

NLHA Bulletin

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Legislation

President Trump Signs Coronavirus Relief, FY21 HUD Appropriations

PRESIDENT TRUMP SIGNED a combined \$900 billion coronavirus relief bill and \$1.4 billion omnibus appropriations measure that funds HUD and other federal agencies through Sept. 30. The bill sets a permanent floor for the 4% for housing tax credit, provides \$25 billion in emergency rental assistance for low-income families, and extends the CDC eviction moratorium through Jan. 31.

Congress passed the bill Dec. 21 by overwhelming margins, the Senate 92-6 and the House, 359-53, but a week of political drama led to Trump signing H.R. 133 on Dec. 27. Trump posted a video online in which he said the \$600 direct stimulus payments were too low, criticized some spending items, and called the bill a “disgrace.” He demanded that the stimulus payments of \$2,000 per person. The president did not directly threaten it, but there was widespread concern he would veto the bill.

After signing the measure, Trump issued a statement that he wants the payments increased to \$2,000 per adult with \$600 per child and that he intends to send a rescission request to Congress asking lawmakers to remove what he considers wasteful spending from the bill.

Several deadlines were pending before the bill was enacted. A short-term continuing resolution to fund the government was set to expire two days later, on Dec. 28. Without further funding, certain government functions would have shut down and federal workers would not be paid. Extended federal unemployment benefits actually ended for a few days in December, and the eviction moratorium put in place by the Centers for Disease Control and Prevention would have ended Dec. 31.

Without eviction protection or rental aid, millions of renters would lose their homes. The Census Bureau estimated that 11.3 million households were behind on rent or wouldn't be able to pay January rent, and Moody's Analytics estimated a backlog in unpaid rent of \$70 billion. The Washington Post reported that landlords across the country had filed thousands of eviction notices that would go forward if federal and local moratoriums are no longer in effect.

HUD Appropriations, Economic Relief

The bill provides \$49.6 billion for HUD, \$561 million more than in FY 2020. The legislation prioritizes rental assistance and increases funding to renew contracts for the Section 8 and public housing programs. It also funds new homeless assistance and Veterans Affairs Supportive Housing (VASH) vouchers. HUD homeless assistance is increased to \$3 billion, and there are new construction funds for Section 202 housing for the elderly.

The biggest category for coronavirus relief is \$325 billion for small businesses, including \$284 billion in first and second forgivable loans from the Paycheck Protection Program. Enhanced unemployment benefits of \$300 per week run through March 14, and state unemployment is extended to a maximum of 50 weeks. Jobless assistance for self-employed and gig workers continues. Direct stimulus payments of \$600 will be paid to individuals with incomes up to \$75,000 per year, \$1,200 for couples earning up to \$150,000, and \$600 for each dependent child. There also is assistance for vaccine distribution, schools, transportation, and for other needs.

Rental Assistance Funds

A crucial part of the relief bill is \$25 billion in emergency rental assistance to state and local governments that will pay for the rent, utility, and other housing expenses of qualified low income tenants, including any late payments.

Rental assistance will be provided through the Coronavirus Relief Fund created in March by the CARES Act administered by the Department of the Treasury. Households with incomes no higher than 80% of area median income (AMI) qualify, but funds must be prioritized for those with incomes no higher than 50% of AMI. For eligibility purposes, administering entities must consider the household income for 2020 or the monthly income at the time the household applies for assistance.

Income-qualified households must also meet these conditions:

- One or more individuals in the household has qualified for unemployment benefits or has experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due to or during the coronavirus outbreak; **and**
- One or more individuals in the household can demonstrate a risk of experiencing homelessness or housing instability, which includes a past-due utility, home energy, or rent notice or an eviction notice; unsafe or unhealthy living conditions; or any other evidence of such risk as determined by the state or local government administering entity.

Rental assistance payments must be made directly to a landlord or utility provider on behalf of the eligible household unless they do not agree to accept payment, in which case payments may be made directly to the eligible tenants who will make the payments themselves. Landlords may apply for assistance on behalf of renters, but they must get the tenant's signature on the application, and payments obtained this way may only be used to cover rent.

Income Recertification

A portion of rental assistance may also be used for case management and tenant-landlord mediation services. A household may receive up to 12 months of assistance, with an additional three months if necessary to provide housing stability. Household income must be recertified every three months in order to receive ongoing rental assistance.

The Treasury Department will distribute funds to states and localities. Small states receive a minimum of \$200 million in emergency rental assistance. Localities with populations over 200,000 may request to receive their allocation directly. Under the program, the District Columbia is treated as a state. U.S. territories receive a set-aside of \$400 million while \$800 million is set aside for Native Ameri-

cans, Alaska Natives, and Native Hawaiians. The Treasury Department will issue regulations governing allocation of the emergency funds.

In addition, \$20 million in HUD appropriations is provided for legal assistance grants to nonprofit and government entities to help renters who face eviction. Congress has also asked HUD to research the feasibility of creating a national eviction database.

Section 8 Assistance

The Section 8 programs receive increases to renew contracts for currently assisted households. Housing Choice Vouchers receive a total of \$25.7 billion, with \$23 billion for contract renewals, an increase of \$1.5 billion. Administrative fees get a modest \$182 million increase to \$2.1 billion.

Voucher renewal funding continues to be based on leasing and cost data from the previous calendar year with an inflation factor applied. HUD continues to have authority to offset FY21 allocations based on “excess amounts” in a PHA’s net restricted assets account (reserves). Up to \$110 million is available in an annual adjustment fund which this year includes adjustments for Moving to Work agencies that are part of the expansion authority authorized in the FY16 HUD Appropriations Act.

Tenant protection vouchers are funded at \$116 million, and with a \$60 million carryover, there will be \$176 million available to help tenants affected by property demolition, disposition, redevelopment, owner opt out or in similar circumstances.

The bill provides \$43 million in new vouchers to reduce homelessness for families with children, the unsheltered, veterans, and survivors of domestic violence; \$40 million for additional Veterans Affairs Supportive Housing (VASH) vouchers; and \$25 million for new Family Unification Program vouchers. The bill’s explanatory statement directs HUD to consult with the Department of Veterans Affairs to determine how PHAs can become designated entities to screen for veteran eligibility and make referrals for the VASH program. HUD is also directed to use its existing authority to specify alternative requirements to permit PHAs to use unleased VASH vouchers to house VA-eligible homeless veterans even if they have not received a referral from the VA.

The relief bill authorizes a Fostering Stable Housing Opportunities initiative, a subset of the Family Unification Program, that provides up to 24 additional months of voucher assistance to youth aging out of foster care who participate in the Family Self-Sufficiency program, pursue educational opportunities, or who are employed. The additional voucher term will allow youth to complete a five-year FSS contract. Youth up to age 25 are eligible and are referred to PHAs by local welfare agencies.

The explanatory statement provides 40 additional full-time positions in the Office of Public Housing with at least 20 of these positions in the Office of Public Housing and Voucher Programs.

In a policy provision, HUD is directed to establish a director of domestic violence prevention activities within the Office of the Secretary to coordinate domestic violence prevention throughout the department and serve as a liaison with external stakeholders.

Project-Based Rental Assistance

Section 8 project-based rental assistance receives \$13.4 billion, of which \$13.1 billion is for contract renewal funding, an increase of \$890 million, and \$350 million is for performance-based contract administrators (PBCAs). HUD plans at some point to solicit new PBCA contracts, and the bill's explanatory statement from Congress directs HUD not to impede housing finance agencies from bidding on state-based PBCA contracts.

The bill has \$105 million for Family Self-Sufficiency grants, with priority given to the renewal of existing FSS coordinators. Section 8 PBRA properties will continue to be ineligible for coordinator grants. The original House funding bill would have expanded grant eligibility to PBRA projects, but this provision was not funded in the final bill. Section 8 owners remain authorized to operate voluntary FSS programs but will have to provide the funds for coordinators themselves, from other grant sources, or participate in a local housing authority's FSS program.

Community Development Block Grants and HOME grants are at the same level as last fiscal year, \$3.4 billion and \$1.35 billion, respectively. Homeless assistance programs get a \$223 million increase to \$3 billion. Choice Neighborhoods grants are funded at \$200 million, \$25 million more than in FY20.

Housing for Elderly

Section 202 housing for the elderly receives \$855 million, which includes \$52 million for new construction. HUD has yet to release about \$196 million in Section 202 construction funds, and the final bill directs the department to make all remaining funding provided in fiscal years 2018, 2019, and 2020 available no later than 100 days after enactment of the bill and award funds no later than 220 days after enactment. The bill does not adopt Rental Assistance Demonstration provisions from the Senate bill that would have aided Section 202 preservation transactions, improving on the "RAD for PRAC" initiative.

Congress directed HUD to evaluate methods used to renew Section 202 contracts (PRACs and SPRACs) to assess the scheduling of annual contract renewals. HUD had asked for the authority for a one-time renewal of some contracts for more than one year to avoid falling short of funds at the beginning of a fiscal year, which covers the months of October, November and December. The Integrated Wellness in Supportive Housing (IWISH) demonstration receives \$14 million to continue testing enhanced services in Section 202 housing.

In public housing, the operating fund is \$4.8 billion, an increase of \$290 million, while the capital fund is \$74 million less than in FY20 at \$2.7 billion.

The bill authorizes \$30 billion in total loan principal for the FHA general and special risk account, which funds multifamily housing mortgage insurance. Other funds are provided for policy development and research, \$105 million; fair housing activities, \$72 million; lead hazard reduction and healthy homes, \$360 million; information technology, \$300 million; and the inspector general, \$135 million.

4% Housing Credit

The affordable housing industry achieved a long-awaited legislative objective with the setting of a permanent floor for the 4% low income housing tax credit. In reality, the credit was tied to the federal borrowing rate (the applicable federal rate) and fluctuated monthly. During the COVID-19 pandemic it has dropped as low as 3.07% and in November was only slightly higher at 3.08%. Fixing the 4% credit

rate has long been the industry's top priority for the LIHTC program. The 4% credit is available for acquisition and is often used in conjunction with tax-exempt private activity bond financing.

The 4% minimum rate is effective for projects that receive tax credit allocations after Dec. 31, 2020 and for bond-financed properties placed in service and receiving allocations from private activity bonds issued after Dec. 31, 2020.

Fixing the 4% credit at its nominal rate is expected to generate millions in additional equity investments from the private sector in affordable housing, creating or preserving additional housing for low and moderate income households during the current pandemic and affordable housing crisis.

In addition, the relief bill provides an estimated \$1.1 billion allocation of housing tax credits for states and territories that qualified for Federal Emergency Management Agency assistance as a result of major natural disasters in 2020 and for 60 days after enactment of the bill. This includes Alabama, California, Florida, Iowa, Louisiana, Michigan, Mississippi, Oregon, South Carolina, Tennessee, Utah and Puerto Rico. The allocation formula is based on each state's population.

The relief bill requires that, within two years of the bill's enactment, carbon monoxide alarms or detectors must be installed in each dwelling unit in federally assisted housing, defined as public housing, Section 8 project-based and tenant based assistance, Section 202 housing for the elderly, Section 811 housing for the disabled, HOPWA, and rural housing.

The bill also corrects a technical problem in depreciating residential rental housing created by the 2017 Tax Cuts and Jobs Act that forced real estate businesses to depreciate rental housing over 40 years instead of 30 years if they elected out of a limitation of interest deductibility.

HUD Appropriations FY 2021 (\$ billions)

Major Programs	FY20 Enacted	FY21 President	Final Bill FY21	Vs. FY20 Enacted	Vs. Pres. Request
Housing Choice Vouchers	\$23.874	\$18.833	25.777	\$1.903	\$6.944
Renewals	21.502	16.958	23.08	1.578	6.122
Tenant Protection	.075	.100	.118	.043	.018
Admin Fees	1.977	1.465	2.159	.182	.694
Mainstream	.229	.310	.314	.085	.004
HUD-VASH	.040	0	.040	.000	.040
Family Unification	.025	0	.025	.000	.025
Homeless Assistance	0	0	.043	.043	.043
Mobility Demo	.025	0	0	-.025	.000
Public Housing					
Capital Fund	2.889	0	2.765	-.124	2.765
Operating Fund	4.549	3.572	4.839	.290	1.267
Section 8 Projects	12.570	12.642	13.465	.895	.823
Renewals	12.225	12.292	13.115	.890	.823
Contract Admin.	.345	.350	.350	.005	.000
Section 202 Elderly	.793	.853	.855	.062	.002
Choice Neighborhoods	.175	0	.200	.025	.200

Family Self-Sufficiency	.080	.090	.105	.025	.015
Homeless Assistance	2.777	2.773	3.000	.223	.227
Native American Housing	.646	.600	.647	.001	.047
HOPWA	.410	.330	.430	.020	.100
CDBG Formula Grants	3.400	0	3.450	.050	3.450
HOME	1.350	0	1.350	.000	1.350

Note: Numbers are from the explanatory statement that accompanied the final bill.