

To: Subscribers to CBPP Housing E-list

From: Barbara Sard

Date: October 4, 2013

Re: Effect of Federal Shutdown on HUD Housing Assistance and Community Development programs

As you likely know, the House and Senate failed to agree on a “Continuing Resolution” (CR) to provide short-term funding for fiscal year 2014, which began October 1, and Congress hasn’t enacted any FY14 appropriations bills. Without 2014 funds to use to pay for agency operations, a large share of federal employees have been furloughed, including 96 percent of HUD staff. At this point, it is unclear how long the partial shutdown will continue. There is no clear “end game” in sight, though many observers believe that the October 17th deadline to raise the debt ceiling or risk default on federal payment obligations may lead Congress and the President to resolve the shutdown, as well, around that time if a CR is not enacted before then.

Based on our understanding of program funding and operations, as well as HUD’s posted contingency plan dated October 2, 2013 (view HUD’s contingency plan under “featured news” on HUD’s website, www.hud.gov), this memo is our assessment of the consequences of the lack of new FY14 funding on particular housing and community development programs. Overall, the shutdown may exacerbate some of the harm caused by [sequestration cuts](#) in effect since March 2013 by reducing the number of families receiving housing voucher assistance, and the impacts on low-income families, program administrators and property owners may worsen significantly if the shutdown extends beyond October.

Housing Choice Voucher (HCV) Program

HUD has made funds available to public housing agencies (PHAs) to pay October subsidies to landlords and for agencies’ administrative costs. These allocations of funds are at the 2013 sequestration-reduced levels. (Some PHAs will receive a portion of the funds for October housing assistance payments -- “HAP” funds – on October 7, but can use reserves to front the funds needed to pay landlords this week.)

Funding for both renewal of rental subsidies and administrative fees for the remainder of the calendar year has already been appropriated and is not dependent on further Congressional action. (Based on a Congressional decision about a decade ago to protect the HCV program from uncertainty at fiscal year-end, HUD uses the funding provided for the 2013 *fiscal* year to fund the program for the 2013 *calendar* year.) But Congress has not

appropriated funds for the HUD staff that manage the program. It is the funds for HUD staff and operations that are suspended due to the shutdown.

Probably due to the lack of appropriations to pay HUD staff, HUD has stated that it “*may* be unable to make additional HAP and administrative fee disbursements beyond the October payment in the event of a prolonged government shutdown.” (See HUD’s Oct. 2nd contingency plan, pp. 62 - 63, emphasis added.) However, HUD may be able to make an exception and allow particular HCV staff to work if necessary to prevent “an imminent threat to the safety of human life or the protection of property.” (See HUD’s contingency plan, p. 8.)

Few PHAs have sufficient reserves remaining, after the sharp reduction in FY13 funding, to cover November’s payments to landlords – or pay their staff – if HUD does not provide the funding due. In light of the risks that non-payment of rent subsidies in November and December would pose to the more than 2 million households in the HCV program – as well as the approximately 700,000 participating landlords – HUD arguably has the discretion to allow the work necessary to make HCV funds available to PHAs for the rest of the calendar year, if the shutdown were to continue. The National Association of Housing and Redevelopment Officials (NAHRO) sent an email late yesterday indicating that they had received assurances from HUD staff that HUD would provide November and December HCV funds to PHAs even if the shutdown continues. That assurance, however, is not guaranteed until the Office of Management and Budget approves HUD’s proposed change in the contingency plan.

Even if HUD disburses HCV renewal funds and administrative fees for November and December, some PHAs may be financially forced to take actions beyond those already in place to reduce program costs. HUD has been disbursing funds on a rolling basis to PHAs with insufficient funds to avoid terminating vouchers in calendar year 2013. (Congress provided HUD about \$100 million to use for this purpose in 2013.) It is uncertain whether HUD will be able to provide such funds to PHAs during the shutdown. Some strategies to reduce HCV costs, such as immediate reductions in the maximum subsidy provided, would violate HUD regulations and could only be implemented if HUD approved a PHA request for a waiver of the relevant rules. It seems unlikely that HUD would act on any waiver requests during the shutdown. (HUD’s plan does not explicitly address whether HCV or public housing program waiver requests will be acted on during the shutdown, but the Office of Multifamily Housing section of the contingency plan states that no section 8 waivers will be approved (p. 62), and it seems very likely that the same policy applies to the tenant-based section 8 program.)

Many PHAs have already stopped issuing vouchers to families on the waiting list because of the sequestration-related funding cuts, exacerbating homelessness in their communities and prolonging other hardships. Others may now suspend issuing vouchers – or even revoke vouchers from families that have not yet leased a unit – due to the additional funding uncertainty created by the shutdown. HUD has urged PHAs to be cautious about issuing vouchers this month. (See HUD contingency plan, p. 63.)

Finally, it is possible that some developers or property owners that were relying on a PHA’s commitment of new project-based vouchers (PBVs) to obtain financing may

encounter delays. A key step in the PBV commitment process is a HUD determination, known as the “subsidy layering review,” that the PBV subsidies will not provide excess funding to a project. HUD will not process these reviews during the shutdown. (See HUD contingency plan, p. 68.)

Public housing

HUD uses public housing operating and capital funds appropriated for *fiscal* year 2013 to fund PHAs for the 2013 *calendar* year, so funds for the remainder of the calendar year have already been appropriated, though funding levels are sharply below prior years. It appears that local operation of public housing properties will essentially be unaffected by the shutdown for the next few months, though HUD staff will be unavailable to address questions or to act on waivers. The one exception is that, in the event of an emergency, HUD has no funds that it can make available to a PHA to alleviate an emergency at a public housing property. (If there is a Presidentially-declared disaster, PHAs may be able to obtain funds from FEMA.)

Unlike in the case of the HCV program, HUD was able, before the shutdown, to make public housing operating and capital formula funds for the remainder of the calendar year available in HUD’s computer systems for PHAs to draw down as needed. (The amount of these funds is at the 2013 sequestration-reduced levels.) On September 27th, HUD awarded service coordinator funds to PHAs under the ROSS program for public housing tenants, so these funds also may be available during the shutdown.

HUD’s contingency plan does not address whether HUD will act on PHA requests to demolish or dispose of public housing properties, but it appears that HUD staff will be unavailable to review such requests. HUD’s plan does indicate that it will make staff available to close mixed finance deals or those related to HOPE VI or Choice Neighborhoods grants on an emergency basis. If a closing for conversion of a public housing property (or a privately-owned multifamily property) to section 8 assistance under the Rental Assistance Demonstration was scheduled prior to the shutdown, the closing process will continue. No RAD applications will be processed during the shutdown.

Multifamily assisted properties

HUD contracts with roughly 17,000 private owners to provide affordable rentals to more than 1.2 million households under the Section 8 project-based rental assistance (PBRA) program. About 200,000 of these units are funded under long-term, multi-year appropriations, and are not affected by the lapse in appropriations for FY14. For the other 1 million units, funding is subject to annual appropriations. HUD has a (relatively) small amount of carryover funds and FY14 advance appropriations provided as part of the FY13 funding bill that it can use to make payments on existing Section 8 PBRA contracts. In the October 2nd update to its contingency plan, HUD states that it currently anticipates that these sources “will be sufficient to fund contract renewals into November.” (p. 62)

Similarly, in a change from information released earlier, HUD now says that it will use these prior year funds to renew expiring contracts “into November.”

For properties with Project Rental Assistance Contracts (PRACs) under the 202 or 811 programs for elderly and disabled individuals, HUD's contingency plan also indicates that contract renewal funding will be available "into November." Newer properties still have multi-year funds committed. Other multifamily properties with some form of rent subsidy have very long-term contracts with funds appropriated decades ago. HUD indicates that it will continue to provide payments on these contracts.

If any private owners "opt out" of their Section 8 PBRA contracts with HUD or pay off their HUD-subsidized mortgages during the shutdown (*if* these actions can occur given HUD's sharply limited staff), tenants may be without financial help as their rents rise. In most of these cases, tenants are eligible for tenant protection vouchers to prevent their rent from increasing. But HUD likely has run out of funding for new tenant protection vouchers, and won't have any new funds available until there is a continuing resolution or other FY14 appropriations bill enacted.

Homeless, HOPWA, HOME and CDBG

For all of these programs, which are administered by HUD's Office of Community Planning and Development, funds appropriated for FY13 and earlier years will continue to be available. (Spending under these programs typically is slower than under the rental assistance programs.) See HUD's Oct. 2 contingency plan at 71.

Conclusion

It appears that HUD will continue to update its contingency plan, although getting clarification from the few remaining HUD staff will be very challenging. If you have information that differs from this explanation, please let us know (send an email to Barbara Sard at sard@cbpp.org and/or to Doug Rice at rice@cbpp.org).

Uncertainty for the families assisted by HUD's programs, PHAs and other administrators and owners will continue even after Congress enacts a CR, until final full-year appropriations for FY14 have been enacted. Congress will be unable to agree on final program funding levels until the House and Senate come to agreement on the total amount of funds to make available for FY14. If there is no agreement that would allow Congress to enact a bill with new funding provisions for HUD programs in the next few months, it is likely that the 2013 post-sequestration funding levels will remain in effect for 2014, possibly with limited modifications ("anomalies"). We plan to release a paper in the next few weeks discussing these possibilities and their implications in more detail.