

February 2018

## THE FY19 HUD BUDGET PROPOSAL

The Trump Administration released its fiscal year 2019 (FY19) budget on Monday, February 12<sup>th</sup>. The budget requests \$41.24 billion in funding to the Department of Housing and Urban Development (HUD). The proposal would completely eliminate all funding in FY19 for the Public Housing Capital Fund, Choice Neighborhoods Initiative, HOME, CDBG, Housing Trust Fund, and other programs. The proposal would slash funding for the Public Housing Operating Fund by over \$1 billion from last year's request.

After the Trump Administration finalized its FY19 budget request, Congress subsequently passed a two-year budget agreement for FY18 and FY19 with higher funding caps than the previously restrictive sequestration allowed. Having an FY18 agreement enables Congress to move beyond funding the government under successive continuing resolutions (CRs) and finalize FY18 spending levels. For FY19, the Administration quickly modified its budget submission and provided an addendum to Congress that included an additional \$2 billion to HUD.

If the FY18 budget proposal was considered harsh the FY19 proposal, while more detailed and thoughtful, is certainly more severe, punitive, cost-shifting and contradictory. Once again, the Trump Administration budget proposes to eliminate and eviscerate programs for the poor while cost-shifting the burden onto the poor and onto state and local governments already under severe budget constraints.

The budget proposal provides HUD with \$41.28 billion in gross discretionary funding for FY19. This amount is equal to 14 percent or \$6.45 billion less than the current continuing resolution (CR) annualized amount for FY18. This decrease is realized primarily through elimination of certain programs and reductions in the rental assistance programs, including over \$3 billion eliminated from public housing alone. These dramatic HUD reductions come at a time when the federal government should be investing in public housing as part of the nation's infrastructure, as such investment generates economic growth, creates jobs, bolsters productivity, and generates tax revenue for cash-strapped localities. It also comes at a time of increasing evidence showing a link between stable housing and social determinants of health, education and employment outcomes.

If realized, the short-sighted cuts included in the HUD budget would have severe and cumulative effects on public and affordable housing programs across the country, while shredding the safety net on which many low-income Americans rely. The magnitude of these proposed cuts is alarming – funding for the Public Housing Capital Fund is completely eliminated and the Public

Housing Operating Fund would sustain a 26 percent cut from the FY18 CR annualized amount. These particular reductions not only undermine basic health and safety concerns, they also contradict the Administration's professed goal of promoting public-private partnerships. These cuts will make it virtually impossible to leverage private investment for the Rental Assistance Demonstration (RAD) program, which HUD advances as a major priority in this budget. Since RAD relies on the Capital Fund and Public Housing Operating Fund to convert to the Section 8 platform, cuts to these programs would totally undermine the RAD program and any future expansion.

The following is CLPHA's review of the Administration's FY19 HUD budget proposal.

## **Rental Assistance Demonstration (RAD)**

HUD proposes \$100 million in funding in FY19. The requested amount would be awarded *“to cover the incremental subsidy necessary for public housing properties that could not otherwise convert in the absence of such funds.”* According to the Congressional Justification (CJ), *“RAD promotes public-private partnerships to improve the nation's housing infrastructure and create jobs.... With the requested \$100 million, HUD would be able to support the conversion of approximately 30,000 units that are unable to secure the private capital to support needed improvements at revenue neutral subsidy levels on the Section 8 platform. This would result in capital improvements to these properties totaling an estimated \$1.8 billion.”* CLPHA has long advocated for appropriated funding to help these properties convert.

The budget also proposes elimination of the unit cap on public housing conversions. According to the CJ, *“eliminating the cap allows PHAs and their partners to develop locally appropriate strategies responsive to the needs and conditions in their communities. Without a cap, they can take the time needed to engage with their communities, assess needs, and prepare financing structures and implement the conversion without artificial deadlines or running the risk that RAD is not available when they need it. Making the availability of RAD more certain will increase the number of high impact investments that can transform homes and communities and create jobs.”*

The proposal eliminates the September 30, 2020 deadline for submission of RAD applications; standardizes ownership and control requirements for converted Public Housing properties in situations where low-income housing tax credits are used or where foreclosure, bankruptcy, or default occurs; and protects tenants' right to continue occupancy under second component conversions (Sec. 219 below).

According to the Congressional Justifications, *“as of December 2017, over 88,000 public housing units have utilized RAD to convert to the Section 8 platform at revenue neutral rent levels. Through conversion, PHAs and their partners have been able to raise over \$5 billion toward the improvement and recapitalization of these properties.”* Another 17,000 units are in the final stages of conversion, and more than 86,000 units are on the waiting list to convert. Over 27,000 units have also been preserved through RAD conversion under the Moderate Rehabilitation (MR), Rent Supplement (RS), and Rental Assistance Payment (RAP) programs—the second component of RAD.

## **Enhance Rental Assistance**

In FY19, HUD once again proposes to offer a set of regulatory and legislative initiatives to revise its rental assistance with the goals of improving resident outcomes, decreasing the public burden, and maximizing public investment. According to the CJ, HUD designated rental assistance reform as a four-year strategic goal. Rent Reform and the Future of Public Housing comprise the two components of the “Enhance Rental Assistance” initiative. HUD intends to send a package of comprehensive rental assistance reforms to Congress in the spring of 2018.

Rent Reform policy goals for FY19 include establishing or increasing mandatory minimum tenant rental payments; limiting the frequency of income recertifications; moving to a simpler income rent calculation; increasing local control and choice by offering housing authorities and owners *“the ability to structure rent calculations and/or adopt work requirements that work best with their local priorities and the families they serve;”* encouraging work-able residents to attain stable employment and achieve self-sufficiency thereby reducing overall taxpayer costs; providing a safe harbor to protect current elderly and disabled households from rent increases and adverse impacts; and providing a hardship exemption for tenants who, in certain circumstances, are unable to pay their rents.

The Future of Public Housing initiative is designed to expand, enhance and empower housing authorities *“to make local decisions about how to best use their properties to meet the needs of their communities. This strategy is focused on making the tools more accessible to PHAs of all sizes, while also simplifying administrative requirements where possible, and encouraging PHAs to transition public housing to a more sustainable Section 8 platform.”* In addition to other actions, the budget proposes to fund competitive grants and allow housing authorities that lack sufficient funds to demolish physically obsolete public housing projects and relocate affected families; streamline the application and approval process when housing authorities propose to demolish, sell, or lease public housing property under Section 18 Demolition and Disposition; permit housing authorities under certain conditions to retain public housing property free from use restrictions and exempt from compensation requirements, thereby allowing housing authorities to retain the real property and end HUD’s commitment to provide annual public housing subsidies; reduce the number of housing authorities and facilitate their consolidation; and expand RAD, allowing more public housing properties to shift to the Section 8 platform.

The CJ further notes, *“the cumbersome regulatory structure of the Public Housing program limits PHAs’ ability to adequately address the significant needs in their portfolios. Furthermore, the existing tools available to PHAs to deal with their rapidly deteriorating inventory, including HUD’s Rental Assistance Demonstration (RAD), Section 18 Demolition and Disposition, and Voluntary Conversion, are currently limited in their scope and ability to preserve affordable housing for the future. To address the problem, the Budget expands and enhances RAD and other tools to empower PHAs to make local decisions about how to best use their properties to meet the needs of their communities. This strategy is focused on making the tools more accessible to PHAs of all sizes, while also simplifying administrative requirements where possible, and encouraging PHAs to transition public housing to a more sustainable Section 8 platform.”*

## **Public Housing Operating Fund**

HUD proposes \$3.279 billion in FY19. By HUD's own admission, the request is "\$1.1 billion less than the fiscal year 2018 Annualized CR level." Of the requested amount, \$2.614 billion is reserved for formula-based operating grants, up to \$600 million for shortfall funding; and \$35 million for set-asides transferred from the Public Housing Capital Fund including up to \$10 million for emergency and natural disaster reserves; up to \$1 million for administrative and judicial receiverships; up to \$14 million for financial and physical assessment support; up to \$10 million for the Jobs-Plus Initiative; and up to \$30 million for new competitive demolition grants.

The proposed funding level represents an estimated 54 percent proration of the formula eligibility for operating subsidies. The proration accelerates a deliberate trend of disinvestment in the management and operations of the public housing program given that the account has only been fully funded in 4 of the last 17 years, the last time over eight years ago. Despite this unprecedented low proration level, the CJ asserts, "*when coupled with the use of existing reserves and key policy changes, the funding level will allow the Department to continue to serve approximately 1 million units across more than 3,000 (PHAs)... The funding request also reflects a set of rental reform policies... that reduce costs while continuing to assist current residents; these policies will be part of a legislative package that will be submitted to Congress in March 2018.*"

According to the CJ, the proposal seeks to achieve key program outcomes, including strategic reduction of the public housing portfolio; providing housing authorities with the tools to make locally-driven decisions about their properties; and leveraging federal, state, and local resources to provide affordable housing.

The budget also "*proposes full flexibility for all PHAs to use fiscal year 2019 operating subsidies and prior year funding from both the Capital and Operating Funds. This flexibility would enable PHAs to focus limited Federal resources on local priorities without being constrained by the statutory limitations of each fund.*" (see Sec. 227, Sec. 228, and Sec. 230 below)

## **Public Housing Capital Fund**

HUD proposes no new funding in FY19. In addition, all set-aside program funding, excluding Capital Modernization grants, are proposed to be transferred to the Public Housing Operating Fund. The budget proposal strives to justify this disinvestment in the Capital Fund by asserting in the budget appendix that "*given fiscal constraints, the Budget recognizes a greater role for State and local governments to address capital repair needs and more fully share in the provision of affordable housing. Further, the Budget supports a package of comprehensive rental reforms that will promote work, simplify program administration, reduce Federal costs, and increase local choice while continuing to support current residents across the rental assistance programs...In addition to the rent reforms, the Budget facilitates a strategic reduction of the Public Housing portfolio and promotes cost-sharing with state and local governments to provide affordable housing.*"

Unlike previous years, there is no provision in the proposal for HUD to offer bonus awards in fiscal year 2019 to public housing agencies that are designated high performers. Also, HUD is once again proposing no funding for Resident Opportunity and Supportive Services (ROSS) in FY19.

## **Housing Choice Voucher (HCV) Program**

HUD proposes \$18.749 billion in FY19 for HCV renewals. In a replay of previous budget cycles, HUD has retained language providing authority to offset FY19 allocations by *“the excess amount of public housing agencies’ net restricted assets accounts, including HUD held programmatic reserves,”* and, once again, proposes to delete the language providing for exclusion of funds subject to MTW single fund budget authority provisions. The offset would be used to prevent the termination of rental assistance as a result of insufficient funding and to avoid or reduce the proration of renewal funding allocations.

Based upon the 2016 published results of the Family Options Study which measured outcomes in five domains of family well-being: (1) housing stability, (2) family preservation, (3) adult well-being, (4) child well-being, and (5) self-sufficiency, the study determined that the HCV program was the most effective intervention of approaches tested, reducing most forms of residential instability by more than one half, reducing food insecurity, and improving multiple measures of adult and child well-being. According to the CJ, *“the HCV program has proven to be effective at meeting the housing needs of our most vulnerable citizens compared to other approaches.”* As a result, the budget *“proposes a set of policies for its core rental assistance programs that will reduce costs while continuing to assist current residents, encouraging work, and promoting self-sufficiency. These proposals will provide administrative flexibilities and increase transparency and flexibility for the HCV program.”*

**HCV Administrative Fees** – HUD proposes \$1.55 billion in FY19. The CJ calls administrative fees *“a vital component of the HCV program, providing PHAs with the resources necessary to administer the requested rental assistance for over 2.2 million families.”*

**Tenant Protection Vouchers (TPVs)** – HUD proposes \$140 million in FY19. According to the budget appendix, TPVs *“are provided to families who may have to relocate due to actions beyond their control, such as public housing demolition or redevelopment, and when private owners of multi-family developments choose to leave the project-based program or convert to long-term Section 8 contracts as a part of the Rental Assistance Demonstration program.”* The CJ further explains, *“The increase in TPVs reflects an anticipated increase in demolitions, dispositions, and voluntary conversions as well as the establishment of a new category of protected residents whose public housing property is released from the Declaration of Trust.”*

Tenant protection vouchers (TPVs) are essential to PHAs’ ability to demolish or dispose of deteriorated or outdated public housing that cannot or should not remain in the portfolio. Without an adequate supply of TPVs, PHAs are unable to relocate or provide replacement housing for tenants, who must remain in those existing public housing units.

**HUD-VASH Vouchers** – HUD proposes no new funding for HUD-VASH vouchers in FY19. HUD only provides an exception for Native-American veterans and requests \$4 million in FY19.

## **Project-Based Rental Assistance (PBRA)**

HUD proposes \$11.147 billion for PBRA in FY18. Of the amounts made available in FY19, no more than \$245 million shall be made available for HUD agreements with performance-based contract administrators, with flexibility to repurpose up to \$40 million in other PBRA funds to ensure uninterrupted services in the event of delays in the procurement process. According to the budget appendix, HUD is currently in the process of re-bidding these contracts.

The CJ notes, *“the request provides annual renewal funding for over 16,500 Section 8 contracts. In 2017, HUD completed the transition to the calendar year funding methodology, which was utilized in 2018 and will continue in 2019. The PBRA request includes renewal funding for public housing properties that converted to PBRA in 2013 through 2017 through (RAD). HUD will continue the conversion of some Public Housing to long-term Section 8 contracts in 2019 under the RAD program.*

The budget also provides up to \$3 million in FY19 for technical assistance to tenant groups, nonprofit groups, and public entities to support tenants of troubled properties, and improve tenant access to community services in order to support self-sufficiency.

## **Family Self Sufficiency (FSS) Program**

HUD proposes \$75 million to fund the consolidated FSS Program in FY19. The request would allow HUD to fund approximately 1,300 FSS Program Coordinators that will serve approximately 75,000 families nationwide.

## **Choice Neighborhoods Initiative (CNI)**

HUD proposes no funding in FY19. This is similar to the HUD budget request in FY18. According to the budget appendix, *“the 2019 Budget does not request funding for Choice Neighborhoods, and proposes to cancel the remaining unobligated balances in the Choice Neighborhoods account as well as its predecessor, HOPE VI. The Budget recognizes a greater role for State and local governments and the private sector to address community revitalization needs, and redirects constrained Federal resources to higher priority activities. The Department will continue to monitor and provide assistance for existing HOPE VI and Choice Neighborhood projects.”*

## **Housing Trust Fund**

The FY19 budget proposes to eliminate assessments and discontinue funding for the Housing Trust Fund (HTF). Prior statute directed that HTF be funded from assessments on Fannie Mae and Freddie Mac.

## **Research and Technology**

HUD proposes \$85 million in FY19. Per the Budget Appendix, “*the request consists of \$50 million for core research support, surveys, data infrastructure, and knowledge management (i.e., research dissemination); \$10 million for research, evaluations, and demonstrations; and \$25 million for technical assistance.*” Also, included in the request is funding for research priorities, including a long-term commitment to evaluate Moving to Work (MTW) policy initiatives and expansion.

## **GENERAL PROVISIONS**

The general provisions of the budget proposal include several policy changes. Some changes were in previous years’ budget proposals and some changes are new. The section on General Provisions includes the following numbered sections of interest to CLPHA.

**Sec. 202.** Prohibits FY19 funds to investigate or prosecute lawful activity under the Fair Housing Act, including the filing or maintaining of nonfrivolous legal action “*that is engaged in solely for the purpose of achieving or preventing action by a Government official or entity, or a court of competent jurisdiction.*”

**Sec. 207.** Limits eligibility for students to receive Section 8 assistance.

**Sec. 211.** Requires the Secretary to notify the public of the issuance of a notice of the availability of assistance or NOFA for any program or discretionary fund that is to be competitively awarded.

**Sec. 213.** Requires HUD to take action against owners of multifamily housing projects with a Section 8 contract, or contract for similar project-based assistance, when those properties do not meet minimum REAC standards. Public housing properties are exempt from this requirement.

**Sec. 214.** PHA COMPENSATION – Restricts the amount of Section 8 (under the tenant based rental assistance program) and Section 9 funding that public housing agencies can use to pay officials or employees above the annual rate of basic pay for a position at level IV of the Executive Schedule in FY19.

**Sec. 215.** Allows HUD to elect, through notice, not to require or enforce the Physical Needs Assessment (PNA) for public housing units.

**Sec. 217.** Allows unexpended funds which are either appropriated, allocated, advanced on a reimbursable basis, or transferred to HUD’s Office of Policy Development and Research for research, evaluation, or statistical purposes may be reobligated and immediately become available for research, evaluation, or statistical purposes.

**Sec. 219.** RAD Amendments – Permanently extends the application deadline by replacing the statutory language “*until September 30, 2018*” with “*for fiscal year 2012 and thereafter*”. Also, provides several perfecting amendments concerning First Component, Second Component,

nonprofits, and others; standardizes ownership and control requirements for converted public housing properties in situations where low-income housing tax credits are used or where foreclosure, bankruptcy, or default occurs; protects tenants' right to continue occupancy under second component conversions; and, expands conversion authority to Section 202 properties.

**Sec. 225. SUPPORTIVE SERVICES INCOME-MIXING EXCEPTION** – HOTMA recently amended Section 8 to limit the number of units within a project that may receive project-based assistance to the greater of 25 units or 25 percent of the units in the project. There are several exceptions to this income mixing requirement, including an exception for units exclusively made available to households eligible for supportive services that are made available to the assisted residents of the project. This proposal would amend the statute to allow a project to designate a certain number of units for supportive housing for persons with disabilities while also providing project-based voucher assistance in other units for very low-income families that would not need and would not be eligible for those supportive services.

**SEC. 227. PUBLIC HOUSING FLEXIBILITIES** – From funds made available in the Public Housing Operating Fund and Capital Fund accounts, gives HUD the authority to waive or specify alternative requirements to reduce costs or provide for statutory or regulatory provisions related to the more effective administrative, planning, and reporting requirements, energy audits, income recertifications, and program assessments of the public housing program. This authority is limited to certain subject areas and will provide PHAs with a variety of options for temporary administrative relief that may be tailored to reflect the specific needs of the individual PHA.

**SEC. 228. TENANT-BASED RENTAL ASSISTANCE (TBRA) FLEXIBILITIES** – From funds made available in the TBRA account, gives HUD the authority to waive or specify alternative requirements to reduce costs or provide for statutory or regulatory provisions related to the setting and adjustment of allowable rent levels, payment standards, tenant rent contributions, occupancy standards, PHA program assessments, or other PHA administrative, planning, and reporting requirements for the more effective administration of the housing choice voucher program. This authority is limited to certain subject areas and will provide PHAs with a variety of options for cost savings and temporary administrative relief that may be tailored to reflect the specific needs of the individual PHA.

**SEC. 230. CAPITAL AND OPERATING FUND FLEXIBILITY** – Permits public housing agencies to use FY19 and prior Public Housing Operating Funds, and prior Public Housing Capital Funds, except for any listed set-asides, for any eligible public housing purpose, regardless of the fund from which the amounts were allocated and provided.

**SEC. 233.** Cancels unobligated balances, including recaptures and carryover funds, from prior year appropriations from the Choice Neighborhoods and HOPE VI programs.

**SEC. 241. PHA RESPONSIBILITIES AS OWNER** — Amends Section 8 to allow a PHA to certify to HUD that the PHA will fulfill all the program responsibilities required of a private owner for a PHA-owned unit. This will allow a family to rent without the PHA first having to create a PHA-affiliate with which to execute the HAP contract. An independent entity is still required to conduct the unit inspections and other PHA administrative functions for the PHA-



owned unit. This provision is designed to increase housing opportunities for voucher families by helping facilitate the use of PHA-owned units in the Housing Choice Voucher Program.

For further information about FY19 appropriations please contact Gerard Holder, CLPHA Legislative Director.