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Cover: Percy Abram Jr. Senior Apartments, a 45-unit Section 202 project in Oakland, California. Managed by Christian Church Homes. Developed by Christian Church Homes of Northern California and St. Columbia Development Corporation.

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Growing Reports of a Project-Based Section 8 Funding Crisis as FY 2007 Closes*

Reports have been surfacing over the summer of the Department of Urban Housing and Development (HUD) failing to make timely Housing Assistance Payments (HAP) to Section 8 project-based housing owners. Apparently, HUD does not have enough funding authorized to honor its contractual commitments.

Seventeen senators, led by Banking, Housing, and Urban Affairs Committee Chairman Christopher Dodd (D-CT), sent a letter to HUD Secretary Alphonso Jackson on September 6 urging him to "take immediate action to fund all property owners under their HAP contracts, and to let Congress know as soon as possible if HUD does not have sufficient funds to make these payments."¹ The House Financial Services Subcommittee on Housing and Community Opportunity is considering hearings on the funding shortage some time this month.

The origins of the problem stem from the Office of Management and Budget's (OMB) perennial objective to keep the HUD budget from increasing, even while the cost of HAP contracts has been growing. This has forced HUD to fund contracts at less than a full year of funding and to make up the deficit in the next fiscal year. In late 2006, the HUD Chief Financial Officer (CFO) decided this practice was illegal, requiring HUD to stop funding renewals for less than twelve months, leading to the current crisis.

For Fiscal Year (FY) 2007, Congress added \$939 million to the \$5.5 billion requested by the Administration. However, this amount will be about \$1 billion short of what was actually needed in FY 2007.

Multifamily industry associations, which represent multifamily owners and managers, reported that more than 10,000 contracts were unpaid in July.² On July 13, HUD's Office of Multifamily Programs sent a memorandum explaining that owners could ask HUD's field offices to approve the use of residual receipts and/or reserves for replacement in order to meet mortgage payments or other operating expenses.

In early August, HUD finally obtained a release of \$1.7 billion from OMB to begin paying past due HAP payments. Those July HAP payments were to reach

*This article is an edited version of several items in the National Low-Income Housing Coalition's weekly Memo to Members (September 7, 14 and 21, 2007), reprinted here with permission. Please join NLIHC by visiting www.nlihc.org.

¹The letter to Secretary Jackson from Senator Dodd and the other Senators can be found at www.nlihc.org/doc/senateletteronHAPshortfall.pdf.

²The National Leased Housing Association's summary of the issue can be found at www.hudnlha.com/housing_news/70_FALL_SEMINAR.asp.

properties by mid-August. At about the same time, an additional \$600 million was released by OMB to meet HAP contract renewals coming up in August and September. But this will not be enough to renew for a full twelve months those HAP contracts that had a renewal date during the last quarter of the fiscal year. The Office of Multifamily Housing was able to negotiate a short-term fix with the CFO that will allow partial payments, but the problem will continue unresolved into the new fiscal year if no further action is taken.

Apparently, and astoundingly, HUD does not know its actual project-based Section 8 renewal costs. HUD has engaged an independent auditor to get an accurate accounting of what the total costs will be for FY 2008. The audit report was expected in mid-September, but likely will be delayed further into the fall. Industry officials estimate that HUD will need \$2 billion more than it requested for FY 2008, in order to cover not only FY 2008, but also the renewal costs of the last quarter of FY 2007 and the reimbursement of long-term contract amounts "borrowed" to make the short-term fixes of FY 2007.

The full consequences of the funding shortage are yet to be realized. Small property owners with shallow reserves have struggled this summer to make mortgage payments and have had to put off repairs. Some owners, frustrated with HUD's failure to meet its contractual obligations, may not renew their Section 8 contracts and opt out of the program, resulting in a loss of housing that is affordable to low-income people. And other HUD programs could suffer further cutbacks in order to plug the \$2 billion gap in project-based Section 8 renewal needs.

Although the FY 2008 HUD Appropriations bill (H.R. 3074), as passed by the Senate, provides needed increases for many housing programs, it does not provide any more funding for Section 8 project-based contract renewals beyond the HUD-requested committee level of \$5.5 million. Because HUD still has not provided Congress with an accurate estimate of the needed amount, the current level may be as much as \$2 billion short, and Congress may need to revisit project-based funding levels in conference or later this year.

As the Senate began its consideration of the HUD bill in mid-September, Senator Kit Bond (R-MO), the ranking member of the Senate Appropriations Subcommittee on Transportation, HUD, and Related Agencies, expressed concern about its project-based Section 8 funding levels: "I raise one issue we have not been able to address; namely, HUD and OMB's failure to provide adequate funding for HUD's Section 8 project-based housing program for fiscal year 2008. To my colleagues and to OMB and to HUD, I say: Let's get serious. This is a critical and important program which serves many of our most vulnerable citizens—low income families, extremely low income families, seniors and persons with disabilities. If we don't fund it, they are out on the street. None of us wants to see that result."

"HUD has been unable to fund in a full and timely fashion many of these contracts during fiscal year 2007," Senator Bond continued, "and this problem is only going to get worse in 2008 to the extent that HUD could have a shortfall in its budget of as much as \$2 billion or more which is needed to meet its obligations to these contracts in the next fiscal year. If we don't act in this bill, we are going to see a \$2 billion shortfall. Think of the number of people who would be put out on the street if we don't solve that problem. It is unacceptable."

An amendment by Senator Russ Feingold (D-WI) was adopted that directs HUD to provide Congress with specific information regarding the amounts necessary to fully renew Section 8 project-based assistance contracts in FY 2007 and FY 2008 and requires HUD to provide such information for FY 2009.

Later, on September 14, Senator Bond sent a letter to OMB Director Jim Nussle stating, "I have been advised that OMB has requested inadequate funds to meet these Section 8 contract obligations by some \$2.2 billion in the FY 2008 HUD budget [request]. The failure to fund these Section 8 project-based contracts adequately would be a catastrophe..."

Senator Bond wrote, "I fully hope and expect OMB to provide the necessary funding for this program through a budget amendment or as part of a continuing resolution or through emergency supplemental." Despite the shortfall, the President has already promised to veto the HUD bill. Senator Bond asked Mr. Nussle to provide him with a summary of the funding status of all the Section 8 project-based contracts, including all contracts that are currently underfunded in FY 2007, the estimated shortfall for FY 2008 at the \$5.5 billion funding level, as well as OMB's justification for requesting insufficient funds for FY 2008.

On September 17, Senator Charles Schumer (D-NY), chair of the Senate Banking, Housing, and Urban Affairs Subcommittee on Housing and Transportation, issued a press release on the topic, saying HUD "has been financially starving New York State housing providers of reimbursement checks for weeks and will be unable to fully fund them through the rest of 2007." Senator Schumer calls the non-payment of subsidies "a disincentive for property owners to continue to participate in the Section 8 program." According to Senator Schumer's press release, only 613 out of 1271 housing assistance payments were made on time to New York project-based Section 8 owners in August.

Advocates are urged to contact their members of Congress to inform them about the apparent funding shortfall for project-based Section 8 renewals in the FY 2008 HUD appropriations bill, and request their support for a true solution: adequate funding for renewal of all expiring contracts, without further harm to other HUD affordable housing programs, as well as provisions to ensure that the Administration provides accurate information about renewal needs for future appropriations. ■