



Change to Section 8 Voucher Renewal System Will Impact HAs in 2004

On April 22, HUD implemented a new Section 8 housing voucher funding formula. This policy is in effect now, and applies even to agencies operating under voucher program budgets previously approved by HUD. This special publication is designed to explain the potential impact of the formula on housing authorities with Section 8 vouchers.

Most importantly, the formula uses outdated housing assistance cost data from August 1, 2003, inflated by a modest adjustment factor. As a result, it will create funding shortfalls in hundreds of LHAs nationwide, threatening to displace or reduce assistance to thousands of families.

■ **Shortfalls are most likely to affect agencies whose average rental assistance costs exceed the modest inflation factor applied by HUD.**

Rental assistance could exceed HUD factors because: 1) market rents and/or utilities have risen; 2) inflation has outpaced tenant incomes; 3) an agency is serving a greater proportion of larger-sized families; or 4) a combination of these or other factors. At the same time, use of the Aug. 1, 2003 date will overfund some agencies whose costs have declined. However, these agencies are prohibited by law from using those excess funds to serve other families or transferring the funds.

■ **The impact of this new funding formula is compounded by two factors: 1) this change is happening both mid-year and retroactively, giving agencies little opportunity to recover from shortfalls without drastic action, and 2) HUD has apparently failed to provide adequate rainy-day reserve funds to many local agencies.**

HUD distributes voucher funds on a calendar year basis, and will apparently apply its funding formula retroactively to January 1, 2004. This provides agencies little time to absorb any shortfalls generated by the new formula. HUD maintains rainy-day program reserve funds for each agency. In recent years, these reserves have been equivalent to one-month's worth of rental payments to owners. Currently, many agencies appear to have none, or have significantly less than one-month's program reserves despite an FY 2003 requirement that HUD replenish any reserves used for authorized purposes once the agency has expended half of its reserves.

■ **Further complicating matters, the HUD implementation notice for the new policy (PIH 2004-7) is vague on critical technical formula and administrative matters, leaving many agencies still uncertain as to how much funding they will receive to operate their programs.**

Unlike last year's implementation notice (2003-23), the current notice does not tell agencies specifically how to apply the inflation factors being used. The notice also does not state when the new formula became effective. NAHRO has shared information that it has learned from HUD and Congress regarding these points to help agencies assess the impact of the policies on their communities. The lack of specific information is disrupting operations in this otherwise successful program.

■ **Across the country, local agencies are already notifying assisted families and participating landlords that their assistance may soon be reduced or eliminated.**

Understandably, local agencies and assisted families are very alarmed by the potential immediate loss of assistance and

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WHAT TEXAS NAHRO MEMBERS CAN DO

1. **CONTACT YOUR CONGRESSMAN.** If you do nothing else, PLEASE contact your local congressional representative to discuss the issue with him or her (A congressional list is included with this publication. If you don't know your district, call Deb Swift at 800/617-2900). Discuss the points listed in the included sample Congressional letter and follow up with a letter or email.
2. **Section 8 Participants and Landlords.** Make your Section 8 participating voucher landlords and residents aware of the situation. They in turn could contact their Congressional representative (see Section 8 participant letter sample).
3. **Your Mayor.** Contact your mayor or other local government leaders to discuss the problem and ask them to contact your area Congressional Representative as well.
4. **Other Community Organizations.** Set up meetings with other local groups whose members are likely to be affected by this change. Advocates who serve seniors, the disabled, and children can be valuable allies; so might the local Chamber of Commerce.
5. **Newspaper Coverage.** Send a variation of the attached press release to your local newspaper with a specific, local angle to interest them in the story. What will the funding cuts mean to your agency? Can you find two or three residents who could be profiled?
6. **TV Coverage.** Invite a local TV stations to cover an upcoming housing authority event. It does not have to be specifically connected to the Section 8 issue. For example, it could be Youth Day. You could stage an event celebrating housing or residents—and then bring up this important issue.



Texas NAHRO

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inability to fulfill contractual obligations. In the long run, the immediate crisis undermines hard-won private sector confidence in the program and affordable housing financing arrangements that rely on the government's commitment to vouchers.

■ **Although HUD asserts that its new renewal formula was mandated by Congress in the FY 2004 VA-HUD appropriations act, HUD has both the legal authority and funding necessary to fund all vouchers that will be in use through 2004 at their actual costs.**

In a recent letter to HUD, Senators Sarbanes and Collins wrote, "We believe that HUD's guidance applies the law inappropriately, and that HUD has the ability, within the statutory framework, to provide adequate funding for all housing vouchers in use. It is clear that the intent of Congress was to ensure that the voucher program was sufficiently funded so that no family would lose assistance, and we hope that you will work with us to carry out Congress' intent." Numerous other members of Congress and Senators have called for reexamination of HUD's policy.

■ **Even within the Department's narrow reading of the law, however, it can take actions to temper the impact of its policies.**

Such actions include ensuring that inflation factors take both 2003 and 2004 inflation into account and allowing agencies to absorb any shortfall by December 31, 2004 (the end of HUD's Section 8 administrative year) rather than by the end of the agency fiscal year.

■ **HUD's analysis of the impact of their policy is shifting.**

Two weeks ago, HUD officials insisted in a press conference that about half of the nation's 2,500 PHAs will experience shortfalls and that these shortfalls are generated by the fact that "the law is the law." Housing and Urban Development Secretary Alphonso Jackson claimed on May 5 that only 90 percent of local housing agencies will not be affected by cuts to the Section 8 voucher program. He went on to

What's Happening in Congress on this Issue and What You Need To Do

Several senators and representatives have taken a stand that HUD's guidance applies the law inappropriately, and that HUD has the ability to provide adequate funding for all housing vouchers in use.

They have said it was the intent of Congress to ensure that the voucher program was sufficiently funded so that no family would lose assistance. Texas needs to ensure that our Congressmen call for re-examination of HUD's policy.

House Financial Services Committee Hearing

The House Financial Services Committee will have a hearing on Thursday, May 20 during which HUD representatives will be questioned on this new Section 8 policy. It is critical that Texas NAHRO contact Texas members of that committee before Thursday. Texas Committee members include:

■ **Ron Paul-District 14** (Includes counties of Bastrop, Fayette, Caldwell, Guadalupe, Wilson, Gonzales, Karnes, Dewitt, Lavaca, Colorado, Wharton, Jackson, Victoria, Refugio, Calhoun, Matagorda; cities of Bastrop, Kyle, San Marcos, Seguin, Victoria, Angleton, Bay City.)

■ **Jeb Hensarling-District 5.** (Includes following counties: Dallas (part), Kaufman,

Henderson, Anderson, Freestone, Limestone, Leon, Falls, McClennan, Robertson, Madison; cities of Mesquite, Garland, Segoville, Balch Springs, Sunnyvale and Wilmer)

■ **Ruben Hinojosa-District 15** (Includes counties of Hidalgo, Brooks, San Patricio, Live Oak, Bee, Goliad, Jim Wells; cities of Edinburg, McAllen, Mission, Pharr, Falfurrias, Alice, Beeville, Mathis, Weslaco).

■ **Chris Bell-District 25** (Includes semi-circle around southwest and eastern portions of Harris County and precincts in Fort Bend County. Cities of Morgan's Point, La Porte, part of Pasadena, Channelview, Highlands, Barret Station, McNair and Baytown).

Representative Frank Introduces Bill To Fully Fund Section 8

Ask your Congressional representative to sign on support for a bill introduced by House Financial Services Committee Ranking Member Barney Frank (D-MA) and Democratic Leader Nancy Pelosi to clarify the intent of the language in Fiscal Year 2004 appropriations concerning the Section 8 housing voucher program.

According to press reports, Senator Kennedy plans to introduce companion legislation in the Senate.

say that remaining shortfalls are the result of agencies who lease more than their allowed number of vouchers.

Until HUD publishes its assumptions, it is difficult to say what these analyses are based on. However, the vast majority of local housing agencies are not annually over-leased. Agencies that are not and never have been annually over-leased are finding budget shortfalls in renewal dollars under the new formula. In fact, according to NAHRO's preliminary analysis, less than 50 of the agencies that stand to experience shortfalls in 2004 assisted more than the allowable numbers of families over the last year.

■ **NAHRO urges Congress to call on the Department to use all resources at its disposal to avert this national crisis.**

In addition, HUD should provide Congress with information necessary to assess the financial status of its Housing Certificate Fund, which includes Section 8 vouchers. HUD should communicate its funding procedures completely and immediately to avoid unnecessary confusion in communities.

■ **NAHRO urges Congress to call on HUD to withdraw the formula and suspend the implementation notice for the new policy (PIH 2004-7).**



Preliminary Analysis of the Impact of the Proposal

In its preliminary findings, NAHRO has found the following effects PIH 2004-7 would have on the Section 8 Housing Voucher Program. Next week, more detailed information will be made available that includes specific data for Texas.

Last year, Congress rejected HUD's attempt to change the Section 8 program from a unit-based actual cost program into a block grant program. This year, HUD has proposed its Flexible Voucher block grant proposal, which has been met with a similar critique from Congress for similar reasons. If HUD prevails, it will be a distinct departure from the way the Section 8 Certificate program has been funded since its inception over 30 years ago and a break from the sweeping reforms enacted in 1998. NAHRO is particularly concerned that aspects of HUD's FY 2005 Flexible Voucher proposal, namely converting the current program from a unit-based to a dollar-based program, have now become Administration policy.

- **Thousands of current voucher assisted, low-income families and participating property owners would likely be put at-risk.**

The shortened time frame of the notice, its retroactive implementation date to Jan. 1, 2004, and requiring housing agencies to offset renewal funding shortfalls by their fiscal year end dates will likely compound the problem greatly and increase the total number of families at risk.

- **Almost half of the nation's housing agencies in 49 states, DC and four territories will likely experience base renewal funding shortfalls of over \$180 million.**

- **Simultaneously, HUD's renewal procedures will likely result in hundreds of millions of unspent funds.**

While some agencies are badly underfunded, those agencies with flat or decreasing per unit HAP costs will experience the opposite: HUD's renewal procedures would likely over-fund them by more than hundreds of millions in money that they are not allowed to spend anyway.

- **Annually, over-leased housing agencies represent only a fraction of agencies likely to experience renewal funding shortfalls in FY 2004.**

HUD has argued that shortfalls are the results of agencies who lease more than their allowed number of vouchers, a practice that

was once encouraged by the department. Today, only 2 percent—less than 50 of the 2,500 participating agencies that stand to experience shortfalls in 2004—were annually over-leased in 2003. Nationally, housing agencies lease approximately 97 percent of their authorized vouchers.

- **Housing agencies' average per unit Housing Assistance Payment costs have increased only modestly from 2003 to 2004, but exceed HUD's even more modest inflation factor.**

However, when compared with HUD's more modest inflation adjustment factor of 1.013 percent, even these slight differences will likely create housing assistance payment shortfalls for agencies.

- **HUD's lack of replenishment of housing agencies' one-month project reserves in 2003 totaling more than \$150 million, will likely compound their renewal funding shortfalls in 2004.**

Historically, HUD replenished agencies' one-month project reserves at the beginning of their fiscal year. NAHRO believes the FY 2003 omnibus appropriations bill required HUD to continue following its historical practices by the end of 2003. However, by excluding agencies that ended annually over-leased in 2003, HUD's report to Congress shows hundreds of housing agencies' project reserves equaling more than \$150 million were not replenished.

Nationally there is adequate funding for one-month program reserves, but HUD has not

properly distributed them among agencies such that agencies have access to one month of their annual HAP funding levels. As a result, hundreds of agencies that were not annually over-leased in FY 2003 are operating in FY 2004 with much less than one-month project reserves while others have none, and still other agencies are funded at amounts in excess of what they need.

- **There is enough money to continue the Housing Choice Voucher program based on its historic funding structure, without putting any voucher assisted families or their participating property owners at risk.**

HUD Assistant Secretary Michael Liu stated in a *New York Times* article that if the current program were to continue, HUD would face a \$191 million deficit.¹ However, NAHRO's study found that if the program were to continue based on authorized leased units funded on actual HAP costs, there would be sufficient funding between the base renewal funding, agencies' project-reserves and HUD's central reserve. In addition, housing agencies would receive sufficient funding for authorized leased families without putting them or participating property owners at risk. Allowing agencies to continue their base renewal funding on actual unit HAP costs throughout 2004 would also prevent tremendous upheaval to their program operations so that they can better serve their communities.

¹ "Housing Subsidies for the Poor Threatened by Cuts in U.S. Aid" by David Chen (May 4, 2004)

War in Words -- Comments Across the Nation on the Section 8 Proposal

New York Times - May 10 Editorial

The Bush administration's tax cuts for the well-to-do have taken a heavy toll on the nation's most important social programs for the poor and working class. Prominent casualties include child care assistance for working mothers and federal aid for needy college students. The latest victim appears to be Section 8, the government's main housing program for the poor. . . .

This has already caused some private builders and financiers to back away from projects that would have produced desperately needed affordable housing. In addition, public housing officials in many states have made it clear that the new policies will force them to raise rents or evict tenants. Having paid lip service to the goal of ending chronic homelessness, the Bush administration is now threatening to kill off the only program that could possibly achieve it.

April 30 NAHRO Letter to HUD

We urgently call upon the Department and Congressto take the following immediate steps to minimize the negative impacts of the renewal formula on low-income families.

- Give housing agencies until December 31, 2004 to offset renewal funding shortfalls rather than requiring them to offset any shortfall by their 2004 fiscal year end (FYE) dates (June 30, Sept. 30, Dec. 31 and Mar. 31). This step would provide immediate relief, allowing many agencies with June 30, 2003 FYE dates to avoid issuing housing assistance termination notices to offset their funding shortfalls.
- Ensure that inflation factors are applied to the Aug.– Dec. 2003 period as well as calendar 2004. This can be accomplished by applying FY 2003 annual adjustment factors (AAFs) to cost data collected Aug. – Dec. 2003, then applying FY 2004 AAFs for calendar year 2004. (We believe that continuous application of the

applicable inflation factors is legally required.)

- Where applicable, replenish agencies' one-month project reserves from FY 2003 for allowable purposes, under the FY 2003 law.
- At the close of each agency's fiscal year, efficiently redistribute any program reserves in excess of one month to agencies experiencing shortfalls.
- Re-examine lease-up rates based on statutory flexibilities, as is more fully discussed in the attachment to this letter.

Coalition Letter of Support

The undersigned groups are writing to express concerns about the implementation of the renewal formula from the **FY 2004** omnibus appropriations bill for the Section 8 Housing Voucher Choice program. We are concerned that HUD's interpretation of the FY2004 omnibus appropriations language will result in a funding shortfall that was not envisioned by the Congress, while at the same time failing to use all the voucher renewal funds appropriated by Congress. Under HUD's interpretation, HUD will fail to spend \$175 million to \$310 million of the funds

Congress appropriated for voucher renewals.

*Council for Affordable and Rural Housing
Institute of Real Estate Management
Institute for Responsible Housing Preservation
National Affordable Housing Management Association
National Apartment Association
National Association of Affordable Housing Lenders
National Association of Home Builders
National Leased Housing Association
National Low Income Housing Coalition
National Multi Housing Council*

Calculating the Impact on Your Authority

NAHRO has a spreadsheet to help agencies assess the impact of these changes on their agencies. Notice 2004-7 was vague with regard to critical details such as the exact calculation of the inflation factor and timing of implementation. The spreadsheet uses the best available information to help assess your agency's position. In assessing amounts available to meet any shortfalls, the spreadsheet takes into account any of the one-month program reserves available to an agency.

For FY 2003, HUD was required to replenish any program reserves used for authorized purposes once the agency had expended 50 percent of those reserves. However, data submitted to the Congress indicates that many agencies have far less reserves on hand than 50 percent. HUD officials have recently indicated that reserves may not have been replenished if agencies did not specifically request replenishment. Because the new funding scheme relies heavily on the use of one-month reserves to mitigate any shortfalls, it is important for your agency to know how much is available in your reserves.

We strongly suggest that you contact the Financial Management Center to verify the status of your reserves. If your reserves stand at less than 50 percent, formally request that they be replenished as required by the FY 2003 appropriations act.

Now is also the time to ask the FMC for details on your renewal increments going forward. We suggest that you request the following from the FMC:

- Per unit cost used to calculate your latest (May) increment for HAP
- Number of units under lease used to calculate your latest increment
- Whether your June increment (for HAP) will be calculated differently than your May increment

NAHRO's renewal calculation spreadsheet, available as: <http://www.nahro.org/documents/2004/NAHROWorksheetRenFunding.xls> or as a zipped file at: <http://www.nahro.org/documents/2004/FundingWorksheet.zip>
Instructions for filling out the spreadsheet: http://www.nahro.org/members/news/2004/may/DN5-04-s8_link.pdf