April 1, 2013

The Honorable Maurice Jones
Deputy Secretary
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410

Dear Deputy Secretary Jones:

On behalf of the National Association of Housing and Redevelopment Officials, please accept my sincere thanks for delivering the closing address during our recent Legislative Conference. I want to also thank you for meeting with our leadership prior to taking the stage. As promised, I am writing to follow up on the recommendations we shared with you at that time.

NAHRO believes strongly that the Department must take immediate action to address the devastating impact of historically low funding levels on public housing operations. Given unprecedented shortfalls in both the Public Housing Operating Fund and Section 8 voucher program administrative fees, the need for meaningful intervention in the form of significantly reduced regulatory burden is arguably greater than it has ever been. To that end, we were encouraged by the commitment made by Assistant Secretary Henriquez, in recent letters to PHAs, to develop “a list of legislative and regulatory actions that could be taken to help PHAs preserve their Public Housing operations” and to “take every step possible to mitigate the effects” of inadequate Section 8 administrative fee funding. Our members need HUD to follow through on those promises by finalizing and implementing reforms as soon as possible.

Over the last several years, NAHRO has provided the Department with a long list of proposed administrative, regulatory, and statutory changes that we believe would substantially streamline program operations while ensuring that residents’ needs are met. We would be happy to meet with you to review our full list of recommendations, but in the interim we respectfully request that you consider the attached high-priority administrative and regulatory actions, all of which we believe could be implemented by the Department immediately.

We would welcome the opportunity to meet with you at your earliest convenience to discuss our recommendations. I look forward to working with you to ensure that PHAs are able to continue to fulfill their mission during these challenging times.

Sincerely,

Saul N. Ramirez, Jr.
Chief Executive Officer

Betsey Martens, President; Preston Prince, CME, Senior Vice President; Chris Lamberty, PHM, Vice President-Housing; Mary E. Paumen, Vice President-International; Paul Purcell, Vice President-Community Revitalization and Development; Alan D. Styles, Vice President-Commissioners; Pamala G. Thompson, PHM, Vice President-Member Services; Deborah E. Wilson, Vice President-Professional Development; Saul N. Ramirez, Jr., Chief Executive Officer

e-mail: nahro@nahro.org  web site: www.nahro.org
Cross-Cutting Recommendations

Full Management Reviews: Many PHAs have recently received letters from Field Offices regarding the scheduling of impending Full Management Reviews. These weeklong reviews, some of which are scheduled to commence a few days from now, are extremely labor-intensive for PHA staff. Given the current fiscal realities facing PHA operations, requiring local agencies to divert time and resources from day-to-day program management is difficult to justify, especially for small agencies. NAHRO recommends that HUD suspend Full Management Reviews until further notice.

PIH Notice 2013-3: NAHRO appreciated the Department’s attempt to provide relief through the issuance of PIH Notice 2013-3. Unfortunately, the notice in some cases imposes administrative burdens that are more onerous than those that already exist under existing regulation, making it difficult for PHAs to utilize what would otherwise be useful flexibilities. We recommend that PIH Notice 2013-3 and its related FAQs be rescinded, revised, and reissued.

Annual Plan: PHAs are required each year to create and submit to HUD an annual plan. Developing this plan is administratively burdensome, but the plan itself has very little utility. NAHRO recommends that annual planning requirements be suspended until further notice. In the interim, HUD should revisit the annual planning process with an eye toward streamlining it.

Enterprise Income Verification: Over the years, HUD’s Enterprise Income Verification (EIV) system, along with PHA program integrity education and enforcement measures, has resulted in a significant improvement in the accuracy of reported household income within existing program regulations. Unfortunately, the system often produces “false positives” as a result of existing requirements, thereby requiring PHAs to devote considerable time and staff resources to resolving discrepancies. Other than its use as a required income verification tool, HUD should temporarily make all other requirements under EIV voluntary/optional.

Expeditied Waiver Process: To assist PHAs facing shortfalls and a series of other adverse financial conditions, HUD should utilize the wealth of data reported to the Department by PHAs to establish a streamlined and expedited waiver process through which individual PHAs may request and receive waivers. In addition, NAHRO recommends HUD provide all PHAs with easy-to-use case examples, templates, and other related resources to assist PHAs in applying for waivers.

General Reporting: HUD requires PHAs to submit myriad reports throughout the year. Most of these reports have only marginal utility for oversight purposes and have no internal utility for PHAs. This includes quarterly submissions of data through EPIC, executive compensation reporting, Davis Bacon compliance reporting, etc. NAHRO recommends that all of these information collections be suspended until further notice.
Section 8

SEMAP: The Section Eight Management Assessment Program (SEMAP) system assumes that PHAs will have adequate resources to comply with program requirements. NAHRO recommends that the Department suspend SEMAP ratings for the purpose of sanctions until such time as ongoing administrative fees are meaningfully restored. Until then, HUD should provide PHAs with SEMAP scores that are purely advisory. (Any PHA with “troubled” SEMAP ratings should remain subject to its Corrective Action Plan, but special consideration should be given to these PHAs regarding their ability to meet deadlines established under such plans.)

NAHRO also recommends that the Department temporarily modify or suspend the following SEMAP requirements to reflect the capacity of agencies under reduced funding levels:

- Lengthen deadlines for property owners’ correction and PHAs’ verification, of “minor” housing quality deficiencies other than exigent health and safety violations;
- Suspend sanctions for failure to use at least 90 percent of vouchers or funding;
- Suspend requirements to expand housing choice outside areas of poverty or minority concentration; and
- Suspend requirements to enroll families in the family self-sufficiency (FSS) program and to help FSS families achieve increases in employment income.

We have a number of other SEMAP-related recommendations that we would like to share with you at the appropriate time.

Fraud Recovery: At present PHAs are able to retain the higher of 50 percent of the amount collected through fraud recovery or the actual costs associated with recovery. We recommend that HUD temporarily modify the amount that can be retained by PHAs to 100 percent.

Portability: Ongoing administrative fees for portable vouchers are based on 80 percent of a lower fee rate (e.g. “Column B” rate) for the receiving PHA, and 20 percent of this fee rate for the initial PHA, prior to the application of the he national proration. HUD’s “Column B” rate is 6.7 percent less than HUD’s “Column A” fee rate. As a result, both initial and receiving PHAs administering vouchers through portability billings experience higher administrative costs than usual but receive substantially less fee funding. As a result, a receiving PHA’s effective proration for each voucher-assisted household for which there is a billing arrangement will be 51.5 percent for 2013, while the initial PHA will receive a 12.9 percent fee pro-rataion. The negative impact of this untenable level of financial compensation is compounded for those PHAs with significant percentages of their overall leased vouchers under portability billing arrangements. HUD should use the “Column A” fee rate for all portability billing vouchers and allocate a portion of the special administrative fees provided by Congress to those PHAs with significant percentages of portability vouchers under lease.

HUD’s Monthly Accrual Accounting Method in VMS: HUD’s monthly "accrual based" reporting requirement of PHAs in the Voucher Management System regarding prior period adjustments violates Generally Accepted Accounting Principles accounting rules. Prior period adjustments are not supposed to be made unless they are "material." These requirements have resulted in more work for PHAs at a time when their administrative fee funding levels are historically low. NAHRO reiterates our longstanding request to the Department to provide a written operational definition to PHAs of what constitutes a “material” change and to do so immediately.
Public Housing

Public Housing Assessment System: Although the 1937 Act requires the Secretary to assess the performance of public housing agencies, it does not require that these scores be used for any purpose other than identification of troubled agencies. NAHRO recommends that HUD immediately designate all PHAS scores above 59 as advisory. Furthermore, NAHRO recommends that HUD move expeditiously to evaluate whether the source of an agency’s troubled designation is a direct result of inadequate federal appropriations.

Green Physical Needs Assessment (GPNA): During this time of diminishing federal appropriations, the GPNA requirement under development is particularly burdensome. HUD has dramatically underestimated the costs many PHAs will have to bear, and the GPNA, while perhaps a valuable tool for the Department, is overly complex and does not provide sufficient return on investment at the local level for PHAs. Furthermore, HUD’s continued insistence that the PNA is an eligible activity under the Capital Fund Program suggests a fundamental lack of empathy for the dire situation faced by PHAs as they work to preserve their housing stock. NAHRO recommends that HUD indefinitely suspend implementation of the PNA requirement.

Operating Reserves: Prior to February 2011 PHAs, under policy and in practice, were permitted to use operating reserves for public housing capital improvements. To ensure that sufficient funds were available to implement the 2012 operating reserves offset, the Assistant Secretary sent a letter to all PHAs stating that capital improvements were not eligible uses of operating reserves for agencies with 250 or more units of public housing. Although PIH 2012-2 extended the allowable uses, it referred to language in the FY 2012 appropriations act and has since elapsed. NAHRO believes that capital improvements remain an eligible use of operating reserves for all agencies and recommends that the Department formally reinstate that policy.

Section 3: The Section 3 statute sets an expectation that the requirements will be met to the “greatest extent feasible.” Given the historically low funding for the Operating Fund, NAHRO believes that the extra administrative costs associated with fulfilling Section 3 requirements are simply not feasible in this environment. We urge HUD to take meaningful action to ease the administrative burdens associated with Section 3 compliance and reporting.

Asset Management Fees: HUD limits the fees PHAs are permitted to charge to each asset management property. These limitations were set by HUD, contrary to the outcome of the negotiated rulemaking process, as one-size-fits-all dollar amounts, rather than locally-determined “reasonable” levels. HUD should remove these fixed dollar caps and allow PHAs to set their fees based on reasonable factors related to their individual operating environments.

Public Housing Mortgage Program: Declining appropriations have reduced the leveraging potential of both the Operating Fund and Capital Fund Financing Programs. Fortunately, PHAs still control an extremely valuable asset: the public housing property. However, by refusing to subordinate the Declaration of Trust (DOT), HUD has essentially eliminated the collateral value of the properties. Section 30 of the 1937 Act does not restrict HUD’s ability to place the DOT behind a mortgage, and adequate policies already exist to protect the interests of residents. HUD should immediately amend its policy and allow for the subordination of DOTs in order to provide PHAs with a more flexible tool to leverage the value of their assets and attract private investment into their properties.