

New Orleans Legal Assistance

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To: Interested Parties

From: Laura Tuggle and Sarah McMorris, New Orleans Legal Assistance Corp.

Philip Tegeler, Poverty & Race Research Action Council;

Barbara Sard, Center on Budget & Policy Priorities

**James Perry and Lucia Blacksher, Greater New Orleans Fair Housing
Action Center**

Joseph D. Rich, Lawyers Committee for Civil Rights Under Law

**Re: DISCUSSION DRAFT: METROPOLITAN ADMINISTRATION OF A
PORTION OF THE SECTION 8 VOUCHERS IN THE NEW ORLEANS
AREA**

Date: November 7, 2006

Why Change is Needed in the Geography of Voucher Administration in the Louisiana Gulf Coast

- ▶ 3000 Section 8 and “disaster voucher program” vouchers currently on the street; many families unable to find housing in New Orleans; many families looking for housing in suburban parishes where damage to rental housing was moderate.
- ▶ Large influx of additional vouchers expected into area in next 6-12 months as families qualify for replacement (“tenant protection”) vouchers for public housing units being demolished and as displaced voucher holders seek to return closer to home.
- ▶ Overburdened local administrators; lack of capacity to handle current voucher load (influx of many new vouchers will be impossible for current administrators to handle).
- ▶ Multiple barriers to portability, including delays in processing applications; refusal to accommodate former New Orleans residents in at least one PHA.
- ▶ Need for active housing search assistance in an extremely tight market – including mobility counseling.
- ▶ Delays in inspection preventing families from leasing up.
- ▶ Possible continuing need for higher rents (“payment standards”) in certain areas
- ▶ Value of metropolitan administration in promoting fair housing choice and meeting HUD goal to affirmatively further fair housing.

The Value Of Metropolitan Administration Of New Vouchers Entering The Area

The proposal would be to create a new entity with concurrent authority to administer vouchers throughout the New Orleans metropolitan area, or possibly a larger area coextensive with the current GO Zone boundaries. This entity would not take away

vouchers currently being administered by local PHAs. Rather, this entity would be responsible for any vouchers coming in to the New Orleans area from outside the region and for newly issued replacement (tenant protection) vouchers, and would also be available to handle requests for portability within the region (for example, from New Orleans to a suburban parish). It would have concurrent jurisdiction with local PHAs in all area parishes.

Legal Authority

Under state law, as in many states, the existing PHAs in the New Orleans area are largely limited to administering vouchers within their own geographic area (a PHA may continue to administer one of its vouchers for a family that moves into the area served by another PHA only if that PHA agrees to such an arrangement or if no other PHA serves the area where a family seeks to move). Given this limitation, there are basically three approaches available to set up a regional overlay public housing agency to handle portability requests and new incoming vouchers in the region:

- ▶ First, if state law authorizes or does not prohibit state administration of a voucher program, the state housing agency could apply to HUD to be an administering PHA for the region. (If state law does not permit this, the state legislature would need to authorize it). The actual administration of the program could then be contracted out to a competent public or private agency.
- ▶ Second, all of the PHAs in the region could create an independent “consortium” to perform this regional administration function
- ▶ Third, if HUD determines that under these unusual and extreme circumstances the local PHAs are not able to effectively administer the influx of vouchers and the particular challenges of portability in the post-disaster context, HUD may itself designate an entity to administer vouchers on a regional basis.

Based on recent events in the region, including refusal by Jefferson Parish to administer vouchers for New Orleans families, an ordinance barring rentals to non-blood relatives in St. Bernard Parish, and recent ordinances and proposals barring multifamily assisted restricting affordable multifamily housing in St. Bernard and Jefferson Parishes and the City of Slidell, it is doubtful that a state legislative solution or a voluntary regional consortium would be successful. The leading options would appear to be state housing agency designation of a regional entity (if permitted by state law) or HUD action to designate a regional Section 8 administrator. Relevant provisions of the Section 8 regulations from 24 CFR are set out below.

Statutory and Regulatory Provisions

§ 982.4 Definitions.

Public housing agency (PHA). PHA includes both:

(1) Any State, county, municipality, or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), and

(2) Any of the following:

(i) A consortium of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortium members);

(ii) Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

(iii) For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

[This definition is based on Section 3(b)(6)(B) of the U.S. Housing Act, 42 U.S.C. § 1437a(b)(6)(B)]

§ 982.51 PHA authority to administer program.

(a) The PHA must have authority to administer the program. The PHA must provide evidence, satisfactory to HUD, of its status as a PHA, of its authority to administer the program, and of the PHA jurisdiction.

(b) The evidence submitted by the PHA to HUD must include enabling legislation and a supporting legal opinion satisfactory to HUD. The PHA must submit additional evidence when there is a change that affects its status as a PHA, authority to administer the program, or the PHA jurisdiction.

§ 982.160 HUD determination to administer a local program.

If the Assistant Secretary for Public and Indian Housing determines that there is no PHA organized, or that there is no PHA able and willing to implement the provisions of this part for an area, HUD (or an entity acting on behalf of HUD) may enter into HAP

contracts with owners and perform the functions otherwise assigned to PHAs under this part with respect to the area.

[Section 6(j)(3)(D)(i)(III) of the U.S. Housing Act, 42 U.S.C. § 1437c(j)(3)(D)(i)(III), also gives HUD authority to establish a new public housing agency to administer all or part of the voucher program for the Housing Authority of New Orleans.]