

RECOMMENDATIONS FOR PROJECT-BASED VOUCHER CHANGES IN SEVRA II

In the FY 2001 VA-HUD Appropriations Act, Congress substantially revised the authority for public housing agencies (PHAs) to use voucher monies to enter into contracts for project-based assistance. Regulations implementing the program were finalized in October 2005. Though the final regulations addressed many of the challenges encountered during the initial years of operation under the revised statute, lingering obstacles inhibit the ability of PHAs and their private-sector partners to use the program to achieve the statutory goals of “deconcentrating poverty and expanding housing and economic opportunities.”

The undersigned organizations support language in the draft “Section 8 Voucher Reform Act of 2007” that would give PHAs flexibility in setting rents for units receiving project-based voucher assistance, including for units also benefiting from LIHTC assistance. In addition, the undersigned organizations agree unanimously that the nine program improvements summarized in the attached document will improve the effectiveness of the program in achieving its goals. Legislative language that would modify Section 8(o)(13) of the U.S. Housing Act of 1937, implementing these improvements, is included, as well.

In summary, the improvements will modify the program to better:

- coordinate with other federal housing programs;
- support state and local housing priorities;
- meet the accessibility and/or service needs of disabled, elderly, homeless, and other populations for whom tenant-based vouchers may fall short; and
- strengthen partnerships between PHAs and private-sector housing providers.

These consensus recommendations reflect the input of those who work locally to combat homelessness, house elderly and disabled people, and support community and economic development initiatives; representatives of public housing and service provider trade associations, landlords, and developers (for-profit and not-for-profit), including those engaged in housing preservation; and advocates who work nationally on behalf of low-income Americans.

We respectfully urge Congress to adopt the attached recommendations.

American Association of Homes and Services for the Aging
Boston Housing Authority
California Housing Partnership Corporation
Center on Budget and Policy Priorities
Chicago Rehab Network
Chicago Community Development Corporation
Citizens’ Housing and Planning Association (Massachusetts)
Community Economic Development Assistance Corporation (Massachusetts)
Corporation for Supportive Housing
Enterprise Community Partners
Local Initiatives Support Corporation
Massachusetts Department of Housing and Community Development

Massachusetts Housing Partnership
Metropolitan Planning Council (Chicago)
National Alliance on Mental Illness
National Association of Local Housing Finance Agencies
National Council of State Housing Agencies
National Housing Conference
National Housing Trust
National Leased Housing Association
National Low Income Housing Coalition
National Housing Law Project
NYC Department of Housing, Preservation & Development
Oakland Housing Authority
Preservation of Affordable Housing, Inc.
San Francisco Housing Authority
Stewards of Affordable Housing for the Future
Tacoma Housing Authority
Technical Assistance Collaborative
Urban Edge (Boston)
Volunteers of America
Emily Achtenberg, Housing Policy & Development Consultant
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Summary of Recommended Amendments

1. Improve coordination with the Low Income Housing Tax Credit (LIHTC) program and ensure longer-term affordability by **changing the maximum initial contract term from 10 years to 15 years** and clarifying that public housing agencies (PHAs) and owners may commit in advance to offered extensions of the initial contract term.

The LIHTC compliance period is 15 years. For underwriting purposes, it makes sense to conform the affordability period for the project-based voucher program to that of the nation's largest federally funded source of housing capital. Additionally, given the extremely low incomes of many of the households served by project-based vouchers and the limited potential for many — especially elderly and disabled renters — to increase their incomes substantially, it is prudent to encourage PHAs and their private-sector partners to take steps to ensure affordability beyond the initial contract term, for example by clearing the path to advance commitments.

2. **Allow PHAs to project-base 25 percent of voucher funds, plus an additional 5 percent for units reserved for individuals and families that fall under the McKinney homelessness definition.**

The success of the project-based voucher option since its revision in 2000 weighs in favor of a judicious, limited increase in the cap on project-basing. A 5 percent increase as of right is clearly reasonable in light of the overwhelming need to add to the nation's affordable housing stock, especially in the highest cost markets. In addition, PHAs that dedicate vouchers to new developments intended to serve homeless individuals and families should be rewarded for their innovation with a modest exception to the project-basing cap. This additional flexibility will support the efforts of PHAs and their partners to end homelessness.

3. **Alter the measure of income-mixing** from “building” to “project,” and add exceptions for small projects (with 25 units or fewer) and projects in areas where vouchers are difficult to use to the general requirement that no more than 25 percent of units have project-based assistance.

For many localities, the project-based voucher program is the only development tool available for the creation of affordable housing for extremely low-income families. Specifically, by allowing housing authorities to project-base vouchers in up to the greater of 25 units or 25 percent of the units in a project, the language enables PHAs to increase the number of families they can serve outside a qualified Census tract, without generating pockets of poverty. In addition, because this provision allows housing authorities to apply the exception at the project level, much needed simplicity and flexibility will be added to the administration of a sometimes complicated program. A narrowly-tailored exception to the 25 percent limit is added for areas where objective data demonstrate that a significant share of families are unable to succeed in using regular tenant-based vouchers, despite efforts by the PHA to modify policies to promote voucher success. In these tight markets (defined in the same manner as the regulatory criteria HUD issued for the “success rate” payment standard exception), PHAs would be allowed to project-base vouchers in up to half of the units in a project.

4. Allow project-based vouchers to be used in co-ops and elevator buildings.

Current regulations do not permit project-based vouchers in co-ops. While such vouchers are permitted in elevator buildings for families with children, this is so only if the PHA determines that there is no practical alternative, and HUD approves such a finding. The proposed language clarifies that project-based vouchers may be used in co-ops and in elevator buildings without requiring a PHA to make any additional findings or to obtain special approvals. With regard to co-ops, the proposed changes will make the project-based voucher program consistent with the tenant-based voucher program and the project-based Section 8 program. The assumption that elevator buildings for families should not receive project-based voucher subsidy is outdated. PHAs — who know the project and the community — should have the explicit authority to exercise their discretion in selecting a project for project-based vouchers using the same set of criteria applied to all projects without requiring specific HUD review and approval for elevator projects.

5. Convert expiring project-based certificate contracts.

When Congress overhauled the project-based voucher program in 2000, it included language intended to allow housing authorities to authorize the conversion of developments with expiring project-based certificate contracts to the successor project-based voucher program. HUD has determined that this transition language is technically deficient, however, and thus congressional intent is not being carried out. The amendment would cure the technical deficiency and clarify that the contracts would be extended as project-based vouchers, including contract term and rent provisions applicable to newly designated developments. The amendment is needed now, because long-term project-based certificate contracts are beginning to expire (or have already expired), and project-based vouchers offer the only available mechanism for keeping these contracts in place and thus preserving the units as affordable housing.

6. Streamline subsidy layering and environmental reviews.

Affordable housing developers, particularly those that serve the lowest income renters and/or seek to provide supportive services in addition to housing assistance, often must cobble together financing from a wide range of local, state, and federal funding sources. To expedite the process of issuing project-based vouchers and avoid unnecessary duplication, the proposed language gives clear authority to HUD to rely on a subsidy layering review already being conducted by the entity otherwise authorized to perform such a review for the transaction (the applicable state or local agency or local office of HUD), so long as that entity considers the presence of the project-based voucher subsidy as a part of its review. In instances where no other entity is conducting a subsidy layering review, this provision authorizes the appropriate HUD field office to do so. The language also clarifies that neither a subsidy layering review nor an environmental review should be required to attach project-based vouchers to existing housing. Such reviews add time and substantial cost without serving a significant policy purpose, since other subsidies are not involved and existing units are, by definition, already compliant with Housing Quality Standards.

7. Prohibit HUD from requiring the use of a form HAP contract.

This language is intended to increase program flexibility and ease of administration. Allowing owners and PHAs to enter into their own contracts will enable the parties to tailor an agreement to address local as well as property- and transaction-specific issues. Any contract would need to include certain provisions specifically required by HUD, including tenant-protection measures.

8. Permit owner-managed, site-based waiting lists, subject to PHA oversight and responsibility, and protect tenants displaced by rehabilitation.

The proposed changes to subparagraph (J) provide for site-based waiting lists to be maintained by the owner of the project (in accordance with procedures maintained by the public housing agency), in addition to the existing opportunity for a separate list to be maintained by the public housing agency. This revision allows for private entities who are managing properties that contain project-based Section 8 units to administer waiting lists and thus fulfill their management responsibilities, provided that such administration is consistent with the safeguards imposed by such subparagraph (J).

9. Authorize preservation project-based voucher assistance in lieu of enhanced voucher assistance.

Enhanced vouchers are provided to protect existing tenants from displacement upon the occurrence of an “eligibility event” in a multifamily housing project — generally prepayment of the subsidized mortgage or termination of an insurance or rental assistance contract. Upon turnover, these vouchers move with the tenant, and the housing is lost as a resource for future low-income families. Authorizing project-based voucher assistance in lieu of enhanced vouchers will make it possible both to protect existing tenants in a project and to preserve the affordability of units at the project where an owner/preservation purchaser chooses to do so. Project-basing the assistance will provide a financeable revenue stream for preservation-oriented owners and purchasers, without which many worthwhile projects, especially in strong markets, have been forced to exit the affordable program.

The assistance would be provided at the request of the owner, subject to the approval of the PHA and would cover all existing tenants in the project who would otherwise receive enhanced vouchers. Preservation project-based voucher assistance would be subject to the general rules for project-based voucher assistance, except that it would be exempt from the 25 percent cap on project-based units, it would be disregarded for the purpose of calculating the 20 percent limitation on attaching PHA funding to structures, and would be subject to a special preservation review standard and approval process. In addition to preserving affordable units needed in the local community, this provision may result in reduced Section 8 subsidy costs, because maximum rents for project-based voucher assistance (generally 110 percent of fair market rent) in strong market areas may be less than the market rent levels that would otherwise apply for enhanced voucher assistance.