



Major Features of the 2011 Budget Proposal on Transforming Rental Assistance

In the 2011 budget, HUD proposes to launch a multi-year effort called the Transforming Rental Assistance (TRA) initiative to preserve HUD-funded public and assisted housing, stem the loss of affordable units, enhance housing choice for residents and streamline the administration of HUD's rental assistance programs. In 2011, the first phase of this initiative would provide \$350 million to preserve approximately 300,000 units of public and assisted housing and expand housing choices for families with Housing Choice Vouchers (HCVs). Later this spring, HUD will submit proposed legislation to the Congress to authorize this voluntary conversion of properties to long-term property-based Section 8 rental assistance, and to make other changes to HUD's programs to advance the streamlining goals of TRA.

After listening to feedback from a broad range of stakeholders, HUD has produced what we believe is an improved proposal that is responsive to the concerns we heard. Please note, we continue to consider this a draft proposal as we seek input and strive for a final product that will strike the proper balance between the sometimes competing goals of preservation, tenant choice and opportunity, and market discipline.

You will see in this document that we have wrestled with a number of complex questions and welcome input and feedback. In particular, we are continuing to gather ideas to help answer questions, such as:

- What criteria and procedures should local agencies and communities use to prioritize units to preserve? Should HUD set thresholds to help determine when units should not be preserved?
- Once units are preserved with a new funding stream, what incentives should HUD use to encourage a healthy amount of market discipline and assure that units are well-maintained and properties are financially sound? At the same time, how can HUD ensure that public funds are used cost-effectively? How should HUD balance the needs of applicants on waiting lists and the commitment to give all tenants of converted properties ample opportunity to choose a location in which to live? Beyond providing tenants a Housing Choice Voucher when they want to move (after an initial period) what policy changes are needed to promote truly informed choice for participants in HUD's rental assistance programs?

As HUD continues to gather input to use in drafting a legislative proposal, we are issuing this discussion draft to update stakeholders on our current thinking on the major features of TRA. Again, we encourage and welcome feedback on this document, which can be sent to tra@hud.gov.

Conversion

Based on HUD's latest thinking, we propose that public housing agencies (PHAs) and a limited number of private owners managing HUD-supported housing be offered an option to voluntarily convert from their



current subsidy to long-term property-based rental assistance contracts. Along with stable, sustainable funding based on a contract rent, converted properties would gain from the market discipline generated by the Resident Choice Option described below. In 2011, the first phase of TRA, the following types of properties would be eligible for this voluntary initiative:

- Public housing
- Properties assisted under HUD's multifamily programs owned by PHAs
- Privately-owned properties with contracts under the Rent Supplement program, Rental Assistance Program (RAP) or Section 8 Moderate Rehabilitation program (excluding properties funded under the McKinney Act).

Public housing-only agencies would have a priority for conversion, although PHAs that seek to convert public housing and do *not* administer HCV programs would still need to meet threshold requirements to participate. The eligibility thresholds are being developed but may include PHA capacity and past performance.

PHAs that seek to convert public housing or assisted multifamily properties, and that also administer HCV programs, may apply through a competitive process. As part of the competition, PHAs may be required to commit a share of their turnover vouchers (i.e. vouchers which become available as families leave the HCV program) to persons residing in converted properties wishing to exercise their Resident Choice Option. Additionally, a priority, but not sole eligibility, would be accorded to agencies that agree to combine the administration of their HCV program with PHAs serving adjacent communities. Methods of combining administrative functions would be locally designed and could, for example, include forming a consortia or a multi-agency portability agreement. (During 2010, HUD plans to revise the consortia and portability regulations to facilitate such efforts.) PHAs may also strengthen their bid to convert by showing significant organizational capacity, a long term commitment to preserving public and assisted housing, planning quality rehabilitation, and requesting competitive rent levels.

The eligibility criteria for private owners of HUD-assisted properties seeking to convert are under development.

Regardless of the HUD subsidy a property currently receives, there are a number of other conversion threshold questions that HUD will continue to work with stakeholders to resolve, including:

- Should HUD have a physical condition threshold that properties must pass in order to convert?
- Conversely, should HUD focus on converting properties in poor physical condition with the goal of improving and preserving those properties?
- Should HUD look at neighborhood conditions in evaluating a property's application for conversion? For example, should HUD prioritize converting properties in neighborhoods with access to transit or employment opportunities? Or mixed-income neighborhoods?
- How can HUD best promote resident choice through the competition process?



Conversion Process

The new rental assistance contracts would not require a change in ownership of converted properties. Public housing agencies would retain ownership of the converted properties currently in their portfolios, and could continue to develop, own and operate additional affordable housing in line with their mission.

HUD anticipates requiring property-level analysis as part of the conversion process:

1. *Physical needs assessment*, to ensure that conversion would make a property physically and financially sustainable, including an assessment of the costs and benefits of making the property energy efficient.
2. *Rent comparability study* performed by an independent entity in order to establish post-conversion rents for each property.

Generally, HUD would require owners to maintain the same number of “hard” assisted units with a new project-based rental assistance contract. If an owner proposes to reduce the number of “hard” units assisted at a current site, the conversion application would have to demonstrate that the units would be replaced promptly in a location that meets fair housing goals. Only if owners can demonstrate that there is an excess supply of rental housing in an area, and that families similar to those currently residing in a property are highly successful at using tenant-based vouchers (including in low-poverty areas) would HUD approve the use of tenant-based assistance to replace hard units. The combination of the “hard” assisted units and the vouchers would not exceed the number of “hard” units at the time of conversion. Owners would be required to consult with residents in advance and throughout the conversion process.

Converted properties would receive a new property-based Section 8 rental assistance contract. Typically (and for all converting publicly-owned properties), the contract would have an initial term of 20 years, with options to extend, and would be subject to a long-term use agreement. The contract’s funding (appropriation) is expected in annual funding increments, like other project-based contracts authorized or renewed in recent years. Funding will be subject to annual appropriations. \$290 million of the new funding requested in the 2011 budget would be used to fill the gap between the funds otherwise available for the selected properties and the first-year cost of the new contracts (including administration).

While the above represents HUD’s best thinking to date, there are a number of areas where further thought is warranted:

- Is 20 years the “right” contract term?
- If the contract is for 20 years, should the use agreement also be for 20 years or should it be for longer? How would a longer use agreement impact a property and, in particular, the ability to raise private capital?
- Should the legislation specify an “up to” time period for the contract renewal term? What would be the “right” length of time for extensions to the contract?



- Should HUD allow owners to commit to extending their contract at the outset, or require such a commitment from public owners?

Two Options for Rental Assistance at Conversion

Long-term property-based Section 8 rental assistance contract

We are proposing policies for these contracts that would be similar to those that now apply to project-based Section 8 properties renewed under MAHRAA. (Like under MAHRAA, private owners that seek to renew Section 8 contracts under the new authority would be allowed to renew at terms similar to existing programs with current use restrictions.)

- HUD would be a party to the contract with the owner, and various functions related to contract administration would be carried out by Performance-Based Contract Administrators (PBCAs).
- HUD could add new PBCAs to manage these additional contracts, as well as offering existing PBCAs the opportunity to increase the number of properties they oversee. Creating new statutory authority for contracts for the converted properties would give HUD flexibility in managing the funding, and also would increase the tools available to HUD to preserve the properties.
- Renewal funding for these properties would be provided under the Project-based Rental Assistance account.

For these converted properties, the authority for the Section 8 funding would be a new subsection of the U.S. Housing Act, Section 8(n).

Project-based voucher (PBV) contract under section 8(o)(13).

Owners of properties that are "small" or partially assisted would have the option of converting to a project-based voucher (PBV) contract under section 8(o)(13). The definition of these criteria would be similar to the policy changes included in the House SEVRA bill (H.R. 3045). HUD proposes to:

- Change the current PBV statute to eliminate the option to project-base vouchers in all of the units when a property serves particular populations, given the absence of structured oversight in the PBV model.
- Align basic policies of the two types of property-based rental assistance, which would simplify the programs, making them easier for developers, owners, administrators and tenants to understand, and facilitate future shifts of properties to a "light regulation", mixed-income model.

Owners opting for PBV subsidies would have a contract with a PHA that administers a voucher program. PHAs could administer the PBV contracts for properties they own, subject to requirements for third



party inspections and rent determinations. If a PHA does not have a voucher program or one of sufficient size, HUD would award the additional vouchers for converted units to another entity to administer. Converted PBV units would not count toward the cap on the share of vouchers a PHA may project-base, but no agency would be permitted to project-base more than 40 percent of its vouchers.

The rental assistance contract for converted properties would remain in place, whether or not the loan is insured by FHA, in the unlikely event that a lender forecloses on a loan. The legislation also could include other policies to help ensure the long-term affordability of converted properties and protect tenants.

- What other policies should we consider to help ensure the long-term affordability of converted properties and protect tenants?
- Should FHA insurance or use of HUD-approved lenders be required?
- How should HUD define “small” and “partially assisted” for determining eligibility for conversion to project-based vouchers?
- Would eliminating the option to develop new fully-assisted service-enriched properties that are not “small” undermine efforts to end homelessness or meet the needs of special populations?
- Should the long-term property-based Section 8 rental assistance contract be between HUD and the owner? Are there disadvantages to this approach?

Choice Option

Providing residents with choice is a centerpiece of the Transforming Rental Assistance initiative. We have striven to create a proposal that includes a choice option that serves residents well, can be implemented by HUD and local agencies, brings a healthy amount of market discipline that encourages quality conditions, well-located housing and operational efficiency and affordable rent levels.

We propose that, once an assisted household has resided for two years in a property converted to a project-based contract under the new section 8(n), the household would be eligible to receive an available Housing Choice Voucher to move to a location of their choice. The property-based rental assistance would remain with the unit. As families leave the HCV program, tenant-based vouchers would become available for residents of converted properties who choose to move. HUD could also have the option of making funding available from the tenant-based rental assistance account for additional moving vouchers. For example, the 2011 budget would give HUD authority to reallocate voucher funding that agencies leave unspent above the level of allowable reserves.

Agencies that agree to make vouchers available for this purpose, as part of the conversion process or the competition to administer contracts for the converted properties, would not be expected to use more than one out of three available vouchers for families exercising their Choice Option. This limitation would enable most turnover vouchers to serve applicants on voucher waiting lists. When tenants exercise their Choice Option, new families would be able to receive rental assistance by moving



into the vacated units, so the total number of new households receiving HUD-funded rental assistance each year would not decrease as a result of extending a Choice Option to converted properties.

The Choice Option for residents of properties assisted under section 8(n) would be more limited than for residents of properties that have project-based voucher contracts. Under the PBV program, residents who want to move receive the next available voucher after one year. This policy encourages agencies to choose to project-base assistance only in properties in which tenants would want to continue to live, and helps give assisted tenants the same right to move at the end of their lease term as unassisted families. For the long-term property-based Section 8 rental assistance contracts, however, which are intended to preserve already-assisted properties, HUD proposes that this modified Choice Option is more appropriate. After substantial analysis of expected demand for moving vouchers and the limited supply at a time of constrained resources, we have concluded that it is not feasible to extend the existing PBV policy to all converted properties without unduly distorting voucher waiting lists and undermining the important role vouchers play in meeting diverse community needs.

- How else can HUD maximize resident choice, given existing resources?
- What measures can HUD take to avoid distortions in waiting lists?
- Is one out of three turnover vouchers the “right” number of vouchers to dedicate to the Choice Option?

Other Tenant Rights and Opportunities

Residents of converted properties would continue to pay "Brooke rents" (typically, 30 percent of adjusted income). Conversion would not be grounds for eviction, and eviction after conversion would be permitted only for good cause. PHAs would continue to be required to have at least one assisted tenant on their board. PHAs with 550 or more vouchers and remaining public housing units would continue to be subject to annual planning requirements, and residents of all HUD-assisted properties owned by the PHA would be eligible to participate in the planning process.

Residents of converted properties (and potentially other HUD-assisted tenants, including voucher holders) would have the right to organize independently of their landlords or PHA, like the rights now enjoyed by residents of HUD-assisted multifamily properties. HUD would make funding available to support such resident organizing efforts through a competitive process in place of the formula funding that is now available only through the public housing operating subsidy. HUD is still finalizing its recommendations concerning hearing rights of residents of converted properties.

We propose to include in the TRA legislation policy changes to enhance the economic well-being of HUD-assisted families. These proposals could include creating more uniform policies regarding the rights of HUD-assisted tenants to a share of the employment, contracting and self-sufficiency opportunities generated by HUD funding.

- What are the best practices that we should replicate in terms of hearing rights from HUD’s various rental assistance programs (or other similar programs)?



Applicant Issues

Eligibility requirements for admission to assisted units in converted properties would not change under TRA. At least 40 percent of households moving into a converted property assisted under the new section 8(n) each year must be extremely low-income (that is, with incomes that do not exceed 30 percent of the area median income). Admission to PBV properties would continue to be subject to the targeting requirements of the HCV program (75 percent of new households receiving HCV assistance from a PHA each year must be extremely low-income). Owners would be able to maintain site-based waiting lists, subject to fair housing requirements. HUD would ensure that information about the location of HUD-assisted properties and how to apply is transparent to applicants and would endeavor to achieve a “single-stop” application process for HUD rental assistance.

- How could HUD make key information about assisted properties easily available to interested applicants and social service agencies?
- Are there best practices that balance owner control over waiting lists and the goal of reducing duplicative and burdensome application requirements?

Expanding access to opportunity

In addition to creating the Choice Option for residents of converted properties, the first phase of TRA would include other measures to expand access to opportunity for recipients of HUD rental assistance. Up to \$50 million of the \$350 million requested for TRA in the 2011 budget would be available to PHAs for two purposes: (1) to offset the one-time costs of combining HCV program administrative functions to increase efficiency and expand locational choice; and (2) for outreach to encourage landlords in a broad range of communities to participate in the program and to provide additional services to expand families’ housing choices. Together with other planned policy changes (such as developing small area Fair Market Rents and revising the measures to assess HCV program performance, in addition to revising the consortia and portability rules as mentioned above), these funds and the administrative changes they support would streamline and improve the delivery and oversight of rental assistance and increase the share of HCVs used in lower poverty communities.

- How could HUD structure the competition for receipt of a portion of the \$50 million to inform future policy concerning how to expand choice for participants in the HCV program? What are the obstacles to combining HCV programs that HUD funding (and other policies) should address?