NCDA Washington Report

July 20, 2015

Appropriations Update; Another CR Likely; Overview of Senate THUD bill

Another CR Likely

With Senate Republicans and Democrats unable to reach agreement on spending bills, with the President vowing to veto sequester-based appropriation bills, and with little time remaining to work on the spending measures, it appears that Congress will have two options this Fall: pass a Continuing Resolution (CR) or shut down the Federal government. With no interest in another government shutdown, we are looking at another CR that will likely run through late Fall (late November or early December). Pundits see Congress working on a longer-term CR at the end of the year that will include major legislative items such as extending expiring tax provisions, raising the debt ceiling, providing a longer-term fix for the Highway Trust Fund, and hopefully, lifting the spending caps.

Bolstered by veto threats from President Obama, Senate Democrats are vowing to block all spending bills until Republicans come to the negotiating table to raise the budget caps. Senate Democrats are using the strategy of filibustering all of the spending bills that come to the Senate floor for a vote. While the House has made good progress in moving its 12 spending bills, the Senate has not be able to move a single spending measure with Republicans unable to break the filibusters being waged by the Democratic minority.

Further, Congress is slated to begin a six-week recess that begins on July 31 and ends on September 8, leaving only 10 legislative days in September before government funding runs out, forcing the passage of a CR. A CR is good news for CDBG and HOME as it will provide level funding from the previous year.

Overview of Senate THUD Bill

The Senate Appropriations Committee approved it FY16 Transportation-HUD (THUD) spending bill on June 25 on a vote of 20-10. The bill provides $37.56 billion for HUD, an increase of nearly $2 billion above the FY15 enacted level, but $3 billion below the President's request.

The bill provides $2.9 billion for CDBG in FY15, a decrease of $100 million. The bill includes several provisions to expand and improve the delivery of HUD housing and services for homeless youth, including $20 million to support more than 20,000 new family unification vouchers to prevent youth exiting foster care from becoming homeless. An additional $33 million is provided to test comprehensive efforts to end youth homelessness in urban and rural areas. The bill permits an additional 300 public housing agencies to participate in the Moving-to-Work program, which will enable innovative approaches to reduce the cost of housing assistance, improve efficiency, and promote family self-sufficiency. The measure drastically reduces the HOME program funding from $900 million in FY15 to just $66 million in FY16 – a cut of $834 million.

In his statement on the bill, Senator Jack Reed (D-RI), Ranking Member of the Senate THUD Subcommittee noted that, "due to the unrealistic sequester funding limits under the Republican budget, federal investments in these important programs are cut to inadequate levels, costing jobs and economic growth." The bill dramatically cuts the Public Housing Capital Fund to a 1988 funding level, reduces Choice Neighborhoods to a historically low level, and essentially eliminates the HOME program – the nation's most targeted source of funding for affordable housing production."

Section 8

The Senate Appropriations Committee approved $19.9 billion for the Section 8 tenant-based (voucher) program, an increase of $630 million above the FY15 level. The Committee included $75 million in new voucher authority for the HUD-VASH initiative, which provides voucher assistance to homeless veterans. The Committee also included $20 million for new Family Unification vouchers, directing HUD to prioritize award of the vouchers to PHAs that will target them to youth and PHAs that have partnered with their local public child welfare agency to ensure youth referrals for these vouchers. The bill includes a provision to permit Family Unification vouchers for youth to be used for up to 36 months instead of the current 18 month period.

The Committee recommended $10.826 billion for Section 8 project-based rental assistance, an increase of $1.096 billion more than in FY15.

Moving-to-Work

The Committee recommended expansion of the Moving-to-Work (MTW) program by allowing an additional 300 high performing PHAs to participate in the program. Currently, 39 PHAs participate in the MTW program. The Committee recommended that the 300 PHAs be added over time, not all at once, and recommended that HUD create incentives for PHAs to improve their physical quality and financial management in order to qualify for the MTW status. The purpose of MTW is to give participating PHAs and HUD the flexibility to design and test various approaches for providing and administering housing assistance that reduce cost and achieve greater efficiency.

Public Housing

The Committee recommended funding of $1.742 billion for the Public Housing Capital Fund, a decrease of $132 million from last year. In an effort to help PHAs meet their capital and operating needs, language is included in the bill to allow PHAs to transfer up to 20% of their operating funds to their capital fund and to transfer up to 25% from their capital fund to their operating fund. Another provision allows PHAs to establish and maintain replacement reserves to save for planned capital projects.

The Committee recommended $4.5 billion for the Public Housing Operating Fund, an increase of $60 million above the FY15 level.

Choice Neighborhoods
The Committee recommended $65 million for HUD's Choice Neighborhoods Initiative, a decrease of $15 million from FY15. The Choice Neighborhoods Initiative provides competitive grants to transform poor neighborhoods into mixed-income neighborhoods with a focus on services, schools, transportation, and jobs.

HOPWA
The Committee approved $330 million for the HOPWA program, level funding from FY15. The Committee included language to modernize the HOPWA formula. The formula modernization requires that 75 percent of the formula funds be distributed to cities with population greater than 500,000 and with more than 2,000 persons living with HIV, and the remaining 25 percent to be distributed to States and metropolitan statistical areas based on fair market rents (to account for high housing costs in certain areas) and area poverty indexes (to account for high poverty). The bill includes language to prevent any grantee from losing more than 10 percent or gaining more than 20 percent of the average share of the total formula allocation from the previous fiscal year.

Section 108
The Committee recommended a loan guarantee level of $300 million for the Section 108 program, a decrease of $200 million from last year. Once again, the Committee authorizes HUD to collect fees to offset credit subsidy costs to allow the program to operate at a zero credit subsidy cost.

HOME
The Committee slashed funding for the HOME program recommending only $66 million for the program in FY16, a decrease of $834 million from FY15. The Committee includes a provision to clarify existing authority to continue allowing Community Land Trusts to exercise purchase options, rights of first refusal, or other preemptive rights to purchase housing on their trusted land to ensure affordability is maintained through ownership changes.

Homeless Assistance Grants
The Committee recommended $2.235 billion for the Homeless Assistance Grants program, an increase of $100 million from FY15. At least $250 million must be allocated to the Emergency Solutions Grant (ESG) program and at least $1.9 billion allocated to the Continuum of Care program. The Committee supports replacing existing, underperforming projects with new permanent supportive housing projects and recommends that any unused funding be used for new projects that are targeted to areas with the greatest need, as measured by homeless data. The Committee also directed HUD to incorporate additional Federal data on youth

homelessness into the Annual Homelessness Assessment Report to Congress. Moreover, the Committee provided $33 million for a pilot to implement comprehensive approaches to serving homeless youth in up to 10 communities, of which at least 4 are to be rural areas. Language is also included that waives the requirement for youth 24 and under to provide third-party documentation to receive housing and supportive services within the Continuum of Care program. The Committee directs HUD to issue clarifying guidance through notice and Web casts on homeless youth eligibility criteria. Language is also included to permit HUD to partner with other Federal agencies in the Performance Partnership Pilot program, a cross-Federal agency initiative serving disconnected youth through innovative, cost-effective, and outcome-focused strategies.

Section 202 and Section 811
The Committee recommended $420 million for the Section 202 housing for the elderly program, level funding from last year. The Committee recommended $137 million for the Section 811 housing for persons with disabilities, an increase of $2 million from last year.

Housing Counseling Assistance
The Committee recommended $47 million for the Housing Counseling Assistance program, level funding from last year. The Committee continues language requiring HUD to obligate counseling grants within 180 days of enactment of the FY16 THUD bill.

Lead-Based Paint Hazard Reduction and Abatement
The Committee recommended $110 million for lead-based paint hazard reduction and abatement activities, level funding from FY15. Of this amount, $25 million is provided to the Healthy Homes Initiative and $45 million is provided to the Lead Hazard Reduction Program.

HUD Issues AFFH Final Rule

HUD issued the long-awaited Affirmatively Furthering Fair Housing (AFFH) final rule on July 8. The final rule replaces the current Analysis of Impediments (AI) obligation with a new Assessment of Fair Housing (AFH). The rule issuance follows the U.S. Supreme Court ruling on *Texas Department of Housing and Community Affair v The Inclusive Communities Project.* The court ruled that “disparate impact” claims can be brought under the Fair Housing Act; policies that segregate minorities in poor neighborhoods, even if they are unintentional, violate the Fair Housing Act. The court affirmed a Court of Appeals decision in a case in which a nonprofit group, the Inclusive Communities Project, said that the Texas Department of Housing and Community Affairs had contributed to segregated housing patterns by allocating too many Low-Income Housing Tax Credits to housing located in predominantly black inner-city neighborhoods and too few in predominantly white suburban areas. The AFFH final rule requires coordination between state Qualified Allocation Plans (QAP) and the AFH by stating that “Program participants, including states, will be required in the Assessment Tool to analyze data on the location and occupancy of affordable LIHTC units and to consider the impact of a QAP on fair housing issues in their jurisdiction.”

The AFH may be conducted and submitted by an individual program participant (individual AFH), or may be a single AFH conducted and submitted by two or more participants (joint AFH) or two or more program participants at least two of which are consolidated plan program participants (regional AFH). The due date for an AFH is based on each program participant's Consolidated Plan cycle. For local governments that receive over $500,000 in CDBG funds in FY15, the first AFH will be due 270 days prior to the program year that begins on or after January 1, 2017 for which a new consolidated plan is due. At the urging of NCDA and other groups, HUD is providing an extra year for smaller jurisdictions (local governments that receive less than $500,000 in CDBG funds). For these communities, the first AFH will be due 270 days prior to the program year that begins on or after January 1, 2018 for which a new consolidated plan is due.

The AFFH rule identifies four fair housing areas that program participants will assess as part of the Assessment of Fair Housing (AFH): (1) patterns of integration and segregation; (2) racially and ethnically concentrated areas of poverty; (3) disparities in access to opportunity; and (4) disproportionate housing needs.

On July 16, HUD published, for separate comment, the Assessment Tool template. NCDA and other national interest groups representing CPD grantees and PHAs are in the process of drafting a letter to HUD asking that comments on the Assessment Tool be delayed until the final data associated with completing the template is provided for grantees to review and test.

According to HUD, the Assessment Tool is designed to guide program participants in undertaking an evaluation of local fair housing issues and to set goals to overcome barriers to fair housing choice. Based on public comment received from NCDA, other national interest groups, and grantees, HUD made the following changes to the Assessment Tool: (1) the Tool has been shortened and contains fewer questions; (2) duplicative analysis was removed; (3) detailed instructions are provided to help grantees answer the questions in the Tool and to assist them in using the HUD data.

HOME Program Support Letter

The HOME Coalition, of which NCDA is a member, is circulating a sign-on letter to Congressional leaders in support of the HOME Investment Partnerships (HOME) Program urging a bipartisan budget agreement to lift the sequester spending caps and to fund the HOME program at $1.06 billion in FY16, the President's requested level. The letter is being sent to Congress in response to the arcane 93% cut to the program made by the Senate, which would essentially eliminate the program.

The letter is open to national, state, and local organizations to sign. NCDA urges its members to sign the letter by the **July 24th deadline**. To add your name to the letter, go to http://salsa3.salsalabs.com/o/50954/p/dia/action3/common/public/?action_KEY=17145

Housing Legislation

The following housing legislation passed the House of Representatives last week. All of the bills have been forwarded to the Senate for consideration.

The Housing Assistance Efficiency Act (H.R. 1047): Introduced by Rep. Scott Peters (D-CA) this bill amends the McKinney-Vento Homeless Assistance Act to allow (in addition to state, local government, or public housing agency) a private nonprofit organization to administer permanent housing rental assistance through the Continuum of Care Program. The bill also requires HUD, at least annually, to reallocate any housing assistance provided through the Emergency Solutions Grant Program that is unused or returned or that becomes available after the minimum allocation requirements under the Act.

The Private Investment in Housing Act of 2015 (H.R. 2997): Introduced by Rep. Dennis Ross (R-FL) this bill directs HUD to establish a demonstration program under which, in FY16 through FY19, the Secretary may execute performance-based agreements (for up to 12 years each) that result in a reduction in energy or water costs with appropriate entities to carry out projects for energy or water conservation improvements at up to 20,000 residential units in multifamily building participating in the Section 8 project-based rental assistance program, Section 202 supportive housing or the elderly program, and Section 811 supportive housing for persons with disabilities program.

The Preservation Enhancement and Savings Opportunity Act of 2015 (H.R. 2482): Introduced by Rep. Erik Paulsen (R-MN), the bill amends the Low-Income Housing Preservation and Resident Homeowner Act of 1990 (LIHPRHA) to allow HUD to approve an extension of the low-income affordability restrictions on any eligible low-income housing.

Entitles the owner of a property subject to a plan of action or use agreement to distribute: (1) annually all surplus cash generated by the property, but only if the owner is in material compliance with the use agreement, including compliance with physical condition standards established by HUD; and (2) any funds accumulated in a residual receipts account, notwithstanding any conflicting provision in the use agreement, but only if the individual is in material compliance with the use agreement and has completed, or set aside sufficient funds to complete, any capital repairs identified by the most recent third party capital needs assessment.

Requires an owner distributing such amounts to: (1) continue to operate the property in accordance with the affordability requirements of its use agreement for its remaining useful life; (2) to continue to renew or extend any project-based rental assistance for at least 20 years, as required by the property's plan of action; and (3) have the option to extend the contract to a 20-year term, if there is an existing multi-year project-based rental assistance contract for no less than 20 years.

Neither LIHPRHA, nor any plan of action or use agreement implementing it, shall restrict an owner from obtaining a new loan or refinancing an existing loan secured by a low-income housing project, or from distributing the proceeds of such a loan, except that, in conjunction with such refinancing: (1) the owner shall provide for adequate rehabilitation pursuant to a capital needs assessment to ensure long-term sustainability of the property satisfactory to the lender or bond issuance agency; (2) any resulting budget-based rent increase shall include debt service on the new financing, commercially reasonable debt-insurance coverage, and replacement reserves as required by the lender; and (3) any recent increases resulting from the refinancing transaction for units not covered by a project-based rental subsidy contract shall be limited to 10% with the following exception: any tenant who occupied a dwelling unit as of the time of the refinancing, and gives the owner proof of income, may not be required to pay for rent and utilities, for the duration of the tenancy, any amount exceeding the greater of (1) 30% of the tenant's income; or (2) the amount the tenant paid for rent and utilities immediately before the refinancing.

Guidance on Grant Based Accounting for Formula Grantees

HUD has updated the IDIS system to phase out the first-in-first-out (FIFO) accounting methodology. These changes to IDIS ensure that formula grant funds are committed and disbursed on a grant specific basis, instead of the FIFO method (oldest money disbursed first). Grant funds are already committed and disbursed in IDIS on a grant specific basis for ESG. For the other CPD formula programs (CDBG, HOME, HOPWA), these initial changes will implement grant specific accounting beginning with FY15 formula allocations. Funds from pre-2015 formula grants will continue to be committed and disbursed in IDIS using the FIFO method.

HUD has released several documents to help grantees with the implementation of this new method. Please see the attached notice, fact sheet, and program comparison.

Upcoming ESG Webinar – Using IDIS for Financial Management

HUD will hold a webinar on July 23 for ESG grantees to discuss the implementation of Grant Based Accounting principles for ESG, highlight key ESG financial management capabilities of IDIS data, identify the components of ESG financial management reports in IDIS, and begin to explain how recipients can use these reports for financial management of the ESG program. To register for the webinar, go to:
https://www.hudexchange.info/training-events/courses/emergency-solutions-grants-program-using-idis-for-financial-management

NCDA 2015-2016 Officers

NCDA members approved the following slate of officers for 2015-2016 during the NCDA general business meeting on June 27, 2015.

President: Michael Look, Seattle, WA
Vice-President: Bonnie Moore, Shreveport, LA
Secretary: Patrick Sullivan, New Bedford, MA
Treasurer: George Mensah, Miami, FL

Department of Housing and Urban Development Budget Chart

Program	FY15 Enacted Funding Level	President's FY16 Budget Request	House Appropriations Committee	Senate Appropriations Committee
CDBG Formula Grants	$3.0 billion	$2.8 billion	$3.0 billion	$2.9 billion
HOME Formula Grants	$900 million	$1.060 million	$900 million	$66 million
Homeless Assistance Grants	$2.135 billion	$2.480 billion	$2.185 billion	$2.235 billion
Section 108	$500 million	$500 million	$300 million	$300 million
Choice Neighborhoods	$80 million	$250 million	$20 million	$65 million
HOPWA	$330 million	$332 million	$332 million	$330 million
Lead Based Paint Hazard Reduction	$110 million	$120 million	$75 million	$110 million
Elderly Housing (Section 202)	$420 million	$455 million	$414 million	$420 million
Housing for Persons with Disabilities (811)	$135 million	$177 million	$152 million	$137 million
Housing Counseling	$47 million	$60 million	$47 million	$47 million
Housing Choice Vouchers	$19.304 billion	$21.123 billion	$18.15 billion	$19.934 billion
Project-Based Section 8	$9.730 billion	$10.760 billion	$10.254 billion	$10.826 billion
Public Housing Capital Fund	$1.875 billion	$1.970 billion	$1.681 billion	$1.742 billion
Public Housing Operating Fund	$4.440 billion	$4.600 billion	$4.440 billion	$4.5 billion