March 5, 2013

The Honorable Shaun Donovan
Secretary
U.S. Department of Housing and Urban Development
Washington, DC

Dear Secretary Donovan:

On behalf of the National Association of Housing and Redevelopment Officials’ more than 23,000 agency and individual members, I am writing to request immediate action on the part of the Department to address the devastating impact of sequestration and persistently inadequate funding on public housing operations. The need for meaningful and expeditious intervention in the form of significantly expanded flexibility is arguably greater than it has ever been in the nearly 80-year history of the federal public housing program.

In her recent letter to PHA executive directors, Assistant Secretary Henriquez referenced the “unprecedented proration level” PHAs will face for the remainder of the calendar year if sequestration is not reversed. (NAHRO has previously estimated that the Operating Fund proration could fall to as low as 71 percent for April through December.) Even at an 81 percent proration for the month of March, local PHA budgets are already facing significant strain. Making matters worse, the offset against agencies’ operating reserves in 2012 means that many PHAs will quickly reach their breaking point as they struggle to maintain operations, perform routine maintenance, and preserve services for residents. Not surprisingly, therefore, NAHRO welcomes the Department’s commitment, expressed by the Assistant Secretary in her recent letter, to develop “a list of legislative and regulatory actions that could be taken to help PHAs preserve their Public Housing operations and manage within such austere financial times.” It is imperative that streamlining measures be finalized and implemented as soon as possible. Working with our industry partners, we intend to share additional thoughts on this matter soon.

The main purpose of this correspondence is to inform you that NAHRO also strongly supports an additional, critically important action mentioned by the Assistant Secretary: extending full Operating and Capital Fund fungibility to all agencies, regardless of PHA size. This commonsense statutory reform is needed immediately, even before the implementation of sequestration further exacerbates the challenging budgetary environment PHAs face as a result of both the lowered Operating Fund proration and a delay in the distribution of Capital Fund resources due to the unresolved status of the FY 2013 appropriations process. We urge you to pursue this legislative reform with all due haste. Furthermore, because of the magnitude of this crisis and because PHAs are unlikely to receive 2013 Capital Fund grants for several more months, full fungibility should apply to funding appropriated for prior years as well as 2013. We have attached suggested legislative language that we hope the Department will support.
As you know, the Administration first proposed fungibility in its FY 2013 budget. After conducting a series of listening sessions across the country in 2012, the time for examining and refining the proposal is behind us. Throughout the Listening Tour, PHAs expressed broad support for increased fungibility, and now is the time for action. NAHRO stands ready to work with the Department and decision-makers on Capitol Hill to secure this essential remedy. I look forward to speaking with you at the earliest possible opportunity to discuss how we can work together to advance this important initiative.

Sincerely,

Saul N. Ramirez, Jr.
Chief Executive Officer

cc: The Honorable Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development
The Honorable Peter Kovar, Assistant Secretary for Congressional and Intergovernmental Relations, Department of Housing and Urban Development
Fungibility Proposal

Background:

The proposed legislative language is based on the language offered in Section 228 of the Administration’s FY 2013 Budget proposal. This language would provide PHAs with the flexibility to use both Operating and Capital Funds for any eligible activity for either of those programs as authorized by the U.S. Housing Act. By extending this language to prior fiscal years, it allows PHAs to invest operating reserves back into the property. Given the late distribution date of FY 2013 Capital Funds, it also allows PHAs to use prior year funds to augment insufficient Operating Fund allocations. These flexibilities, which are already available under statute to those PHAs with fewer than 250 units of public housing, would assist larger agencies in navigating the financial constraints of the current budget environment.

Proposed Legislative Language:

Notwithstanding any other provision of the United States Housing Act of 1937 (42 U.S.C. 1437f et seq.), any amounts made available for 2013 or any prior year under the headings "Public Housing Capital Fund" and "Public Housing Operating Fund" and allocated to a public housing agency for activities under sections 9(d)(1) and 9(e)(1) of the Act (42 U.S.C. 1437g(d)(1) and 42 U.S.C. 1437g(e)(1)) may be used by such agency for any eligible activities under sections 9(d)(1) and 9(e)(1), in addition to the other purposes for which the amounts may be used under such headings: Provided, That an activity funded pursuant to this section shall be subject to the requirements otherwise governing activities under sections 9(d)(1) or 9(e)(1), as applicable.