

PROPOSED REFORMS TO THE SECTION 8 VOUCHER PROGRAM

The NATIONAL ASSOCIATION OF REALTORS® and the Institute of Real Estate Management believe that federally assisted-housing programs have proven records for producing and preserving affordable housing. These programs must not only be preserved but strengthened and provided with significant additional resources. Our members are involved in the ownership and management of Section 8 properties in recognition that affordable rental housing is the first step on the housing ladder for many Americans.

The Section 8 voucher program provides a government subsidy to bridge the gap between a low-income tenant's income and the cost of providing housing, enabling recipients to choose where they want to live. The property operator enters into a contract with the tenant and third party, usually the local housing authority, which pays the portion of the rent above the amount to which the tenant is directly obligated to the landlord, as a rental subsidy, subject to maximum fair market rents for the community. Because of the limited supply of affordable housing, each year thousands of vouchers are returned, unused, to HUD because the families provided the assistance were simply unable to locate affordable housing.

A principal reason for the deficient supply of available and affordable rental housing is property owners' increasing unwillingness to accept housing vouchers due to the regulatory burdens associated with the program. Participation in the program requires a property owner to sacrifice many private property rights and forces the operator to comply with burdensome government regulations and procedures which can seriously compromise the performance and financial viability of a property. These disincentives include entering into housing assistance payment contracts; amendments of landlord leases; and compliance with regulations not normally attendant in conventional housing practices. Inconsistencies across housing authorities in the administration of the program further complicate the process.

To encourage broader landlord participation in the Section 8 voucher program, and thus maximize the objective of the program, the National Association of REALTORS® and the Institute of Real Estate Management recommend the following changes:

Uniform Leases– Section 8 voucher holders use a HUD lease-addendum that ignores conventional lease provisions, local and state landlord-tenant laws, and widely-accepted lease terms. This creates a property with two classes of residents – just what the program is attempting to avoid. Instead local PHAs should be allowed to approve the landlord's standard lease, provided that it is compliant with state and local landlord tenant laws and applicable fair housing law. If some provisions are not satisfactory to the PHA, they can negotiate a lease-addendum that is acceptable to both parties. Requiring landlords to disregard their lease in favor of the PHA's lease terms is simply unacceptable to many property owners. It is further not uncommon for property owners and managers operating in multiple PHA jurisdictions to encounter divergent and contradictory interpretations of lease requirements from PHA to PHA.

Timely Payment – Many participating property owners complain about lengthy delays in receiving payments from PHAs, especially as it relates to new tenants. With a conventional tenant, the property owner often sets late charge fees for late rental payments, and as a last resort can evict residents who do not bring past due rent current. This is not the case with voucher tenants, in which the government mandates late charge penalties which are often less than in conventional housing. The eviction process is also more cumbersome for voucher tenants. While these tenants may pay their portion of the rent in time, the government's share of the payment is often delayed. HUD should require PHAs to use an electronic funds transfer to make payments on a specific date each month. Owners should be allowed to charge the PHA late fees for payments not received on time, which would be an effective check and balance geared to efficient processing of rental subsidy payments.

Property Inspections – The program requires PHAs to inspect all eligible units individually to make sure they meet HQS standards. It can take lengthy periods of time for this to occur; in the meantime the unit is left vacant and the property owner is receiving no revenue. This delay in lease and rent commencement is sufficient reason to discourage property owners from participating in the program. One solution would be to inspect all vacant units and common areas in a property that is interested in participating in the program at one time. This would allow these units to be ready immediately for a tenant to move in. An even better solution would be to allow a random sample of units to be inspected in order to qualify a property. This could be done on a yearly basis, and would avoid the time-consuming unit-by-unit inspections that delay unit turnover.

Also during a re-inspection, tenants should be allowed to self-certify small deficiencies (such as missing light bulbs, missing batteries in smoke detectors, etc.). The property owner can make those repairs which are necessary, but residents should be held responsible for those violations that are the tenant's contractual obligation, under their exclusive control, and/or that they have not reported to the building management.

Security Deposits – Conventional tenants are held responsible for excess damages on move-out. However, voucher residents aren't held to this same responsibility, as little or no security deposit is paid. In addition, the PHA conducts a yearly inspection of the property, and holds the property owner responsible for repairs to the apartment, even those which are caused by tenant misuse of the unit. A conventional tenant would be responsible for paying for problems they caused in the unit. For a voucher tenant, the property owner must pay for the repairs, or the PHA won't renew the contract. When this happens the landlord is left to shoulder the burden of evicting the tenant, and then having to pay for the repairs anyway in order to attract a new tenant. PHAs should hold residents responsible for proper care of the unit, and should pay a security deposit for damages found after move out. One way to send a clear message to tenants that they must not abuse their rental unit is to require tenant's who have abused a rental unit leased under the voucher program to reimburse their former landlord for damages prior to future participation in the program.

Delays in Occupancy – A number of bureaucratic hurdles result in lengthy delays in occupancy of a tenant. Time involved in preparing appropriate documents, getting leases signed and approved, waiting for physical inspections (as discussed above), and similar technical holdups can cause a serious delay in tenant move-in. This means the unit stands vacant, with the property

owner receiving no revenue, while all the proper forms are filed and routed through all number of individuals. The most important role of a property owner and property manager is to lease the property. Extensive delays in lease-up mean lost revenue. Quick turn-around is crucial for the success of voucher acceptance.

Landlord Outreach – PHAs should be encouraged to hold informational meetings with local property owners and property managers to explain the program to them and to respond to concerns that may have dissuaded the owners from participating in the program in the past. Many owners simply are not familiar with many aspects of the program, and are leery to get involved with matters they don't understand. We have seen some PHAs select a specific individual to act as a liaison to property owners, including a "landlord hotline" that participating owners can call when they have problems or questions about the program. This creates a level of comfort for owners if they know they have someone specific to contact when they have concerns.

Rent Levels – In some areas of the country, the rents permitted under the voucher program have not kept pace with rising rental markets. Last year HUD initiated a new program to allow FMR to be raised to the 50th percentile in high cost areas. This should be the standard in all markets. When rents are set at this level, 49% of rents fall below this amount, and 49% are above. This creates a rent level at the average rent for the area. As it is currently set at the 40th percentile, FMRs are below the average rent for the area – how is that fair? In addition the Section 8 statute should be amended to allow PHAs to increase the payment standard above 120% of the Fair Market Rent (FMR).

Section 8 vouchers give residents choice in where they live. However, the program is fraught with burdens that discourage property owners from accepting voucher residents. Housing Authorities that have implemented any of the above suggestions, or programs similar to them, have found much greater success in the use of vouchers by their residents. Instead of keeping landlords away, HUD and housing authorities should implement programs that incentivize owner participation, resulting in greater housing options for Section 8 residents.