own only a small number of rental units.

¹¹ For estimates of the reduction in families assisted that would occur at each state and local housing agency, see <http://www.cbpp.org/2-18-05hous-states.htm>.

Proposal Threatens Business Confidence in Voucher Program

The housing voucher program represents a partnership between the *private sector*, which builds and maintains the housing occupied by voucher holders, and the *public sector*, which provides a subsidy to make the housing affordable to low-income families. For 30 years, this partnership has worked well, delivering decent quality housing to millions of low-income families at costs that, over the long term, are lower than those of most other forms of assistance. The Administration's proposal, however, would undercut this partnership in several ways:

- **Breaking the link between funding and market realities.** By severing the link between voucher funding and actual voucher costs (which are largely driven by market rents and the incomes of voucher holders), the Administration's proposal would increase the chances that funding will not match the amount that a local agency needs to cover the costs of its vouchers — and that agencies will consequently need to scale back their programs. Such cuts would be a certainty if, as appears likely, the proposal set the stage for large reductions in voucher funding over time. If landlords, developers, and lenders are not confident there will be sufficient funding to cover a voucher's costs in the future, landlords may be less willing to rent units to voucher holders, developers may have greater difficulty using “project-based” vouchers to support construction or rehabilitation of affordable housing, and lenders may be less likely to approve mortgages for first-time homebuyers that are backed in part by voucher payments.
- **Replacing national standards with local and HUD rules that could change dramatically from year-to-year.** The basic rules of the voucher program (such as the maximum amount of rent a voucher can cover and the share of the rent that a family is required to pay) have evolved over time, but changes have generally been gradual and major changes have received thorough deliberation by Congress. In addition, the rules are largely consistent from one geographic area to another, an important factor for large property owners, developers, and mortgage lenders that may operate in the jurisdictions of numerous housing agencies. Under the Administration's plan, by contrast, each of the nearly 2,500 state and local housing agencies would set its own rules. And state and local agencies — or HUD, exercising the broad flexibility the bill would grant it to induce agencies to run their programs based on HUD's priorities — could change fundamental program rules behind closed doors at any time.
- **Undermining real estate deals that use vouchers to replace other types of subsidies.** In recent years, many public housing projects have been torn down or renovated and converted to mixed-income housing, often with extensive involvement from private-sector lenders and developers. In addition, many private owners of buildings that received subsidies under various federal housing programs have opted to terminate their participation in those programs so they can raise rents to market levels. Frequently, low-income households living in these buildings are issued “tenant protection” vouchers to ensure that they will not be displaced or that they are able to obtain affordable housing elsewhere.

The Administration's proposal would eliminate the assurance, provided by the current federal standards, that tenant protection vouchers will protect such families from sharp rent increases. State and local housing agencies would be able to raise sharply the rents charged to families with tenant protection vouchers, and in the face of likely funding cuts, agencies would be under considerable pressure to do so. If this occurred, “opt-outs” and public housing conversion projects would be far more controversial politically than they are today. Some such deals could unravel, and the laws that allow owners to opt-out of subsidy contracts could come under renewed scrutiny.

Bill Would Grant HUD Sweeping Authority to Waive Law

In addition to replacing the voucher program with a block grant and eliminating the rent rules under the public housing program, the Administration's proposal contains a provision that would grant the HUD Secretary authority to provide state and local agencies waivers of virtually any provision of the principal law (the U.S. Housing Act of 1937) that governs the voucher and public housing programs. This authority goes far beyond the limited authority traditionally granted federal agencies to waive program rules and allow state or local agencies to experiment with policy variations. It more closely resembles the "superwaiver" authority that the Administration and some members of Congress have proposed to establish for public housing and a number of other federal low-income programs.¹²

The proposed HUD superwaiver authority is portrayed as an expansion of an existing demonstration waiver program known as "Moving-to-Work." In fact, it would not be subject to several key constraints under which the Moving-to-Work demonstration currently operates, including a requirement that housing agencies serve approximately the same number of families as they would have without the waiver and a limit of 32 on the number of agencies that can participate. Certain categories of agencies, including all agencies administering at least 500 public housing units or 500 vouchers, would automatically be eligible to apply for waivers. Other agencies could apply if they met criteria to be established by HUD. HUD would have such broad discretion to set those criteria that it could, if it chose, grant waivers to virtually any housing agency.

This provision would represent a major change in federal housing policy *whether or not Congress adopts the Administration's other public housing and voucher proposals*. If Congress enacted the "Moving-to-Work" superwaiver provision but not the Flexible Voucher Program and public housing rent proposals, HUD could use waivers as a back door means to allow as many agencies as it wished to operate their programs under essentially the same terms as those proposals. As a result, agencies would be able to take the same kinds of adverse measures as they would under those other proposals — such as sharply raising rent burdens on public housing residents and households with vouchers, shifting voucher assistance to higher income households, or restricting families' ability to use vouchers to move out of high-crime, high-unemployment areas.

Superwaiver authority also would allow HUD to go substantially *beyond* the terms of the Flexible Voucher Program and public housing rent proposals, if those other proposals *were* enacted. Nearly all existing protections for public housing residents could be waived. For example, HUD could eliminate rules that guarantee tenants the right to have input into local agency policymaking and provide protection against arbitrary evictions. It also could grant waivers eliminating the current requirement that 40 percent of households admitted to public

¹² For additional information on the Superwaiver proposal, see Robert Greenstein, Shawn Fremstad and Sharon Parrott, "'Superwaiver' Provision in House TANF Reauthorization Bill Could Significantly Weaken Public Housing, Food Stamps, and Other Low-Income Programs," Center on Budget and Policy Priorities, 2002, available on the internet at <http://www.cbpp.org/3-23-04tanf.htm>.

housing have incomes below 30 percent of the area median income.¹³ HUD might even be able to waive some of the few federal standards that would remain in the voucher program under its Flexible Voucher Program proposal, including rules restricting housing agencies from using vouchers to support construction of housing developments that isolate poor households from households at other income levels. Such waivers also could allow agencies to shift funds between the voucher program and public housing or to use voucher and public housing funds for other housing-related purposes.

“Moving-to-Work” Superwaiver Would Usurp Congressional Authority Over Housing Assistance

HUD could grant waivers with no input from Congress and no advance input from the local community. As a result, the proposal would effectively allow the laws governing housing assistance to be rewritten behind closed doors by HUD and public housing agencies.

Many of the laws that HUD would be permitted to waive, such as rules on income targeting, are the result of decisions made by Congress after extensive debate among competing interests. HUD and local agencies would be permitted to rewrite those laws with Congress having no role at all in the process. Similarly, Congressional appropriators, who allocate funds separately each year for housing subsidies and administrative fees within the voucher program, and for capital and operating expenses in the public housing program, would not be consulted about HUD decisions to permit housing agencies to shift money across those four funding streams.

Shifts of Funds from Vouchers to Public Housing Could Reverse Trend Toward Market-Based Housing Policy

It is likely that some housing agencies would seek waivers allowing them to use funds appropriated by Congress for the voucher program to pay for the upkeep of public housing projects. The funding provided to local housing agencies for public housing has been cut repeatedly in recent years, and some housing agencies receive funding levels that are too low to enable them to manage their projects effectively. While the voucher program was also shortfunded in fiscal year 2005 and could be cut further in the future, many housing agencies may be reluctant to allow public housing projects to fall into disrepair and may feel pressure to shift funds from vouchers to public housing. A housing agency may believe it will be more likely to be held accountable by the public for poor security, peeling paint, or overgrown lawns at projects it owns and manages than for the higher rent burdens and longer waiting lists that would result from voucher cuts.

If a large number of agencies requested and received waivers allowing them to use funds appropriated for vouchers to support public housing, this would constitute a reversal of a sea change that has occurred in federal housing policy in recent decades. Since the 1970's, the federal government has significantly expanded the housing voucher program while providing

¹³ The bills would permit HUD to allow agencies with waivers to use the same income targeting rules as those the Administration is proposing for the Flexible Voucher Program: 90 percent of new participants must have incomes below 60 percent of area median.

little funding for construction of new public housing. This reflected a belief among many housing experts that providing vouchers that allowed households to choose to move out of high-poverty neighborhoods would better promote self-sufficiency and other positive social outcomes than concentrating large numbers of poor people in particular buildings, as many public housing projects did. In addition, some believed that providing housing through the private market would be more effective and efficient than providing it through government-owned, government-managed public housing.

While the immediate effect of such shifts would be to increase resources for public housing at the expense of vouchers, allowing funds to be moved in this manner also likely would raise the chances that funding for the two programs combined would fall. With housing agencies able to transfer funds freely from the voucher program to public housing, it would become more difficult for advocates and housing agencies to argue that additional funds were needed to cover the costs of managing public housing. The Administration and Congress would be able to point out that the total funding an agency received for public housing and vouchers amounted to more than enough to maintain the agency's housing projects and that it was up to the agency to allocate those funds as it saw fit. Such funding shifts could serve as a further rationale for the large cuts in housing assistance that the Administration intends to seek in future years.

Targeted, Research-Oriented Waivers Would Do a Better Job of Encouraging Useful Innovation

Demonstration programs that allow housing agencies to experiment with policy variations can stimulate innovation and provide policy makers with useful information about what policies are effective. The "Moving-to-Work" superwaiver authority proposed by the Administration, however, is poorly designed to achieve this goal.

The most effective demonstration programs are limited to a small number of areas, since their purpose is to test policy innovations at a relatively small scale rather than to put untested changes into place broadly. In addition, the most useful demonstrations have been accompanied by careful independent evaluations that enable policy makers to determine whether an innovation has been effective and whether it should be replicated. In the area of housing, two recent demonstration programs, Jobs Plus and Moving-to-Opportunity, offer examples of demonstrations that were conducted at a relatively small scale and rigorously evaluated, and that consequently generated valuable findings.

The existing Moving-to-Work demonstration, which is far more narrowly drawn than the new "Moving-to-Work" superwaiver authority that the Administration is proposing, allows several dozen housing agencies to test a range of housing policy variations. Unfortunately, this demonstration was not accompanied by a rigorous evaluation. As a result, it has generated a wealth of anecdotal reports but few hard findings of the type produced by the Jobs Plus and Moving-to-Opportunity demonstrations.¹⁴ Congress could contribute greatly to the amount of

¹⁴ HUD contracted with the Urban Institute to conduct an evaluation of Moving to Work, but the evaluators noted in a 2004 report that "MTW was not designed as a rigorous research demonstration with clearly defined changes to be evaluated or a set of controls for the comparison of outcomes," and that this and other factors limited the amount

knowledge available regarding housing policy — and to its own ability to make informed policy decisions — if it continued Moving-to-Work at a similar or smaller scale but provided for careful, controlled evaluations of the policies that agencies experiment with. This step would be far more useful for purposes of stimulating and learning from innovation than granting HUD sweeping superwaiver authority.

Conclusion

The radical changes that the Administration is proposing through its State and Local Housing Flexibility Act do not offer a sound approach to improving the nation's low-income housing assistance programs.

In the case of the housing voucher program in particular, the Administration is proposing to tear down the framework of a program that has built an impressive record of success. The bipartisan, Congressionally-mandated Millennial Housing Commission described the voucher program as “flexible, cost-effective, and successful in its mission” in its 2002 report, while a 2002 study by the General Accounting Office found the program to be more cost-effective than other major federal housing programs. A 2003 report by the Office of Management and Budget on the performance of HUD programs stated that the voucher program demonstrates “improved efficiencies and cost effectiveness in achieving program goals each year” and that independent evaluations “indicate that the program is effective and achieving results.” As recently as November 2004, HUD's Fiscal Year 2004 Performance and Accountability Report found that the voucher program succeeded in meeting eight of the nine performance goals that HUD had established since 2001. Those goals covered such areas as expanding the use of vouchers to support homeownership and encourage self-sufficiency, and reducing errors in subsidy calculations.

It seems improbable that this record of success could be maintained if the core characteristics of the voucher program — including the targeting of assistance to the neediest families, federal standards regarding rent burdens and subsidy caps, and the option to use vouchers to move to a community with better job opportunities — were cast aside, as the Administration has proposed.

Some aspects of the laws governing the voucher and public housing programs could be improved. For example, the methods used to distribute voucher funding to state and local housing agencies in fiscal years 2004 and 2005 provided too much funding to some housing agencies (causing the excess to be recaptured by HUD, rescinded by Congress, and returned to the federal Treasury after the end of the year) and too little to other agencies (forcing those agencies to cut assistance to needy families to cover their shortfalls). In addition, some aspects of the rules used to calculate rent contributions for recipients of housing assistance are unnecessarily complex and burdensome.

Congress could address these specific problems through carefully considered, targeted reforms. But the Administration has instead proposed that Congress abdicate its responsibility

that could be learned from the demonstration. Martin D. Abrevanal et al, *Housing Agency Responses to Federal Deregulations: An Assessment of HUD's "Moving to Work Demonstration"*, Urban Institute, January 2004.

for ensuring that the funds it provides for the housing voucher and public housing programs are used to provide effective housing assistance, and that Congress essentially cede authority over those programs to HUD and state and local housing agencies. This approach can be expected to have highly adverse consequences on the housing assistance programs and the more than three million low-income families that they serve.