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## **BILL TO SIMPLIFY HOUSING PROGRAM ADMINISTRATION CONTAINS A FEW PROMISING PROPOSALS, BUT NUMEROUS PROBLEMATIC ONES**

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Legislation that Senators Mike Johanns (R-NE) and Jon Tester (D-MT) introduced in September (S. 3538) seeks to reduce administrative burdens and complexities for small local agencies that operate the federal low-income housing programs. These public housing agencies (PHAs) would realize administrative savings under the bill, but it likely would also produce unintended and undesirable consequences — potentially including higher federal costs, fewer low-income families receiving federal housing assistance, and higher rents for substantial numbers of vulnerable households. Other housing reform legislation before Congress — in particular, the Affordable Housing and Self-Sufficiency Improvement Act of 2012 (AHSSIA), developed on a bipartisan basis by members of the House Financial Services Committee — would streamline and improve the public housing and Section 8 voucher programs for *all* PHAs, not just small ones, and do so without posing the risks that S.3538 does.

The central problem the Johanns-Tester bill seeks to address is real — small local housing agencies, which the bill defines as those that administer 550 or fewer public housing units and Section 8 vouchers, make up *74 percent* of the nation's nearly 4,000 PHAs but administer only *13 percent* of all public housing units and vouchers. This imbalance creates oversight burdens and costs for both the federal government and PHAs that are disproportionate to the number of families these PHAs serve.<sup>2</sup> Moreover, as this analysis explains, the inordinate number of small PHAs in some states and metropolitan areas creates barriers for some families in seeking to receive federal housing assistance or to use their rental subsidies to move to nearby communities with better schools or job opportunities.

The proposed solutions in S.3538, which are based on a proposal that two public housing agency trade groups developed, largely focus on eliminating various federal housing program rules and safeguards as they apply to small agencies and diminishing the accountability of these agencies to the federal government and to local communities. But the federal government pays all of the costs of

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<sup>2</sup> HUD Office of Policy, Program and Legislative Initiatives, "Rebalancing HUD's Oversight and Small PHAs' Regulatory Burdens," 2008.

these programs. A sounder alternative is to address directly the overly complex administrative structure that results from delivering housing assistance through such a large number of agencies and to simplify various specific rules in a judicious manner, as AHSSIA would do.

At this time of constrained federal resources alongside a growing need for housing assistance, reform should seek to make federal rental assistance programs more effective and efficient, and to lower federal and local administrative costs without reducing the availability of affordable housing for families most in need or shifting costs to low-income beneficiaries. Streamlining changes that meet this goal should be applied to all agencies, not just the small ones.

Members of the House Financial Services Committee have developed a broadly supported set of changes to the rental assistance programs that would ease administrative burdens considerably and could reduce program costs by nearly \$3 billion over the next five years, according to a Congressional Budget Office preliminary estimate. Provisions in the draft AHSSIA to simplify the calculation of tenant rents, reduce the frequency of voucher unit inspections, and increase the share of an agency's vouchers that it may attach to particular properties would streamline and improve these programs and are superior to the proposals in S. 3538, which pose greater risks.

S. 3538 does, however, include two notable proposals that hold promise for reducing small agency administrative burdens without adverse consequences.

- One provision would encourage small agencies to join together in consortia, by drastically reducing reporting burdens for agencies that do so. (A consortium can allow two or more agencies to achieve economies of scale in many aspects of program operations, while maintaining their own local boards of directors.)

The Department of Housing and Urban Development's (HUD) authority to implement this provision, however, would be limited unless it is combined with a technical change in the definition of "public housing agency" so the definition includes such consortia. This change would allow HUD to treat all the member agencies in a consortium as a single agency for all appropriate purposes.

Many agencies will likely also need technical assistance, and some modest one-time funding, to take advantage of this opportunity to form consortia. The effectiveness of this provision would be enhanced if it authorized funds for these purposes.

A related, beneficial change would be to encourage agencies within the same housing market area that don't choose to form consortia to at least consolidate their *waiting lists*, which would reduce administrative costs and allow families needing housing assistance to submit a single application. The legislation could direct HUD to develop and make available technology that local agencies could use to establish and operate consolidated waiting lists.

- The other noteworthy provision of S. 3538 would enable small agencies to convert public housing properties to project-based Section 8 assistance. Doing so could help preserve needed affordable housing by enabling agencies to leverage private financing to make needed repairs. The greater flexibility of Section 8 program rules compared to public housing requirements would reduce regulatory constraints and administrative burdens for small agencies and also reduce federal oversight responsibilities. Policies to achieve these goals should be designed

carefully so they don't undermine tenants' rights and security in their homes or increase federal costs more than is necessary to achieve the preservation of needed units.

AHSSIA includes a similar provision: it would authorize a demonstration to expand the role of private capital in affordable housing, including public housing, while protecting tenants' rights, assuring long-term housing preservation, and containing federal costs. This AHSSIA provision would reduce administrative burdens for small agencies and HUD to a greater degree if it were modified to include a preference for small agencies to participate in the demonstration that it would establish.

This paper begins with a review of data on small housing agencies and then moves to an assessment of S. 3538. It examines unintended problems the bill could foster and explains why, in our view, AHSSIA offers a sounder general approach to streamlining. We also examine S. 3538's consortia provision and how policymakers could strengthen it. The paper concludes with additional recommendations to make the geography of rental assistance administration more consistent with the geography of local housing markets by encouraging the combination of housing programs that are being operated by a multiplicity of PHAs in the same local housing market.

### Large Majority of Public Housing Agencies Are Small

Nearly 4,000 public housing agencies receive funding from HUD to operate public housing, administer Section 8 housing vouchers, or both. More than 1,400 agencies administer both programs. (See Table 1.) PHAs range dramatically in size: some own or administer as few as *four* rental units while the largest, the New York City Housing Authority, receives funding from HUD for nearly 300,000 public housing units and vouchers.

Table 1			
Overview of Public Housing Agencies (PHAs), 2012			
Program administered	Number of PHAs	Number of units	
		Vouchers	Public housing
Section 8 vouchers only	878	695,002	--
Public housing only	1,653	--	239,068
Vouchers and public housing	1,440	1,695,256	929,809
<b>Totals</b>		2,390,258	1,168,877
	<b>3,971</b>	<b>3,559,135</b>	

CBPP analysis of President's Open Government Directive - Public Housing Authority data as of October 2012, available at <http://www.hud.gov/offices/pih/programs/hcv/ogddata.cfm>. Agencies with zero units are excluded.

S. 3538 defines a “small” PHA as one that administers 550 or fewer public housing units, authorized Section 8 housing vouchers, or a combination of the two. Nearly 3,000 PHAs — three of every four — come within this definition.<sup>3</sup> Reducing HUD’s responsibilities for oversight of small agencies, as S. 3538 seeks to do, can be desirable, especially if budget cuts will be shrinking the federal workforce. At the same time, it’s important to keep in mind that in the aggregate, these small housing agencies are responsible for units and rental subsidies that house nearly 500,000 low-income households nationally. These agencies manage 13 percent of all public housing units and vouchers combined. (By contrast, HUD’s principal definition of a “small” PHA, adopted in 2003, covers agencies that have fewer than 250 public housing units or vouchers — and administer fewer than 6 percent of public housing units and vouchers.<sup>4</sup> See Table 2.)

**Table 2**

**Small Public Housing Agencies under S. 3538 and 2003 HUD Policy**

Program administered	S. 3538 (Small PHA = 550 or fewer total units)			2003 HUD Policy (Small PHA = manages fewer than 250 vouchers or 250 public housing units)		
	Number of PHAs	Number of units		Number of PHAs	Number of units	
		Vouchers	Public Housing		Vouchers	Public Housing
Section 8 vouchers only	640	119,935	--	454	49,887	--
Public housing only	1,626	--	155,572	1,503	--	112,551
Vouchers and public housing	685	104,352	88,204	735*	38,832	64,485
<b>Totals</b>	<b>2,951</b>	224,287	243,776	<b>2,261</b>	88,719	177,036
		<b>468,063</b>			<b>265,755</b>	

CBPP analysis of 2012 HUD Open Government data. See Table 1.

\* Of the 735 PHAs that administer both Section 8 vouchers and public housing units and are considered “small” under HUD’s 2003 program-based definition, 327 have a “small” public housing program (fewer than 250 units) and administer 250 or more vouchers, 104 have a “small” voucher program but 250 or more public housing units, and 304 are “small” in both programs. The numbers of vouchers and public housing units shown in the right side of the table are only for the programs of these combined agencies that HUD considers “small.”

More than half (55 percent) of the small agencies under the S. 3538 definition manage public housing only. These agencies tend to be very small, with two-thirds managing fewer than 100 units. Most small *public housing-only* agencies are located in *non-metropolitan* areas.

<sup>3</sup> In the Small Public Housing Authorities Paperwork Reduction Act enacted as part of the Housing and Economic Recovery Act of 2008, Congress used a cutoff of 550 total units to designate the PHAs relieved of most formal planning obligations. Pub. L. 110-289, Sections 2701 and 2702, July 30, 2008. S. 3538 adopts the same definition.

<sup>4</sup> In 2003, HUD issued a set of rules to deregulate small public housing agencies (see 68 Federal Register 37664, June 24, 2003). These rules defined a small PHA as one with fewer than 250 vouchers or public housing units.

### Small Agencies Are Common in Metropolitan as Well as Rural Areas

Some policymakers may mistakenly believe that small agencies manage relatively few units because they serve sparsely populated rural areas. While this is the case for a number of small agencies, particularly those that manage only public housing, 41 percent of the agencies that S. 3538 would define as small serve suburban cities or towns within metropolitan areas. These agencies administer nearly half (46 percent) of all the vouchers and public housing units managed by “small” agencies, as S. 3538 defines them. For example, 40 different small PHAs provide federal rental assistance in the greater Boston metropolitan area, in addition to 19 larger agencies and a state-administered housing voucher program.

Program administered	Non-Metro PHAs			Metro PHAs		
	PHAs	Number of units		PHAs	Number of units	
		Vouchers	Public Housing		Vouchers	Public Housing
Section 8 vouchers only	254	48,865	--	385	70,707	--
Public housing only	1,111	--	99,142	515	--	56,430
Vouchers and public housing	383	53,309	51,275	302	51,043	36,929
<b>Totals</b>	<b>1,748</b>	102,174	150,417	<b>1,202</b>	121,750	93,359
		<b>252,591</b>			<b>215,109</b>	

CBPP analysis of 2012 HUD Open Government data. See Table 1.

\* An agency is considered to be located in a metro area if its address is in a county listed in a metropolitan area in HUD's FY2012 Fair Market Rent (FMR) tables, <http://www.huduser.org/portal/datasets/fmr.html>. All other agencies are considered non-metropolitan.

In addition, among the subset of small agencies that administer voucher programs, 52 percent are in metropolitan areas, and these metro-area agencies administer 54 percent of all small agencies' vouchers nationwide. This balkanization of voucher administration within metro areas creates significant burdens for families seeking assistance and searching for housing. As discussed below, S. 3538 includes a provision to help address this serious problem, but substantially more needs to be done in this area.

## AHSSIA Provisions Cover All Agencies and Offer Sounder Approach to Streamlining

For the last six years, Congress has considered streamlining federal rental assistance programs to reduce federal, state, and local costs without undermining the effectiveness of the programs or harming the families they serve. Broad consensus has emerged among stakeholders, as witnesses at an August 2, 2012 hearing of the Senate Banking Subcommittee on Housing, Transportation, and Community Development made clear. This consensus is bipartisan: the core provisions of the Affordable Housing and Self-Sufficiency Improvement Act (AHSSIA), circulated by Republican staff of the House Financial Services Committee on April 13, 2012, are nearly identical to those in the draft Section 8 Voucher Reform Act (SEVRA) circulated by Democratic staff of the House and Senate housing authorizing committees in December 2010.<sup>5</sup> These provisions would greatly simplify administration of housing assistance for small and large agencies alike.

S. 3538 takes aim at many of the same problems as AHSSIA and SEVRA, but it often proposes different solutions, and it targets only the nearly 3,000 small local agencies that administer 13 percent of public housing units and housing vouchers. This would create two different sets of rules based on agency size, which would complicate federal oversight and could increase complexity for some low-income families and private owners renting to voucher holders.

In addition, where they differ, the policy changes in S.3538 are generally less well-designed than those in AHSSIA and SEVRA, and in some cases would risk adverse consequences, such as substantial rent increases to vulnerable families.

### Reforming Tenant Rent Policies

Unlike SEVRA and AHSSIA, which contain numerous common-sense policies to reduce the administrative work required by all agencies to determine tenant rent payments, S. 3538 would require HUD to carry out a rent reform “demonstration” that would enable as many as 590 small agencies (20 percent of all small agencies in the nation) to make sweeping changes to rent rules. Despite the “demonstration” label, S. 3538 does not require a rigorous evaluation. Indeed, it would be virtually impossible for HUD to meaningfully evaluate the changes that hundreds of small agencies would make. Yet those changes could have significant impacts.

- Of greatest concern, participating agencies could impose a minimum rent *of any amount* in place of the current cap of \$50 per month. This proposal would effectively permit small PHAs to impose flat rents with *no link to income*, eviscerating the fundamental policy of HUD’s rental assistance programs that the amount of the rental charge should reflect a household’s ability to pay, with families generally paying 30 percent of their income for housing.
- Agencies could replace the current rent limit of 30 percent of a family’s income with a “tiered-rent” system that could raise rents on the poorest tenants while cutting them for many higher

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<sup>5</sup> See <http://www.cbpp.org/research/index.cfm?fa=topic&id=143> for the text of these draft bills and CBPP’s analysis of how their provisions compare with current law. The April 13 AHSSIA draft includes a section expanding a modified Moving to Work demonstration which was not included in the draft bill approved by the subcommittee on February 7, 2012; the 2010 SEVRA draft had no similar provision. The full Financial Services Committee has not held a mark-up on AHSSIA, reportedly due to disagreement about the MTW provision. The most recent drafts of AHSSIA and SEVRA are similar, except with regard to MTW expansion, to the versions of SEVRA approved by the House Financial Services Committee in 2009 and by the full House in 2007 with a strong bipartisan vote.

income families, and could actually raise federal costs.

- Agencies could base rents on a family's *gross* income, thereby eliminating deductions for families with dependents, elderly and disabled households, and households with unreimbursed medical or child-care expenses. These deductions are designed to reflect the more limited resources these household have available to pay for housing.
- Agencies could determine families' incomes and make adjustments to the rent they owe only every *five years* instead of annually. A family could request a review before the five years have elapsed if its income changes sharply and exceeds a threshold the agency has established. There would be no cap, however, on the threshold that an agency could establish, so it could opt to sharply curtail families' access to interim rent changes by setting the threshold at a very high level. This would reduce agencies' administrative costs but could leave families that experience substantial income drops at risk of serious hardship and even displacement from their homes. Moreover, since tenant incomes tend to rise over time, on average, limiting income reviews to every five years would likely cut rent revenues and increase federal costs.

In addition to the direct effects on families, these changes would allow participating small agencies to establish a complex patchwork of local rent rules that would differ greatly from those that other agencies use and that could be confusing for families and private owners — and difficult for HUD to oversee.

One benefit to small agencies of the proposed changes would be to reduce the staff time spent determining families' countable income, which includes determining their eligibility for a large number of federally required deductions and exclusions. The rent simplification provisions in SEVRA and AHSSIA, however, would accomplish this objective for *all* agencies, small and large, and would do so while leaving important federal standards in place and protecting tenants from sharp rent increases. Moreover, the SEVRA/AHSSIA rent simplification provisions are carefully crafted to avoid increasing federal costs. Indeed, the Congressional Budget Office has estimated that implementation of the rent changes in AHSSIA, without considering the other provisions of the bill, would reduce program costs by more than \$2 billion over five years. Such cost-savings, while not reducing the deficit directly, would help Congress comply with the statutory caps on funding for annually-appropriated programs without reducing the number of families receiving rental assistance.

For example, AHSSIA and SEVRA would allow agencies and owners to conduct income reviews every three years (rather than annually) for those households that receive most or all of their income from fixed sources such as Social Security or SSI and consequently are unlikely to experience much income variation.<sup>6</sup> This would reduce burdens for agencies without the risks of hardship for families and the added federal costs that would result from the S. 3538 option to review incomes as infrequently as every *five years* for *all* families, including those with volatile incomes.

In addition, AHSSIA and SEVRA would require rent adjustments only when a family's annual income drops by 10 percent or more, making "interim" readjustments less common but still providing them when tenants would otherwise face serious hardship. Today, PHAs must adjust

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<sup>6</sup> Many fixed-income benefits, such as Social Security and SSI, typically increase annually due to cost-of-living adjustments. To avoid a loss of revenue from this streamlined option, agencies would be required to assume that in the intervening two years, these tenants' incomes rose by a rate of inflation specified by HUD.

rents between annual reviews at the request of any tenant whose income drops by any amount. Years of discussion among stakeholders — including Congress and HUD — led to adoption of the 10 percent trigger in AHSSIA and SEVRA, which would balance the goals of administrative streamlining, cost containment, and protection for vulnerable tenants. Under S. 3538, in contrast, small agencies in the rent demonstration would be free to set any threshold they choose for income changes that trigger rent adjustments. (The bills would require interim adjustments for income *increases* exceeding 10 percent from sources other than earnings. Adjustments for increases in earned income would be delayed until the next annual review to strengthen work incentives.)

AHSSIA and SEVRA also would sharply reduce the administrative burdens resulting from the application of income deductions, but without permitting agencies to eliminate deductions entirely as S. 3538 would. The bills would increase the threshold for the medical deduction from 3 percent of annual income to 10 percent. This would substantially reduce the number of people eligible for the deduction — and therefore the number of itemized deductions that agencies would need to verify — while still providing relief for tenants with extremely high medical or disability assistance expenses. Similarly, the bills would allow the deduction of child care expenses that exceed 5 percent of income; the current policy allows qualified families to deduct the full amount of “reasonable” child care expenses. To help offset the rent increases that tenants would pay due to these changes, the bills would raise the easy-to-administer standard deductions that most families receive.

Finally, AHSSIA would raise the cap on minimum rents from \$50 to \$69.45. AHSSIA couples this increase with significant improvements to the policies and procedures that require agencies not to impose a minimum rent in cases where that would cause serious hardship. This provision of AHSSIA would contribute little to administrative streamlining and risk hardship for some vulnerable tenants unable to pursue the somewhat complex hardship procedure. It is, however, fundamentally different from — and far less deleterious than — the S. 3538 provision allowing minimum rents at any level.

It is worthwhile to *test* alternative rent policies that go beyond the changes in AHSSIA and SEVRA, particularly to determine whether there are cost-effective policies that would encourage increased work effort. But the “demonstration” in S. 3538 is not needed to do this. In the 2010 appropriations act, Congress directed HUD to initiate a rent reform demonstration, and HUD recently awarded the contract. This demonstration will be subject to rigorous evaluation and likely will test policies similar to those outlined in S. 3538 but on a scale appropriate to a demonstration. Congress should not permit hundreds of agencies to make fundamental changes in rent policy — as S. 3538 would do — without first learning the impact of such changes on families and on program costs, which the pending demonstration should make possible.

### **Reducing Frequency of Voucher Unit Inspections**

Vouchers may be used only in houses or apartments that meet federal quality standards. S. 3538 would require small agencies to conduct these inspections every three years, rather than annually.

There is broad consensus that requiring annual inspections of every voucher-subsidized unit is unduly burdensome, and PHAs ought to have some discretion to base frequency of inspection on the risk that a unit’s condition will deteriorate. AHSSIA would allow all PHAs, regardless of size, to inspect units less frequently but would require inspections at least every *two* years. AHSSIA also

includes other policies to reduce inspection-related administrative burdens for agencies and owners, such as allowing PHAs to rely on recent inspections performed for other federal housing programs.<sup>7</sup>

The AHSSIA provision requiring inspections every two years has wide support, reflecting a consensus that it substantially reduces administrative burdens but still adequately ensures that vouchers will be used in decent-quality units. Reducing the frequency of inspections to every three years could upset this balance and pose risks for assisted families. Also, whatever the merits of the two standards, there is no sound reason for holding small agencies that administer voucher programs to a lower standard than larger agencies, as S. 3538 would do.

### **Converting Public Housing to Project-Based Section 8 Assistance**

S. 3538 would allow small agencies that own public housing to convert some or all of their properties to project-based Section 8 assistance. The provision is similar in intent to AHSSIA's authorization of a demonstration to expand the role of private capital in affordable housing, including public housing. Converting small agencies' public housing to project-based Section 8 assistance can achieve multiple goals: preserving needed affordable housing, reducing regulatory constraints and administrative burdens for small agencies, and reducing federal oversight responsibilities.

Achieving these goals, however, should not undermine tenants' rights and security in their homes. In addition, in the current constrained fiscal environment, it is imperative that conversion not increase federal costs more than is necessary to preserve units in demand. Leveraging private capital to substantially rehabilitate aging properties requires sufficient federal subsidy, in combination with tenant rents, to operate the properties as well as to repay loans. In many cases, the current level of public housing operating and capital funds will be inadequate for these purposes, and modestly higher Section 8 subsidies will be required. For the reasons explained below, the AHSSIA provision better achieves the appropriate policy balance here than the S.3538 provision. The AHSSIA provision, however, could reduce administrative burdens more effectively for small agencies and HUD if it included a preference in its demonstration for small agencies willing to convert all of their public housing properties to project-based Section 8 assistance.<sup>8</sup>

Authorizing a demonstration is worthwhile despite the enactment of the Rental Assistance Demonstration (RAD) in the fiscal year 2012 appropriations bill. RAD is limited to 60,000 units and will expire at the end of fiscal year 2015, so relatively few small agencies are likely to qualify to convert their properties under the demonstration. Authorization of a larger and longer demonstration, particularly combined with supplemental funding, could benefit small agencies as well as others.

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<sup>7</sup> Will Fischer, testimony before the Senate Banking Subcommittee on Housing, Transportation and Community Development, Center on Budget and Policy Priorities, August 2, 2012, <http://www.cbpp.org/cms/index.cfm?fa=view&id=3814>.

<sup>8</sup> About 1,600 small PHAs own only one or two public housing properties that, on average, have less than 50 units each. Nationally, these properties have a total of 73,185 units. HUD report, n. 2 above, Table 20.

## Converting Public Housing to Project-Based Vouchers Best Solution to Reduce Administrative Burdens for Small Agencies and HUD

Under S. 3538 and AHSSIA, agencies could convert public housing properties to either of two types of project-based Section 8 assistance: project-based vouchers (PBVs) or project-based Section 8 contracts. (The Rental Assistance Demonstration enacted in 2012 would also permit such conversions, but of no more than 60,000 public housing units.) With either type of conversion, the PHAs would still usually own and manage the former public housing properties and would remain PHAs under state law. The different types of project-based Section 8 assistance would have substantially different impacts, however, on the administrative responsibilities of the agencies and of HUD.

For small, public housing-only agencies – which make up more than half of all small PHAs under the S. 3538 definition – converting to PBV assistance would relieve them of most federal requirements. An agency cannot administer PBVs unless it has a tenant-based voucher program, so HUD would contract with another (typically larger) state or local agency to administer the PBVs that subsidize the units of the converting agency, which would no longer have a direct financial or legal relationship with HUD. The only special requirements that would come with the PBV assistance would be to meet federal quality standards for the units and to rent the units only to eligible families. Responsibility for compliance with HUD rules for setting tenant rent contributions and submission of tenant and financial data to HUD would shift to the agency administering the PBV contract. The converting PHA could maintain its own waiting list or could have the administering agency take over that responsibility and determine applicants' eligibility.

Conversion to PBV assistance also would benefit the 685 small PHAs that both own public housing and administer housing voucher programs. Conversion would eliminate the need for the agency to operate two different programs with different rules and accounting requirements. HUD would have one set of legal agreements with the agency, rather than two (managed by separate staff), and reporting requirements would be streamlined. If the converting PHA administered the PBVs itself, it would have to arrange for a third party to inspect the units (because PHAs are not permitted to carry out inspections themselves for buildings they own), but it would receive added funds to cover this cost.

If PHAs chose instead to convert their properties to project-based Section 8 contracts, they would continue to have a direct legal relationship with HUD, and the agencies' responsibilities regarding tenant rent determinations, maintaining waiting lists, and submission of data to HUD would remain essentially the same as under the public housing program. Some other obligations may be lessened; the extent of these changes would vary depending on congressional policy decisions (public housing tenants would retain stronger rights under the AHSSIA and Rental Assistance Demonstration conversion policies than under S. 3538). These conversions would not reduce HUD's workload significantly, as each property would have its own Section 8 contract after conversion. HUD (or its contractors) would continue to monitor the physical condition of the properties and verify the accuracy of requests for subsidy payments.

### *Long-Term Preservation of Affordable Housing*

AHSSIA includes a number of critical provisions to ensure that converted public housing properties continue to provide affordable housing over the long term and to minimize the risk of privatization of the ownership of the properties. For example, it requires converted properties to assist low-income families at affordable rents over the long term, generally prohibits HUD from terminating rental assistance, and requires renewal of expiring contracts. (The latter two requirements depend on the availability of funding.) Only public or non-profit entities may own converted properties, with very narrow exceptions. These protections were essential to gaining bipartisan support in the House and broad agreement among stakeholders. S. 3538 includes none of these important requirements.

### *Protection of Tenant Rights*

Over the decades, Congress and HUD have established stronger procedural rights for public housing tenants than for tenants of privately owned assisted properties, as well as stronger rights to participate in agency planning. AHSSIA preserves these rights and specifies that agencies applying for conversion must consult with residents in advance. In addition, AHSSIA ensures that tenants cannot be evicted because of a shift in funding streams for their units from public housing to project-based Section 8. S. 3538 lacks these protections.

One of the most important features of AHSSIA's conversion policy is "choice mobility," which allows most tenants to move with tenant-based assistance, rather than to have to remain in a property solely because they cannot afford a unit without rental assistance. (Movers would use tenant-based vouchers that become available as families leave the program. Project-based assistance would remain available to subsidize the rent of another family that moves into the vacated unit.) Under S. 3538, tenants in properties converted to *project-based voucher assistance* would have such a right, based on existing requirements of the PBV program, but if agencies chose to convert to *project-based contracts*, tenants would have no right to move with continued rental assistance.

### *Cost Containment*

With strict ten-year limits already in place under the Budget Control Act on funding for discretionary programs (the budget category that includes housing assistance) and further cuts possible,<sup>9</sup> the cost implications of proposed policy changes deserve careful scrutiny. In the fiscal year 2012 appropriations bill, Congress allowed the Administration's proposed Rental Assistance Demonstration to proceed only for properties that could be preserved at no additional annual cost.<sup>10</sup> Cost-free conversion is likely to be possible for some public housing properties, particularly if they are able to leverage grants or other contributions that do not have to be repaid (such as equity contributions through the Low Income Housing Tax Credit program). But many properties — perhaps most — have rehabilitation needs that likely cannot be met without some increase in annual funding to support the necessary debt.

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<sup>9</sup> Richard Kogan, "Congress Has Cut Discretionary Funding By \$1.5 Trillion Over Ten Years," Center on Budget and Policy Priorities, September 25, 2012, <http://www.cbpp.org/cms/index.cfm?fa=view&id=3840>.

<sup>10</sup> That is, rents for units converted under RAD may not exceed the amount that can be supported by tenant payments — at 30 percent of income — plus the amount that would have been provided for the units through the public housing operating and capital funds, even if the resulting rent level is below market.

Recognizing this reality, AHSSIA would authorize an additional \$30 million a year for five years to cover the first year of supplemental costs of conversion and for technical assistance. It also would give HUD flexibility in setting rent levels for converted units.

While S. 3538 makes conversion subject to approval by the Secretary and the availability of appropriations, it lets agencies (rather than HUD) decide whether to set the initial rents in converted units at the market level or at the level needed to operate the property over the long term, which could be higher. It also allows agencies to make larger annual rent adjustments than HUD's formula adjustment factor permits if they can justify the higher rent based on actual costs. AHSSIA, in contrast, gives HUD the flexibility to set initial rents at below-market levels if that would be sufficient to preserve the property, and limits HUD's authority to permit above-market rents to cases where housing vouchers would not serve families as well or better. (Rents for voucher-assisted units cannot exceed comparable market rents.) Taken together, the rent policies in S. 3538 thus are likely to make conversions costlier for HUD than under AHSSIA, because unit rents would be higher and tenant subsidies thus would have to be deeper.

### **Project-Basing a Share of an Agency's Vouchers**

All housing agencies can contract with owners to use housing vouchers at a particular housing development. Through such "project-basing," agencies can, for example, partner with social service agencies to provide supportive housing to people with disabilities or to support the development of mixed-income housing in neighborhoods with strong educational or employment opportunities. Modest reforms could make the project-based voucher option more effective for small agencies as well as larger ones. The proposed changes in AHSSIA and SEVRA, however, are far preferable to those in S. 3538.

AHSSIA and SEVRA raise the share of an agency's voucher assistance that it can project-base from 20 percent to 25 percent if the agency uses the added 5 percent in areas where vouchers are difficult to use, or to house particular types of households (such as the homeless). In sharp contrast, S. 3538 would allow small agencies to project-base up to 50 percent of their vouchers, with no requirement that they serve special-needs populations. This policy would undermine the choice-based nature of the housing voucher program, as it would mean that for half of an agency's vouchers, families would have to live in a unit chosen by the agency rather than a unit of the family's choice for at least a year, or longer if a tenant-based voucher does not become available. Moreover, there is no apparent rationale for applying a different policy to small agencies.<sup>11</sup>

S. 3538 would also exempt small agencies from the requirement that they commit vouchers to a property only when such a decision is consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities. Again, there is no apparent reason why this

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<sup>11</sup> Current law measures the 20 percent limit against an agency's voucher funding rather than its number of authorized vouchers. When Congress enacted the law in 2000, there was no practical difference in these two measures, but now that most agencies are funded for fewer than their full number of authorized vouchers, current law generally reduces the number of vouchers an agency can project-base compared to a measure based on the number of authorized vouchers. S. 3538 retains the current-law measure based on voucher funding. SEVRA would permit agencies to project-base the higher of 25 percent of their authorized vouchers or 25 percent of their voucher funding, giving greater flexibility to housing agencies that are able to keep project-based voucher costs low. AHSSIA would base the limit strictly on the percentage of an agency's authorized vouchers.

important federal policy should depend on agency size. Perhaps the proposal stems from a belief that poverty concentration is not relevant in rural areas (though it is unclear whether the evidence would support such a belief). But even if that is the intent, it is important to remember that a majority of small voucher agencies (52 percent) are located in metropolitan areas, where concerns about poverty concentration and access to opportunity are surely relevant.

S. 3538 does not include the other important reforms to the project-based voucher program that AHSSIA and SEVRA contain. Of particular importance to small agencies, AHSSIA and SEVRA would allow agencies to provide project-based vouchers in up to 25 *percent* of units or 25 *units* in a project, whichever is greater, and would permit 40 percent of the units in a project to have project-based vouchers in areas where vouchers are difficult to use or the poverty rate is 20 percent or less.<sup>12</sup> These changes would make the voucher program more effective in rural and suburban areas (where rentals are frequently scarce and properties tend to be small) and in lower-poverty areas.

### **S. 3538 Proposal Encouraging Agencies to Form Consortia Would Increase Efficiency**

In the 1998 major reform of the public housing and voucher programs, Congress for the first time permitted two or more PHAs to form a consortium to administer their public housing and/or voucher programs in order to reduce administrative burdens for both the PHAs and HUD. A consortium agreement allows two or more agencies to achieve economies of scale in many aspects of program operations while maintaining their own local boards of directors. Consolidation of separate agencies to form a single PHA also could achieve economies of scale, but consolidation poses greater administrative and political hurdles. For many PHAs, the ability to retain their independent identity is a paramount concern, making it far more likely that they would join a consortium to achieve administrative economies of scale than consolidate with one or more other agencies.

However, a recent Government Accountability Office (GAO) study reports that since 1998, only four consortia have been formed in the entire country (involving nine agencies that administer vouchers), which demonstrates the ineffectiveness of the current policy.<sup>13</sup> S. 3538 proposes a partial solution: it would require HUD to modify its electronic systems to allow agencies in a consortium to function as a single entity for reporting purposes. This is a key step, as HUD's current regulations retain many separate reporting requirements.

A mere directive to HUD on this matter may have little effect, however, as HUD appears to have concluded that a statutory change in the definition of a "public housing agency" is also needed before HUD could allow a consortium to submit consolidated reports for public housing. HUD proposed such a change in its fiscal year 2013 budget request, and S. 2322 as approved by the Senate

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<sup>12</sup> Both today and under AHSSIA and SEVRA, agencies can place project-based vouchers in 100 percent of units in developments that assist the elderly or people with disabilities or provide supportive services to residents.

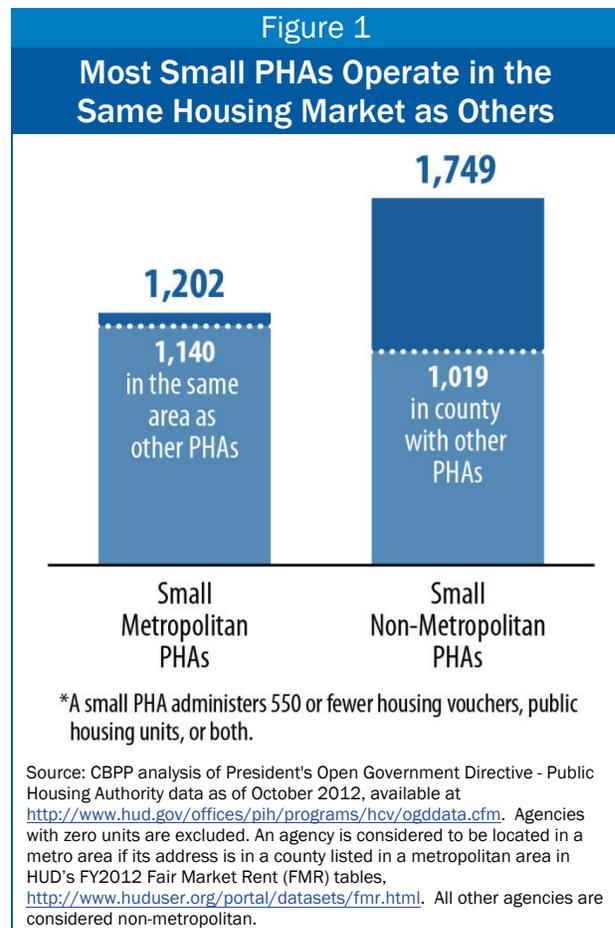
<sup>13</sup> U.S. General Accountability Office, "Housing Choice Vouchers: Options Exist to Increase Program Efficiencies," GAO-12-300, March 2012. An earlier HUD-commissioned study reported that as of 2005, seven consortia had been formed involving 33 PHAs. These higher figures, if correct, may have included public housing-only agencies in addition to agencies that administer vouchers. HUD Report, n. 2 above, p. 13.

Appropriations Committee includes the amendment.<sup>14</sup> Combining that provision with the proposal in S. 3538 would be beneficial.

Enabling agencies in a consortium to function as a single entity for funding, reporting, and oversight purposes would substantially reduce administrative burdens for small agencies and HUD. Agencies would also benefit from greater economies of scale. The GAO report notes, for example, the greater efficiencies possible when small agencies join together to hire inspectors or when a voucher program is large enough to generate sufficient administrative fees to support a fraud detection unit.<sup>15</sup> Economies of scale also could free up staff time to take advantage of program options such as using project-based vouchers to help develop or preserve mixed-income housing and supportive housing. Creation of a consortium with a single jurisdiction would also make it easier for families with vouchers to move within the area that the consortium covers and would eliminate the administrative work otherwise required when a voucher holder moves from one community to another under the voucher program’s “portability” procedures.

In enacting S. 3538’s proposal to require HUD to allow full consolidated reporting for consortia, policymakers should establish time frames for HUD to complete the necessary regulatory and systems changes. Policymakers also should authorize funding for HUD to provide technical assistance, and modest one-time funds to agencies to facilitate their forming consortia. The investment would pay off in reduced costs for HUD after the consortia are operational.

Regardless of whether agencies form consortia, it would help families in need if they could submit a single application for assistance from all housing agencies operating in a metropolitan area or rural county. Consolidated waiting lists also would reduce administrative costs for small agencies, whose staff now must maintain waiting lists with many duplicative applicants. In Massachusetts, an organization representing local housing agencies oversees such a list for a majority of the voucher PHAs in the state, and the participating agencies have been able to save significant staff time as a result. Recognizing the importance of a single application point for families seeking assistance, the Utah legislature recently required a single



<sup>14</sup> Some 18 months ago, HUD announced its intent to revise the consortia rule to allow PHAs to establish cross-jurisdictional consortia that would be treated as a single PHA with respect to multiple HUD requirements, including reporting. Such flexibility would apply only to the housing voucher program. Plan for Retrospective Review of Regulatory Actions under E.O. 13563, May 16, 2011. The proposed rule has not yet been published.

<sup>15</sup> GAO, n. 13 above, p. 40.

consolidated waiting list for all voucher-administering agencies in each county.<sup>16</sup>

As noted in Figure 1, 41 percent of small PHAs operate in metropolitan areas. These agencies administer 215,000 vouchers and public housing units (including more than half of the vouchers that all small PHAs administer), and almost all of these metro areas have multiple agencies.<sup>17</sup> Even rural counties often have two or more agencies; about 1,000 small agencies are located in a non-metro county with at least one other PHA. In such areas, needy families seeking affordable housing must apply in multiple locations to increase their chances of receiving assistance.

Overcoming the access barrier that the presence of multiple small agencies creates for eligible families — by allowing families to submit a single application — ought to be one of the goals of small agency reform as it would benefit needy families while reducing agency costs. The most efficient strategy for HUD to facilitate this improvement may be for it to develop software and related procedural guidance that interested agencies can use to adopt this reform.

### **Other Proposed Changes in S. 3358 Are Unwise**

Most of the remainder of S. 3538 would give small agencies additional flexibility in their use of funds, diminish their accountability to HUD, and reduce HUD's oversight. While these provisions may provide administrative relief to small agencies, a number of them could have unintended adverse consequences for vulnerable families, communities, and the federal treasury.

### **Combining Voucher and Public Housing Funds Would Likely Mean Assisting Fewer Families**

S. 3538 would allow all small agencies to combine the funding they receive for their voucher and public housing programs and use the funds for any purpose that either program permits.<sup>18</sup> Known as “fungibility,” this authority would allow agencies to shift voucher renewal funds to support administrative costs or to operate or repair their public housing rather than to provide voucher assistance to needy families. More than 1,300 agencies — all the small PHAs that administer voucher programs — would be able to reduce the number of families receiving vouchers under this sweeping provision.<sup>19</sup>

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<sup>16</sup> Utah H.B. 489, 2011.

<sup>17</sup> Out of a total of 1,202 small metro PHAs, only 62 agencies (5 percent) are the sole PHA in their state's portion of the metro area.

<sup>18</sup> Section 3 of the bill inserts a new section 37 of the U.S. Housing Act concerning small PHAs. New section 37(e) provides authority for all small PHAs to combine public housing and voucher funding streams.

<sup>19</sup> See Table 2. Theoretically, small agencies that administer both the voucher and public housing programs could use fungibility to shift funds out of public housing in order to provide more families with vouchers. But this would be unlikely to occur on a significant scale. Few agencies would have excess public housing funds unless they allowed some of their public housing units to deteriorate or remain vacant, and agencies are likely to prioritize maintenance and repairs at units they own and manage over reducing voucher waiting lists. The fungibility provision also would allow small agencies that manage public housing but do not have a voucher program to combine their operating and capital funds, modestly increasing the number of agencies with this flexibility. Section 9(g)(2) of the U.S. Housing Act, 42 U.S.C. 1437g(g)(2) of the U.S. Housing Act allows the approximately 1,800 agencies with fewer than 250 public housing units to combine their operating and capital funds. Larger agencies can shift up to 20 percent of capital funds to cover operating costs. S. 3538 would enable about an additional 200 agencies to shift an unlimited amount of capital funds to support staff salaries and other operating costs.

Under the current voucher funding formula, agencies that spend less because they provide fewer families with vouchers receive a proportional (and potentially permanent) reduction in their funding the following year. Proponents of the fungibility option may not have realized the negative impact it could have on agencies' future funding. Enactment of S. 3538 almost certainly would lead to strong pressure on appropriators to alter the formula and allow agencies electing the fungibility option to shift voucher funds without reducing their future funding.

The record of the Moving-to-Work (MTW) demonstration, which gives 35 agencies broad flexibility to shift funds between programs, illustrates the risks fungibility could create. In 2010, MTW agencies transferred more than \$400 million out of their voucher programs to other purposes (such as public housing redevelopment, services to low-income families, or supplementing agency administrative budgets) or left the funds unspent. More than 45,000 low-income families were left without housing assistance as a result.<sup>20</sup>

Under S. 3538, agencies that use fungibility must assist “not less than substantially the same number of low-income families” as in the previous year. But without an objective measure and specific requirements for enforcement, it would be up to HUD to determine how open-ended the flexibility would be. HUD has failed to create an objective standard or enforce the similar requirement that applies to PHAs in Moving to Work.

The bill's vague standard is of particular concern in light of the changes S. 3538 would make in performance standards. It would require HUD to consider an agency's management “acceptable” if it uses 90 percent of its voucher funds and has an occupancy rate of 90 percent for its public housing units. In combination, these provisions could permit PHAs to shift up to 10 percent of voucher renewal funds to cover voucher program administrative costs (or to shift the funds from vouchers to public housing). It also would allow PHAs to reduce by up to 10 percent the number of families and individuals living in public housing and to use the funds for administrative expenses.<sup>21</sup>

### **Changes in Performance Management Measures Would Undermine Programs**

S. 3538 would eliminate or modify drastically most of the measures HUD uses to assess small PHAs' performance in managing their public housing and voucher programs. It also would exempt small PHAs from all planning and reporting requirements that do not apply to private owners administering HUD subsidies. The impacts of these proposed changes could be far-reaching.

#### *Voucher Payment Errors and Federal Costs May Increase*

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<sup>20</sup> Will Fischer, “Expansion of HUD's ‘Moving-To-Work’ Demonstration is Not Justified,” Center on Budget and Policy Priorities, September 27, 2011, <http://www.cbpp.org/files/9-27-11hous.pdf>.

<sup>21</sup> Under current policy, a PHA receives a score of zero on the leasing indicator of the Section 8 Management Assessment Program (SEMAP) if it fails to use at least 95 percent of its vouchers (or budget authority); a PHA receives the maximum points if it uses 98 percent or more of its vouchers or funding. PHAs that receive a zero score must submit a corrective action plan to HUD. Similarly, in assessing management performance in the public housing program, HUD now rewards occupancy rates of 96 – 98 percent (different standards apply to the capital and operating funds). Deeming performance “acceptable” if 90 percent of units are occupied would undermine this incentive substantially.

S. 3538 would prohibit HUD from assessing the performance of small PHAs in administering their voucher programs on any factor other than the number of families served.<sup>22</sup> HUD could no longer evaluate small PHAs based on whether they have paid the correct amount of voucher subsidy for participating families.<sup>23</sup> As a result, the bill would eliminate a powerful tool for ensuring that federal funds are spent properly. HUD assesses this aspect of PHA performance using tenant data that agencies already regularly report, so evaluating payment accuracy entails no added administrative burden to small agencies.<sup>24</sup>

### *Housing Quality May Decline*

HUD rules generally require inspections of public housing properties at one- to three-year intervals, depending on the agency's prior performance; this is similar to the framework that applies to multifamily properties, many of which also are owned by small entities.<sup>25</sup> S. 3538 would prohibit HUD from inspecting more frequently than every three years any properties owned by any small agency, unless HUD has previously determined that the agency's performance is severely deficient and placed the agency in "troubled" status. This proposal creates undue risk of poor housing quality for the 20 percent of public housing units owned by a small PHA.

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<sup>22</sup> The new section 37(c)(2)(B) that the bill would insert into the Housing Act would require HUD to evaluate small agencies' management of their housing voucher programs "solely on the basis of the lease-up rate or the budget utilization rate of the small public housing agency." The bill would allow HUD to consider two additional factors to determine whether a small PHA is "troubled": whether it has failed to comply with the three-year inspection requirement (discussed above) and whether it has "failed to account for its revenues and expenses, misappropriated Federal funds, or otherwise failed to comply with applicable Federal law." New section 37(c)(4)(B).

<sup>23</sup> Under HUD's current regulations for the Section 8 Management Assessment Program (SEMAP), half of a typical small agency's performance rating in administering the voucher program (65 out of a total of 130 possible points for agencies without a required Family Self-Sufficiency program located in a non-metropolitan area) is based on whether unit rents are "reasonable" and whether tenants' incomes and their rent contributions are calculated correctly. These are the key measures for determining whether a subsidy is correctly paid. In contrast, the "lease-up" indicator accounts for only 20 points of the total SEMAP rating. For the 862 PHAs with fewer than 250 vouchers, this assessment occurs every two years; for all other PHAs it is annual.

<sup>24</sup> Federal policy relieves entities that spend less than \$500,000 in federal funds in a year from the requirements of the Single Audit Act. (See Office of Management and Budget Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations, revised June 27, 2003 and June 26, 2007, [http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133\\_revised\\_2007.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf).) Approximately 400 PHAs with a housing voucher program spend less than \$500,000 in federal funds annually and are already largely exempt from having their performance on these criteria count as part of HUD's assessment. These very small PHAs are, however, required to certify that they have performed a quality control review of payment accuracy. HUD requires all PHAs to have a supervisor review a minimum of five files for up to 50 cases, plus one file for each additional 50 families assisted. Except for those PHAs that have only a single staff person and may therefore have to pay someone outside the agency to perform the review, reviewing up to 15 files (for a PHA with 550 vouchers) seems to be a minor administrative responsibility. (To estimate the number of voucher-administering PHAs that are sufficiently small to be exempt from the Single Audit Act, we used spending on housing assistance payments from HUD's Voucher Management System for calendar year 2011 and assumed agencies received an additional 8 percent of such payments for administrative fees and spent all of these funds. For the PHAs that also own public housing, we assumed agencies spent 90 percent of the capital and operating funds they received, using the most recent data available to us, 2011 operating and 2010 capital fund allocations.)

<sup>25</sup> A HUD rule, effective March 25, 2011, reduces the frequency of inspections (and other components of the Public Housing Assessment System or PHAS) to every three years for all high-performing agencies, including those with fewer than 250 public housing units. Other agencies (of any size) will be subject to the same inspection frequency that now applies to properties in HUD's multifamily program with project-based Section 8 assistance, except that properties owned by a non-troubled PHA with fewer than 250 public housing units are not inspected more frequently than every two years. 76 Federal Register 10136 (February 23, 2011).

In the voucher program, S. 3538 would not only reduce the frequency of required inspections of units where voucher families live (as discussed above), but also eliminate compliance with housing quality requirements as a factor in assessing small agencies' performance in managing their voucher programs. Currently, about one-fourth of the points available under HUD's assessment policy are based on PHAs' compliance with requirements to assure that units that voucher holders rent meet minimum quality standards. S. 3538 would thus eliminate agency incentives to maintain quality, and could thereby expose more families living in voucher-assisted properties to poor housing quality (and allow units to deteriorate and worsen neighborhood blight).

### *Assisted Families and the Public Would Have Less Input into PHA Decisions*

When Congress responded in 2008 to small PHAs' request to relieve them of the administrative burdens of submitting annual plans to HUD (see footnote 3), it was careful to preserve PHAs' obligation to hold a public hearing each year to give residents and the public an opportunity to comment on any changes to the agencies' goals or policies. Congress established this principle of participatory and transparent public policymaking in the Quality Housing and Work Responsibility Act of 1998 to balance the increased discretion that the Act gave PHAs over key policy choices.

S. 3538 would eliminate the remaining obligations of small PHAs to have a Resident Advisory Board, to afford residents and the public a once-a-year opportunity to provide input into agencies' policy decisions, and to certify their compliance with fair housing requirements.<sup>26</sup> The time involved to comply with these requirements, which Congress retained in 2008, is small. The proposed change is ill advised.

### **Reduced Remedial Powers to Address Poorly Managed Voucher Programs**

In addition to sharply reducing the grounds on which HUD may assess the performance of small agencies' voucher programs, S. 3538 would eliminate HUD's authority to consolidate the voucher program of a small agency that has exhibited chronic poor management with the voucher program of a nearby well-managed agency. The bill also would eliminate the requirement that HUD transfer administration of a voucher program that fails to remedy its substantial noncompliance. (This same weakening of HUD enforcement responsibilities also would apply to small agencies' public housing programs.)<sup>27</sup>

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<sup>26</sup> Section 3(b) of the bill strikes requirements added by the Small Public Housing Authorities Paperwork Reduction Act of 2008 that retained small agencies' obligations to establish resident advisory boards, conduct annual public hearings, and certify to HUD compliance with civil rights obligations. Section 102(a) of the bill eliminates any public housing reporting or planning requirement beyond reports or other information that an owner of a Section 8-assisted property with FHA insurance has to submit to HUD.

<sup>27</sup> New section 37(c)(4)(B) limits the grounds on which HUD may designate a small PHA's voucher program as "troubled"; subparagraph (D)(ii)(I) allows HUD to renew corrective action agreements repeatedly, regardless of whether an agency demonstrates progress; and clause (IV) specifies HUD's remedial powers in the case of substantial noncompliance. The enumerated powers do not include the power to consolidate agencies, which is now granted by section 6(j)(3)(D)(i)(IV) of the U.S. Housing Act, 42 U.S.C. 1437d(j)(3)(D)(i)(IV). Section 6(j)(3)(B)(ii)(III) of the Housing Act requires HUD to take further action if a troubled agency fails to cure its performance deficiencies within two years.

As the next section explains, solutions to the problems that small agencies face should include reducing the number of agencies too small to operate efficiently. Limiting HUD's authority to achieve such economies of scale in the case of poorly performing agencies would be a step backwards.

## **Geography of Program Administration Should Promote Efficiency and Advance Program Goals**

The current proliferation of PHAs is a largely unintended product of local, state, and federal decisions, built on the 75-year-old framework of the U.S. Housing Act of 1937. The 1937 Act authorized funds to flow through public housing agencies, which had to be created under state enabling legislation; differences in municipal and county governance as well as state politics led to very different decisions among the states about the scale of the jurisdictions of the new PHAs. In 1974, Congress layered the administration of the new Section 8 certificate (now voucher) program on top of the existing PHA framework, and HUD criteria for awarding Section 8 funds incentivized the creation of nearly 900 additional agencies solely to administer tenant-based rental assistance. (Almost three-fourths of these voucher-only agencies are small.)

This historical accretion of nearly 4,000 administrators of the public housing and voucher programs is not inherent in the programs' design. States differ greatly in the scale and geographic coverage of PHAs. On average, each PHA provides federal rental assistance to about 900 households, but in Nebraska the average PHA size is 187 total units, nearly four out of five agencies manage fewer than 100 units, and one-fifth manage fewer than 20 units. At the opposite end of the spectrum, Nevada has nearly as many units of federal rental assistance as Nebraska, but 104 fewer PHAs, and its three PHAs each serve an average of about 6,000 families. (The appendix has data for each state.)

In some states, state agencies oversee a large share of the federal rental assistance resources, especially Section 8 vouchers. For example, the Montana Department of Commerce administers about two-thirds of the vouchers in Montana (in both rural and other areas), and the Idaho Housing Finance Agency administers about half of the state's vouchers (in 34 predominantly rural counties). The Delaware State Housing Agency manages both public housing and voucher programs that serve the rural parts of the state. Some states have created regional entities that respond to the challenge posed by rural areas; Mississippi, for example, administers over 60 percent of the state's vouchers and nearly 20 percent of its public housing units through eight regional housing authorities.

The sheer number of PHAs undermines the effectiveness of the programs they administer and increases costs. To get the most value out of the federal funds spent on these programs, it is vital to take a 21<sup>st</sup> century look at their administrative geography and determine what would be most efficient and effective at promoting program goals. In considering efficiency, it is important to remember that all funding for the public housing and voucher programs is federal. States and localities do not contribute matching funds or share in administrative costs.

Today, the goals for housing assistance programs go beyond ensuring that low-income families have an affordable and decent place to live. Policymakers also want these programs to promote opportunity: to help families be more economically self-sufficient, to enable children to perform better in school, to improve health, and to assist frail elders and people with disabilities to live as

independently as they can. To produce these outcomes, housing program administrators must be able not merely to comply with minimum federal requirements but also to collaborate with agencies that have expertise in these other areas. Housing agencies that are so small that a few staff must carry out all basic program functions are less likely to have the time to work effectively with partners on such matters. Moreover, creating the necessary partnerships will be easier if the administration of housing programs is aligned with the administration of workforce, education, child welfare, health, and other social service programs; state and regional entities drive policy in most of these other domains.

Rather than creating special rules for small PHAs when streamlining would make sense for all agencies, or minimizing performance requirements and oversight with the attendant risks of harm to families and waste of funds, Congress and HUD should *directly* tackle the administrative complexity that results from having so many small PHAs.

As discussed above, S. 3538 includes two proposals that would reduce administrative burdens related to oversight of small agencies: encouraging small agencies to form consortia by drastically reducing reporting burdens; and enabling small agencies to convert public housing to project-based Section 8 assistance. If combined with HUD encouragement of consolidated waiting lists for housing agencies operating in the same housing market area, these policy changes would represent significant reform. But by themselves, they would not go far enough to reduce unnecessary federal costs or maximize performance.

The most straightforward way to meet these goals would be to establish regional entities that administer a single set of programs throughout a housing market area — such as metro-wide entities — or statewide housing voucher programs. There is no sound policy justification for administering separate tenant-based rental assistance programs for each town, city, or county within a metropolitan area. With the current ease of electronic communication, proximity to a housing agency's office also is of limited importance. Larger programs serving broader areas would not only be more cost-effective, but also — if well-managed — could expand voucher holders' access to neighborhoods that offer greater economic opportunities and more effective schools. Congressional action would be required for such a major restructuring of program administration.

Short of a major reform of this type, however, policymakers still can adopt several significant measures to reduce administrative burdens and improve outcomes:

- *Stop paying for inefficiency.* Under current funding formulas, HUD gives smaller agencies higher per-unit subsidies for voucher administrative costs; smaller agencies also benefit from favorable rules for determining whether vacant units at very small public housing programs are eligible for operating subsidies.<sup>28</sup> If policymakers enact the measures outlined above to facilitate forming consortia, they should also revise the payment formulas to remove agencies' incentives to remain small rather than to form consortia or consolidate. Communities that want to continue to operate small programs could do so by providing their own funds to supplement federal funds. We estimate that the voucher program alone could save \$39 million per year just by eliminating the higher per-voucher fee that agencies receive if they have 600 or fewer vouchers.

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<sup>28</sup> In the public housing program, PHAs with 100 or fewer units receive full operating subsidies for up to five vacant units, while funding for vacancies at larger agencies is limited to 3 percent of units.

- *Reward formation of consortia or consolidation.* As long as the higher voucher administrative fee for small programs remains in effect, HUD could allow agencies that form consortia or consolidate to *retain* the higher fee amount they would have otherwise earned, at least for a transition period. This would help agencies meet the one-time costs of combining administrative operations. Future funding competitions could provide extra points for agencies that have formed a consortium or consolidated.
- *Short leash for poor performers.* HUD has authority under existing statutes and regulations to take over administration of programs that are in substantial default or are “troubled” under HUD’s performance assessment rules and fail to improve satisfactorily within two years. Among the remedies Congress has empowered HUD to use are to consolidate the poorly performing agency with a willing, well-managed PHA or to appoint another PHA or private management entity to manage the agency’s programs.<sup>29</sup> Without further legislative action, HUD could both strengthen its performance assessment tools and use available remedies for poor performance to foster the formation of larger, more effective and more efficient local programs.

## Conclusion

Deregulation based solely on agency size, without regard to performance, is not sound policy, particularly when coupled with the diminished accountability from small agencies that would result under S. 3538. Policymakers should instead enact reforms that reduce the costs of administering the public housing and voucher programs without lessening program effectiveness or adversely affecting low-income families. Such changes should apply to all agencies, not just those that are small.

Leadership of the House Financial Services Committee has developed legislation — the Affordable Housing and Self-Sufficiency Improvement Act of 2012 — that would streamline key policies of HUD’s rental assistance programs and could enable them to serve the same number of households for nearly \$3 billion less over the next five years. There is broad consensus among stakeholders, including associations representing housing authorities, private owners and low-income advocates, as well as HUD, that these core provisions of AHSSIA would make well-designed improvements in HUD’s rental assistance programs. AHSSIA’s approach to modifying rent, inspection and other policies is superior to the risky proposals in S. 3538.

AHSSIA, however, does not effectively address the inefficient delivery system of having 4,000 separate agencies administer the rental assistance programs, which often undermines the achievement of program goals. S. 3538 includes two proposals — promoting consortia and facilitating the conversion of public housing properties to project-based Section 8 assistance — that have potential to increase economies of scale and reduce federal and local administrative costs. With the changes discussed in this analysis to make these proposals more effective, they deserve inclusion in rental assistance reform legislation.

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<sup>29</sup> HUD’s remedial authority is specified in section 6(j) of the U.S. Housing Act, 42 U.S.C. 1437d(j). In addition, section 3(b)(6)(B)(iii) of the Act, 42 U.S.C. 1437a(b)(6)(B)(iii) gives HUD the authority, for Section 8 programs only, to override state and local laws to select a public or non-profit entity or another PHA to administer the housing voucher program in place of an agency that “is not performing effectively.” An authoritative study found that, as of mid-2004, HUD had largely failed to implement the substantial new authority and responsibility the 1998 Housing Act provided to address failed management, though HUD did focus reform efforts on several of the largest severely troubled agencies. Rod Solomon, “Public Housing Reform and Voucher Success: Progress and Challenges,” The Brookings Institution Metropolitan Policy Program, 2005.

## Appendix

## Numbers of Units and of Public Housing Agencies, by State

State Rank	State	Number of Public Housing Units and Vouchers	Number of "Small" PHAs, As Small Is Defined in S.3538	Total Number of PHAs	Average Number of Units per PHA
15	Alabama	74,250	118	147	505
47	Alaska	5,805	0	2	2,903
36	Arizona	29,295	12	25	1,172
4	Arkansas	37,684	118	135	279
49	California	357,508	21	99	3,611
20	Colorado	40,732	48	61	668
35	Connecticut	55,952	26	51	1,097
37	Delaware	7,497	3	6	1,250
51	District of Col.	22,489	1	2	11,245
38	Florida	142,120	62	103	1,380
17	Georgia	104,096	165	185	563
48	Hawaii	18,039	0	6	3,007
26	Idaho	7,877	6	11	716
39	Illinois	153,705	73	110	1,397
32	Indiana	55,718	41	63	884
9	Iowa	26,890	54	68	395
2	Kansas	22,096	98	105	210
12	Kentucky	57,877	97	122	474
13	Louisiana	76,982	142	160	481
21	Maine	17,390	15	25	696
45	Maryland	70,718	15	32	2,210
30	Massachusetts	117,254	97	133	882
18	Michigan	79,873	108	128	624
8	Minnesota	53,847	130	143	377
22	Mississippi	37,185	40	53	702
11	Missouri	60,966	110	129	473
25	Montana	8,525	7	12	710
1	Nebraska	20,027	102	107	187
50	Nevada	18,134	0	3	6,045
24	New Hampshire	14,149	14	20	707
34	New Jersey	111,862	63	107	1,045
14	New Mexico	19,204	31	39	492
46	New York	474,559	125	174	2,727
28	North Carolina	95,129	80	126	755

## Appendix cont'd

## Numbers of Units and of Public Housing Agencies, by State

State Rank	State	Number of Public Housing Units and Vouchers	Number of "Small" PHAs, As Defined in S.3538	Total Number of PHAs	Average Number of Units per PHA
5	North Dakota	9,811	29	35	280
43	Ohio	141,951	34	77	1,844
7	Oklahoma	37,752	96	103	367
42	Oregon	40,011	3	22	1,819
41	Pennsylvania	152,669	33	89	1,715
27	Rhode Island	20,056	18	28	716
33	South Carolina	41,752	22	42	994
3	South Dakota	8,172	32	35	233
29	Tennessee	71,030	67	87	816
16	Texas	216,616	341	406	534
23	Utah	13,377	13	19	704
31	Vermont	8,815	7	10	882
40	Virginia	69,800	19	44	1,586
44	Washington	67,325	16	36	1,870
19	West Virginia	21,872	18	33	663
6	Wisconsin	42,596	107	122	349
10	Wyoming	3,213	6	8	402
	<b>National</b>	<b>3,559,135</b>	<b>2,951</b>	<b>3,971</b>	<b>896</b>

CBPP analysis of data from the President's Open Government Directive - Public Housing Authority (POGD) data as of October 2012, available at <http://www.hud.gov/offices/pih/programs/hcv/ogddata.cfm>. Agencies with zero units are excluded. A "small" PHA has 550 or fewer total federal public housing units and vouchers.