



To: Housing Justice Network Advocates
From: National Housing Law Project Staff
Re: Rights of Federally Assisted Residents during the Government Shutdown
Date: September 26, 2025

This memo provides an overview of the impact of the federal government shutdown on tenants in the largest federally assisted housing programs, including ways you can talk to clients about their legal rights. Please note that the memo does not cover all of HUD and USDA's numerous housing programs. Also, neither HUD nor RD had published its 2025 Contingency Plan at the time of publication of this memo, which relies upon each agency's most recent Contingency Plan from 2023 and 2024, respectively.¹

Importantly, a vast majority of federally assisted tenants should experience no disruption in their tenancies due to the government shutdown. There is currently only a very small number of tenants in HUD and RD project-based rental assistance properties that face a potential risk of housing instability due to contracts between owners and HUD or RD that expire starting in October. For most residents, rent payments and housing services will continue uninterrupted through November. However, if the shutdown continues past the end of November, the situation dramatically deteriorates due to nonpayment to almost all owners; NHLP will publish an additional legal memo on tenant's rights if and when necessary.

Please feel free to widely distribute this memo and contact Deborah Thrope (dthrope@nhlp.org) with questions about the legal impact of the government shutdown on federally-assisted residents.

Project-Based Section 8 Rental Assistance

It is important to distinguish two categories of PBS8 projects for purposes of the shutdown. First, the vast majority of PBS8 properties have long-term contracts that will not expire until next year. These properties should have received HAP payments for October and expect to receive payments through December, under funding provided and legally obligated prior to expiration of the Continuing Resolution.

The second category of PBS8 properties have HAP contracts that expire in October, November, or December. However, very few PBS8 properties have rental assistance contracts that are expiring between now and the end of the calendar year.² For these properties, HUD anticipates having staff available during the shutdown to process HAP renewals, so contract expirations are not anticipated during the shutdown.

¹ HUD Contingency Plan for Possible Lapse in Appropriations 2023, 17 (Sept. 29, 2023); Rural Development Plan for Operations in the Absence of Appropriations USDA (January 2024).

² See HUD's Multifamily Assistance & Section 8 Database, https://www.hud.gov/program_offices/housing/mfh/exp/mfhdiscl.

Can the owner/landlord increase rents or evict tenants as a result of the shutdown?

First, tenants living in properties where the owner has an ongoing HAP contract with HUD are protected from rent increases due to any nonpayment of the assistance because the owner and tenant continue to be subject to the terms of the lease. Tenants are only responsible for their portion of the rent per the lease agreement, which remains in effect until the HAP is terminated.³ Even if HAP payments are not paid by HUD or a Contract Administrator, because the HAP contract contains no termination provision for such a nonpayment, it remains in effect by its own terms, and therefore so does the lease. So long as tenants continue to pay their portion of the rent, they should be protected from an eviction for non-payment of the full contract rent, should any HAP not be paid due to the shutdown. (However, note that this situation is unprecedented, and this reasoning has never been tested in court.)

The legal status of tenants living in properties where the HAP contract has expired is less clear, although there are arguments that the tenant remains protected from rent increases. Advocates should review the terms of the tenants' lease to make sure that the tenants are using the HUD model lease containing an automatic termination clause. If so, the lease has been terminated upon expiration (and non-renewal) of the HAP contract. In the unlikely event that the clause is not included, the lease remains operational until its valid termination per its terms and state law.

At expired properties, tenants facing rent increases or evictions may need to resort to federal notice laws,⁴ or theories establishing due process or other procedural protections by styling the termination as HUD-initiated. For any termination, tenants' entitlement to Tenant Protection Vouchers (TPVs), including Enhanced Vouchers and subject to availability in the TPV account, should also be evaluated.

Finally, additional protections for tenants might exist in other project documents, such as regulatory or use agreements, or state or local landlord-tenant laws⁵ or caselaw.

Who can advocates call for assistance?

If there is evidence that assistance is not being paid or tenants are threatened, advocates should contact their local HUD office, although most HUD staff are furloughed due to the shutdown and some HUD regional and field offices closed by order of Elon Musk's Department of Government Efficiency (DOGE). Therefore, advocates may not be able to reach a HUD representative or receive timely responses. Tenants can also call their Project-Based Contract Administrator (PBCA).⁶ Finally, please call NHLP for technical assistance to intervene with HUD or develop another responsive strategy.

³ HUD Model Lease for Subsidized Programs, form HUD-90105a (12/2007), paras 3 (tenant rent) and 30 (lease terminated by termination of HAP for any reason).

⁴ 42 USC 1437f(c)(8) requires one-year notice to residents prior to terminating a HAP contract and prohibits an eviction for non-payment of rent in the event notice is not given. Such a claim is untested and weakened by other statutory language (Section 524(a) of MAHRA (42 U.S.C. 1437f note)) making renewal contingent upon appropriations.

⁵ *E.g.*, Mass. G.L. c. 186, §§ 11 and 12 (if nonpayment of rent was due to delay or non-receipt of government payment, court must continue the case for seven days and provide notice to the government agency prior to eviction).

⁶ You can look up your state's PBCA here: https://www.hud.gov/program_offices/housing/mfh/residents

Contact Bridgett Simmons (bsimmons@nhlp.org) for further assistance regarding tenants at project-based section 8 properties.

How should I advise my clients living in project-based section 8 properties?

- Tenants should be encouraged to bring any notice about rent increases to an attorney immediately.
- Tenants who live in properties with unexpired HAP contracts should be reassured their leases remain valid and enforceable. Tenants at these properties should continue to pay their portion of the rent and are not at risk of eviction for non-payment. These PBS8 properties should be funded through at least the end of the year.
- Tenants in properties where the HAP contract expires in October 2025 or soon after may still be protected. Some owners have reserves that can cover debt obligations and operating expenses for several weeks or months.

If the assistance is not paid and the owner imposes a rent increase or serves eviction notices, evaluate the lease, the HAP contracts and any use agreements, as well as any tenant protections under federal, state or local law to determine the tenant's legal rights and options.

Section 202 and Section 811 Rental Assistance

Section 202 and Section 811 programs provide capital and operating funds for the development of supportive housing. The capital advance works like a loan from HUD, except that it bears no debt service and need not be repaid so long as the housing remains available for the eligible population under the terms of the program.⁷ Rental assistance is provided through Project Rental Assistance Contracts (PRACs) or, for older Section 202 projects with direct HUD loans, Section 8 Housing Assistance contracts.⁸ Some properties have a current assistance contract in place; in others, the contract has an expiration date in the near future. It is important to note that even properties technically funded and whose contracts are not set to expire, may run out of funds earlier than expected and individual properties may have limited reserves to cover funding gaps.

Can the owner/landlord increase rents or evict tenants as a result of the shutdown?

Tenants living in properties with unexpired 202 PRAC and 811 PRAC contracts will remain responsible only for their portion of the rent and are therefore protected from eviction for non-payment of the rental assistance, under the PRAC model lease.⁹ Unlike the HUD PBS8 model lease, PRAC model leases have no automatic termination clause if the PRAC contract terminates for any reason. Tenants

⁷ 12 U.S.C.A. § 1701q(c)(1) (2025).

⁸ Most of these properties have a PRAC rather than a Section 8 Housing Assistance contract. See NATIONAL HOUSING LAW PROJECT, HUD HOUSING PROGRAMS: TENANTS RIGHTS § 1.3.4 (6th ed. 2024).

⁹ HUD Form 90105C para. 10 (2017); HUD Form 90105D para. 10 (2017).

living in 202 properties with unexpired project-based section 8 contracts¹⁰ will also not be impacted by the shutdown at this time, just like other PBS8 properties, because funds have been obligated in most cases through December.

Like other tenants who live in PBS8 buildings with contracts that expire starting in October, tenants with Section 202/PBS8 leases¹¹ who live in buildings where the Section 8 HAP contract has expired have a less clear legal status. The Section 202/PBS8 model lease includes language that terminates the lease if the HAP contract has been terminated for any reason. The same analysis that applies to PBS8 residents would apply to Section 202/PBS8 tenants, explained above.

In contrast, for the small number of 202/811 PRAC contracts that expire in October (or will expire later this year), where HUD cannot now obligate new PRAC payments, tenants may remain legally protected under the PRAC model lease, because it remains in effect, having no automatic termination clause.

In addition, Section 202 and 811 properties have a use agreement¹² that requires operation of the property under the applicable statute and regulations. Advocates should check the use agreement for any additional protections.

Most importantly, Section 202 and 811 properties are owned by nonprofits, who would usually be extremely reluctant to displace tenants for government failure.

Who can advocates call for assistance?

Because Section 202 and 811 properties are owned by nonprofits serving seniors and people with disabilities, tenants should consider contacting their property manager/landlord with any questions. If tenants are being threatened with eviction, NHLP can provide technical assistance. Contact Bridgett Simmons (bsimmons@nhlp.org) with questions regarding tenants in Section 202/811 properties.

How should I advise my clients living in these properties?

- Tenants who have a HUD 90105C or HUD 90105D PRAC lease in place should be reassured their leases remain valid and enforceable. Tenants at these properties should continue to pay their portion of the rent.
- Tenants who have a HUD 90105B PBS8 lease where the Section 8 HAP contract has expired might have similar procedural and replacement subsidy claims as other PBS8 tenants, *supra*, but these are uncertain.

¹⁰ Note that the only 202/811 projects with PBS8 are 202s because 811 wasn't created until 1990 when PRAC was used.

¹¹ HUD Form 90105B (2017).

¹² 24 C.F.R. § 891.170(a) (2025).

- Tenants should be encouraged to bring any notice about rent increases or eviction to an attorney.

Section 8 Housing Choice Vouchers

Public Housing Authorities (PHAs) are expected to receive funding from HUD to operate their tenant-based voucher programs through mid-November because those funds have already been legally obligated prior to the expiration of the Continuing Resolution. This includes both Housing Assistance Payments (“HAP payments”) that pay voucher families’ rents, administrative fees for program operations, and shortfall funding. If the shutdown is not resolved by the end of November, many PHAs will not be able to make rent payments to landlords on behalf of voucher families. Thus, current voucher families should not be impacted by the shutdown, at least until PHA prior allocations and reserves are exhausted.

However, the voucher program relies on partnerships with private landlords and there are thus negative consequences of a lapse in Appropriations. Some private landlords may choose not to renew HAP contracts with the PHA and tenant leases due to the financial uncertainty inherent to the shutdown. Other landlords (in jurisdictions without voucher non-discrimination protections) will be deterred from joining the program at all. In addition, PHAs are not required to lease up families on the waitlist upon turnover and may stop doing so because they are hesitant to enter new contracts with landlords.¹³ This may increase the number of vouchers that are not in use at any given PHA (vouchers that could be used to house poor families).

Can the owner/landlord increase rents or evict tenants as a result of the shutdown?

Because rent payments to landlords are currently not disrupted, voucher tenants should not receive rent increase, eviction, or voucher termination notices due to the shutdown.

In the unlikely event the shutdown lasts past November, PHAs may be instructed by HUD to use reserves to make rent payments to landlords. Tenants would therefore remain protected from rent increases so long as the PHA fulfills its financial obligations.

Even if the PHA has insufficient reserves and is unable to make payments to landlords according to the HAP contract, the lease agreement will remain in effect (and therefore families will only be responsible for their portion of the rent) until the HAP contract is formally terminated (or voided) or the landlord terminates the lease with proper notice and according to other applicable laws (*see infra*). Note that PHAs can terminate the HAP contract and may in fact have an incentive to do so,¹⁴ due to

¹³ See HUD 2023 Contingency Plan at 91. Q: Should PHAs continue to issue vouchers during a government shutdown? A: PHAs are not required to cease issuing vouchers during a government shutdown. PHAs should assess their financial ability to make payments on behalf of currently assisted households as well as those potentially to be served when considering their ability to issue vouchers. Note that HUD has not published a 2025 contingency plan. HUD is apparently using its 2023 Contingency plan.

¹⁴ PHAs may choose to terminate a HAP contract in the absence of Appropriated funds to avoid opening themselves up to liability for breach of contract, for example.

insufficient funding and according to HUD guidelines.¹⁵ Termination of the HAP contract automatically extinguishes the lease.¹⁶ However, so long as the lease is in effect, the voucher family will not be responsible for the PHA's portion of the rent. Note there is one additional protection in the HAP contract and regulations, which specifically state that nonpayment of HAP by the PHA is not grounds for termination of tenancy during the term of the lease.¹⁷

The rights of voucher tenants who remain under a lease will depend on whether the tenant is in the initial term of the lease. Voucher tenants who are in the initial term of their lease can only be evicted for good cause and are therefore protected for the remainder of the lease term.¹⁸ However, after the initial lease term, landlords can evict a voucher family for business reasons,¹⁹ which would presumably include failure of the program to provide market rents. State and local laws will also impact voucher tenants' rights and the landlord's ability to terminate the lease (for example, notice requirements prior to termination).

Who can advocates call for assistance?

Public Housing Authorities are not federal agencies and will therefore remain open during the shutdown. Advocates and tenants can call their local PHAs with any questions/concerns. If a voucher client experiences an adverse action by either a PHA or landlord as a result of the shutdown, please contact Deborah Thrope (dthrope@nhlp.org) at NHLP.

How should I advise my clients at this time?

- Advocates should advise their voucher clients that their tenancy is secure through November. PHAs should be running business as usual.
- Wait times for inspection requests, recertifications, and other PHA functions may be a bit longer because PHA staff are focusing on shutdown impacts but overall the program should continue uninterrupted.
- If the shutdowns lasts past November, advocates and tenants should reach out to local PHAs to learn how much it has in reserves to and better understand the PHA's financial outlook.

Tenant Protection Vouchers and Enhanced Vouchers

It is normal that during shutdowns, HUD does not process funding requests for Tenant Protection Vouchers (TPVs).²⁰ Advocates should work with their local PHA to advocate for more time for

¹⁵ HUD, Part B of HAP Contract (Form HUD-52641), § 4(b)(5), "The PHA may terminate the HAP contract if the PHA determines, in accordance with HUD requirements, that available program funding is not sufficient to support continued assistance for families in the program."

¹⁶ HUD Section 8 Voucher Tenancy Addendum, Section 12.

¹⁷ 24 C.F.R. 982.310(b). HUD, Part B of HAP Contract (Form HUD-52641 § 5(d).

¹⁸ 24 C.F.R. § 982.310; Section 8 Housing Choice Voucher Lease Addendum, Section 8.

¹⁹ 24 C.F.R. § 982.310(d); Section 8 Housing Choice Voucher Lease Addendum, Section 8.

²⁰ HUD 2023 Contingency Plan at 91. Q: Will HUD process funding requests for tenant protection vouchers for

tenants to move because of the unavailability of TPVs. Note that the situation might differ for Enhanced Vouchers due to an owner “opt-out” from a project-based contract. In the event of an opt-out, the owner can increase tenants’ rents on the effective opt-out date, so the timing of HUD’s approval and the PHA’s actual issuance of the EVs may be crucial to protecting tenants against rent increases and avoid involuntary displacement.

Please call NHLP if you are representing clients who face rent increases or cannot comply with a relocation plan due to the failure of HUD to approve or the PHA to issue TPVs.

Public Housing

Public Housing Authorities receive funds to supplement tenant rent contributions for their Public Housing through two accounts: the Public Housing Operating Fund and the Public Housing Capital Fund. Money from the Operating Fund is used for daily operations including routine maintenance, emergency repairs, processing tenant paperwork, and preparing units at turnover for occupancy. Money from the Capital fund is used to make necessary upgrades and improvements.

PHAs expect to receive payments from the Operating Fund through November, since funds under the Continuing Resolution were obligated before the shutdown. This means that PHAs currently have funds to operate public housing. If the shutdown continues past November, PHAs will receive no funds to operate their public housing programs. As we get closer to November, PHAs will likely be advised to use any reserves to run their program if funding runs dry, although reserves vary greatly for each PHA, putting some programs (and tenants) more at risk than others if the shutdown continues. However, even if a continued shutdown prevents HUD from providing Operating Funds, tenants may remain protected against rent increases and resulting evictions by the federal public housing statute and their lease. Unlike PBS8, public housing has no provision automatically terminating leases if the subsidy contract lapses. Nor is there any provision addressing breach caused by a failure of appropriations.

PHAs will likely not see any additional Capital funds until 60 days after enactment of a final Appropriations bill. PHAs are technically allowed to use Capital funds that have already been obligated for capital needs (if any carried over), but no new capital funds will be available to PHAs until a new spending bill is passed. Thus, funding of any planned capital improvements may be delayed.

Can the owner/landlord increase rents or evict tenants as a result of the shutdown?

Public Housing tenants should not receive rent increase or eviction notices due to the shutdown because Operating Funds should continue through November. Even if the shutdown lasts longer, PHAs cannot increase tenant rents or terminate tenancies simply because of Congress’ failure to appropriate Operating Funds.

Who can advocates call for assistance?

public housing demolition/disposition activities or Multifamily Housing Conversion Actions (e.g., owner prepayments and opt-outs) during a government shutdown? A: No. During the period of the government shutdown these applications will not be processed. However, tenant protection voucher requests will be processed in those cases where there is an imminent threat to lives or property.

PHAs are not federal agencies and will therefore remain open during the shutdown. Advocates and tenants can call their local PHAs with any questions/concerns. If a public housing client experiences an adverse action by a PHA as a result of the shutdown, please contact Deborah Thrope (dthrope@nhlp.org) for further assistance.

How should I advise my clients at this time?

- Advocates can advise public housing residents that their public housing tenancy is secure until at least the end of November.
- Residents may see increased wait times for inspection requests, income recertifications, and other PHA functions and possibly some disruption in capital needs repairs.

Rental Assistance Demonstration

Tenants in public housing properties that are undergoing a RAD conversion remain funded and protected by public housing rules discussed *supra* until closing. The shutdown may delay some RAD closings because HUD staff may be unavailable, and only certain projects involving other funding deadlines will receive priority treatment. HUD's 2023 Contingency Plan states that RAD Component 1 and Component 2 closings that were scheduled before the shutdown, or where failure to close would threaten the property (for example, failure to close would result in forfeiture of tax credits), will go forward during a shutdown.²¹ Although new RAD applications can be submitted during a shutdown, they will not be processed until the shutdown ends.²²

After a RAD closing, properties will be converted to PBS8 or PBV, but the funding may continue to be from the PH account for all of 2025.²³ However, the fact that the PH account may continue to serve as the funding source does not affect the tenants' rights after closing, which are determined under the RAD program and the PBS8 or PBV program, as applicable. Thus, after closing, the impact of any shortfall in funding for the PBV or PBS8 program on tenant protections against rent increases or evictions should first be analyzed per the applicable program discussion, *supra* followed by a separate review of the RAD HAPs and leases for RAD PBS8 or RAD PBV.

Delays may impact tenants, including the timeline to exercise choice mobility rights.²⁴ Additionally, some inspection activities that rely on HUD employees may be delayed (if there is no

²¹ HUD Contingency Plan for Possible Lapse in Appropriations 2023, 17 (Sept. 29, 2023).

²² *Id.* at 84.

²³ The funding source for a RAD-converting property does not immediately change after a RAD conversion to PBRA or PBV. Instead, the funds to meet the commitment of the HAP contract will draw on the public housing account until the first of the year after the HAP contract is effective. For example, a property that had a HAP contract effective January 15, 2025, will use its public housing funding through December 31, 2025. Starting on January 1, 2025, the funding for the property will come out of the accounts for PBRA and PBV properties.

²⁴ Tenants in PBV properties have a right to a voucher after 12 months in the property and tenants in PBRA properties have a right to a voucher after 24 months of the execution of the HAP (or move-in). 24 CFR § 983.260. If HAP execution and move-ins are delayed, tenants will have a delay in when they can exercise their choice mobility rights to receive a voucher.

immediate threat to life or property).²⁵ Given that many converting properties are in substandard condition, tenants may be forced to live in these conditions for time periods longer than initially expected.

Can the owner/landlord increase rents or evict tenants as a result of the shutdown?

RAD properties that have not yet closed are subject to public housing rules and procedures. There is no basis to increase the rent or evict a tenant in a RAD-converting property because public housing authorities that administer public housing received operating funds through November. Similarly, in post-conversion properties where there is a current PBS8 or PBV HAP contract, tenants are protected from rent increases and related evictions because the owner should be receiving payments through November and both parties are subject to the terms of the lease. Because new HAP contracts in RAD PBV and PBRA conversions are for 15-20 years,²⁶ no RAD properties and tenants should face the expiring contract problem experienced by some PBS8 and PRAC properties reviewed *supra*.

If the shutdown continues into December, and HAP funds are not provided, RAD tenants in PBS8 properties may be protected from rent increases and evictions, per the analysis of PBS8 tenants living in properties with ongoing rental assistance contracts, *supra*.

Who can advocates call for assistance?

If tenants at RAD properties are being threatened with rent increases or evictions, please contact Korey Lundin (klundin@nhlp.org) at NHLP for technical assistance. If residents are facing a health and safety issue due to the shutdown, call HUD's Office of Recapitalization.²⁷

How should I advise my clients at this time?

- Residents in RAD properties should not experience any disruption to their tenancy based on the government shutdown. Tenants should contact an advocate immediately if they are threatened with a rent increase or eviction.
- RAD residents may experience longer wait times for inspection requests, recertifications, or other PHA/owner functions, especially those that require HUD approval.

USDA Rural Development Housing Programs

The Rural Housing Service (RHS) and Rural Development (RD) have not released any information

²⁵ HUD Contingency Plan for Possible Lapse in Appropriations 2023, 13-14 (Sept. 29, 2023).

²⁶ [Rental Assistance Demonstration – Final Implementation, Revision 4, H-2019-09 PIH-2019-23 \(HA\)](#) (PBRA conversions must have an initial contract term of 20 years; PBV conversions must have an initial contract term of at least 15 and up to 20 years).

²⁷ HUD's contingency plan for RAD only allows the Office of Recapitalization to respond if it is necessary to protect life, safety, or property. The issues that fall into these categories are limited and thus far have pertained to situations that could result in the loss of tax credits or other financial issues. However, health and safety issues that impact residents related to relocation, for example, could be characterized as necessary issues that HUD must immediately address.

broadly about the operation of its housing programs during the federal government's current shutdown. The information set out below is based on RD's 2024 Plan for Operations in the Absence of Appropriations as well as what occurred during previous government shutdowns.²⁸ As with other federal agencies, practically all RHS and RD staff will be furloughed, but for those employees deemed excepted. Excepted employees typically will be in the Washington, DC National Office and the RD Servicing Center in St. Louis. They are tasked with conducting excepted activities, which include functions "that address emergency circumstances such that the suspension of the function would imminently threaten the safety of human life or the protection of property."²⁹ In 2019, this primarily involved disbursing funds to rental housing owners that have Rental Assistance contracts with the agency and troubleshooting.

Rental Housing Programs

The USDA's Rural Housing Service (RHS) has about 12,438 Section 515 rental housing developments, with about 360,379 units throughout the rural United States. About 273,849 of these units, approximately 76%, receive Rental Assistance (RA) under RHS's Section 521 program. There are an additional 474 developments with approximately 14,309 rental units that operate under the Section 514 farm labor housing program. About 9,933 of those households also receive RA subsidies.

RD households not receiving RA still pay subsidized rent, but the subsidy is required as a condition of the underlying subsidized RD mortgage and is not contingent on an ongoing RD subsidy payment. Consequently, these tenants should not be impacted by the lapse in RD's appropriation. However, roughly 12% of RD tenants receive some type of tenant subsidy, e.g., a HUD Section 8 voucher, in lieu of RA. Such tenants may be impacted by the loss of appropriations by other agencies.

RA is RHS's deep rental housing subsidy. Under the program, tenant housing costs are limited to 30% of income, while RD pays the balance of the RHS-approved rent through a direct housing subsidy payment to the property owner. Because RA involves an ongoing, direct government expenditure, households receiving RA may be impacted by the looming government shutdown and the suspension of RD's appropriation. Given that the vast majority of RHS tenants receive RA, the impact of a shutdown could be significant.

RA is paid pursuant to contracts between a property owner and RD. Payments are made each month based on the prior month's occupancy. Based on what occurred in previous shutdowns, we expect RD to disburse RA payments in October for tenant housing costs incurred in September. Also based on previous shutdowns, we further expect RD will have sufficient reserve funding to pay RA for tenant housing costs incurred during the first month or two of a shutdown.

RD can continue to expend funds under existing RA contracts. Under RD's exception for the protection of property, if the shutdown lasts for 30 calendar days, RD will designate as necessary "employees needed to disburse Rental Assistance payments, pursuant to the exception for the protection of property (RD's security interest)..."³⁰ If funding for existing RA obligations is no longer

²⁸ Rural Development Plan for Operations in the Absence of Appropriations USDA (January 2024), <https://www.usda.gov/sites/default/files/documents/rd-2024-contingency-plan.pdf>.

²⁹ *Id.* at 2.

³⁰ *Id.* at 6.

available, RD can provide additional servicing options to owners in lieu of RA payments.³¹ Additionally, at least some RA contracts will expire during the shutdown. Unfortunately, RHS does not have authority to enter into new obligations during a shutdown,³² meaning that RD cannot renew expired contracts, which would result in the loss of RA for those tenants. RHS has yet to provide information on the number of contracts set to expire in the first few months of the threatened shutdown and its efforts to renew soon-to-expire contracts before the shutdown begins.

Without RA, most owners do not have enough capital on hand to operate their property long-term. Owners may be able to dip into their reserve accounts to fund operating costs. However, there are restrictions on the use of reserves, and funds cannot be accessed without RHS approval. RHS has yet to indicate whether it will allow owners to access reserves in order to fund operations where RA funds are no longer available. That said, RHS is unlikely to sanction owners that use reserves without approval, since failing to do so risks the long-term viability of the project. Accordingly, advocates should encourage owners that run out of RA to use project reserve funds to maintain the projects' operations.

Without reserve funds and without RA, owners with non-expiring contracts may unlawfully resort to increasing tenant rent to fill funding gaps. Though there are no shutdown-specific tenant protections in statute or regulation, there are some protections that advocates and tenants can use to defend against threatened rent increases:

- The lease may restrict rent increases. For example, leases for RA units must include a description of the circumstances under which the tenant's monthly tenant contribution may change. 7 C.F.R. § 3560.156(12).
- During any 12-month period, rent increases of more than 10% are prohibited, unless the increase is due to an increase in tenant income. 42 U.S.C. § 1490a(a)(3)(C) & 42 U.S.C. § 1490a(e). Some owners may try to argue that a shutdown presents an extenuating circumstance and therefore the rule should not apply. Though there is no case law or guidance applying this rent increase limitation in the context of a shutdown, by its terms, the rule contains no express exemption in shutdown situations.
- RHS-imposed use restrictions may also limit rent increases, independent of whether RA is involved. Such restrictions are typically part of the underlying RHS mortgage and thus will be recorded against the property. A copy of this document should be archived at your local recorder's office.
- Rent increases must also comply with any applicable state and local laws related to rent increases. Likewise, rent increases for tenants receiving tenant subsidies under other programs must comply with the rent increase rules under those programs.³³

³¹ *Id.* at 6-7.

³² *Id.* at 3.

³³ *E.g.*, 7 C.F.R. § 3560.156(e) (for RD properties that also receive Section 8 project-based assistance, where the program requirements are in conflict, the rules most favorable to the tenant apply).

- All RHS evictions, including for alleged nonpayment of rent, must comply with RHS's comprehensive eviction regulations. See 7 C.F.R. § 560.159. Advocates should make sure all procedural requirements are followed with respect to any proposed eviction.

Regardless of any legal defenses, advocates are urged to publicize owners' efforts to raise rents on residents. During past shutdowns, such efforts have resulted in owners' rescinding notices to increase tenants' rent.³⁴ Residents of RD housing who are elderly or disabled are particularly sympathetic and should draw attention from local, state or even national media.

Advocates and tenants may experience other impacts from the shutdown. For advocates and tenants who are using RD's grievance process to resolve landlord-tenant disputes, requests for RD staff to intercede when owners refuse to cooperate will likely not receive responses due to staff being furloughed. The processing of tenant appeals challenging RD actions or inactions may also be impacted.

Prepayment of RD Rental Housing Loan

Owners of Section 515 and Section 514/516 rental developments have a restricted right to prepay their loans if the development is not subject to use restrictions.³⁵ Most prepayment requests that have been filed will not be acted on until the shutdown is over. Residents living in these developments should, therefore, not be affected by the shutdown other than as described above.

RD Vouchers

RD issues vouchers to residents who live in or have lived in developments that have been prepaid by owners or otherwise paid off after September 30, 2005.³⁶ Voucher funding is disbursed to owners in advance through monthly installments under a Housing Assistance Payment (HAP) contract between RD and the owner. While the agency has some funding to make future disbursements, the amount of that funding is unknown and how long the agency could sustain those vouchers is therefore unknown.

Residents who continue to live in developments with use restrictions should not be affected by the shutdown because they can seek to enforce the use restriction if and when RD is unable to extend voucher payments to the owners.³⁷

Residents who have moved to private housing may be affected by the shutdown if the HAP contract with the owner expires during the shutdown. During the voucher's initial one-year term, residents should be protected by a HAP contract provision that precludes an owner from taking action against the resident if RD subsidy payments are not made on a timely basis.³⁸ However, if the HAP

³⁴ E.g., Arthur Delaney, *Relief Comes For Low-Income Tenants Threatened With Rent Hike Due To Shutdown*, Huffington Post (Jan. 23, 2019), https://www.huffpost.com/entry/government-shutdown-evictions_n_5c4370b3e4b0bfa693c4196d.

³⁵ See 42 U.S.C. § 1472(c).

³⁶ See Consolidated Appropriations Act of 2023, Pub. L. No. 117-328, 136 Stat. 4459, 4480; 82 Fed. Reg. 21972 (May 11, 2017).

³⁷ See 7 C.F.R. § 3560.662(d).

³⁸ RD Voucher Program, HAP Contract Part C (Tenancy Addendum) ¶ 5(d) (available at <https://www.rd.usda.gov/files/MO-Voucher%20Program%20Guidebook.pdf>).

contract expires, the owner is free to terminate the resident's lease. Moreover, after the initial term of the HAP contract the owner may terminate the lease for good cause, which includes the right to terminate the lease for business or economic reasons.³⁹ Tenants who are affected by expiring HAP contracts may be dislocated and without any alternative voucher options until the shutdown ends because RD must inspect and approve rental units that the voucher holder chooses to move to and must enter into a new HAP contract with the owner. Neither of these functions are being carried out by RD staff during the shutdown. In these cases, advocates need to make sure that the owner is providing a good cause notice to the residents and is following all state and local laws in carrying out the court eviction.

RD Single Family Housing Loan

Most homeowners that have RD direct or guaranteed Section 502 loans should not be affected by the shutdown. They should continue to make their mortgage payments to RD or their private lenders. If they need to have their income certified, the homeowners should continue to make their regular payments and expect RD to recertify their income and, if necessary, adjust their mortgage payments after the end of the shutdown. Direct loan homeowners who need a moratorium on payments for hardships outside their control during the shutdown should be encouraged to continue to pay as much as they can. If they can't pay the full monthly mortgage payment, they should include a letter with each of their payments advising the agency that they need a moratorium for reasons that are beyond their control. Hopefully, RD will act on these requests at the end of the shutdown.

Homeowners who are being foreclosed on by RD should not be affected if the foreclosure is in federal court and RD is represented by Justice Department attorneys. Since they are currently furloughed, all federal foreclosure cases will be postponed. If, however, the foreclosure is undertaken by a private attorney with whom RD has contracted, the foreclosure may go on and the borrower may not be able to negotiate a settlement because the private attorney has no one at RD to consult. These borrowers should ask the foreclosing attorney or the court in which the foreclosure is taking place for a suspension of the proceedings until the shutdown is over. If the foreclosure is being conducted non-judicially (meaning it is not going through a court), trustees, title companies or attorneys conducting the foreclosure sale should be asked to postpone the sale until after the shutdown ends.

All applicants for RD direct and guaranteed loans will have consideration of their applications postponed until the end of the shutdown. Even persons who have been approved for RD loans may not be able to secure disbursements until the shutdown is over.

For more information about the RD housing programs and how best to represent rental housing residents, contact Natalie Maxell (nmaxwell@nhlp.org). For homeowner issues, contact Lisa Sitkin (lsitkin@nhlp.org).

Disaster Relief

FEMA's Disaster Relief Fund

The government shutdown is unlikely to have a significant impact on the ability of the Federal

³⁹ *Id.* ¶ 8 d (3).

Emergency Management Agency (FEMA) to carry out its current disaster response and recovery activities.⁴⁰

The Disaster Relief Fund (DRF) provides funding for FEMA to engage in disaster response and recovery efforts in response to Presidentially declared disasters (PDDs). DRF programs are funded under no-year appropriations and supplemental funding, and the funding is available until it is expended.

To the extent that disaster funding needs exceed available DRF funding during the shutdown, FEMA will implement its Immediate Needs Funding (INF) guidance to prioritize funding activities that are essential for lifesaving and life-sustaining activities. Under its INF guidance, FEMA will also recover excess funds from previously obligated contracts, grants, and mission assignments to cover any shortfall.

In addition, the Department of Homeland Security has released information on the impact of the shutdown on FEMA, which provides that DRF funded activities will continue to operate and much of FEMA's staff (an estimated 20,066 employees) would continue to work.⁴¹ Even if the DRF fund is exhausted during the shutdown, FEMA's disaster relief activities and funding would continue since they are necessary for safety of human life or protection of property. Thus, if a new PDD occurred during the shutdown, FEMA's staff would be able to respond.

HUD's CDBG-DR Program

The review of action plans and disbursement of obligated CDBG-DR funds should not be affected by a shutdown. Although HUD has not released a contingency plan for the current potential shutdown, its 2023 contingency plan states that disaster recovery programs funded by the HUD Office of Community Planning and Development ("CPD") will be able to draw down funds during a shutdown. HUD will recall employees intermittently to review and approve drawdown requests that raise concerns or questions to avoid threat to human life or property. HUD will also continue to have staff review and approve CDBG-DR action plans and substantial amendments, and provide follow-up and technical assistance.⁴² However, as a practical matter the shutdown combined with anticipated HUD staffing cuts could cause delays in processing and disbursement of CDBG-DR funds.

For more information about federal disaster relief programs, contact Hannah Adams (hadams@nhlp.org) or Natalie Maxell (nmaxwell@nhlp.org).

⁴⁰ The Trump Administration's reduction to the FEMA workforce has already significantly hindered FEMA's disaster response capacity. *E.g.*, Maxine Joselow, *FEMA Employees Warn That Trump Is Gutting Disaster Response*, The New York Times (Aug. 25, 2025), <https://www.nytimes.com/2025/08/25/climate/fema-employees-letter-trump-katrina.html>.

⁴¹ U.S. Dept. of Homeland Security Procedures Relating to a Lapse in Appropriations, 46 (March 3, 2025), https://www.dhs.gov/sites/default/files/2025-03/2025_0303_dhs_procedures_related_to_a_lapse_in_appropriations.pdf.

⁴² HUD Contingency Plan for Possible Lapse in Appropriations 2023, 15 (Sept. 29, 2023).