November 19, 2013

The Honorable Sandra Henriquez
Assistant Secretary of Public and Indian Housing
U.S. Department of Housing and Urban Development
451 7th St., S.W.
Washington, D.C. 20410

Dear Assistant Secretary Henriquez:

As you know, the three public housing industry groups, PHADA, NAHRO and CLPHA, have requested that the Department delay issuing the physical needs assessment (PNA) rule. This rule adds significant new reporting and cost burdens to all housing authorities by expanding the current five year timeframe to 20 years for housing authorities with more than 250 units and requiring that small agencies also complete a PNA.

We appreciate that HUD has responded to this request by temporarily delaying the rule. Nevertheless, we are hearing that the Department may issue the PNA rule in the coming months and that the first batch of housing authorities would possibly need to complete their assessments by June 2014.

We would like to convey our strong objections to this timetable. In 2013, the public housing program has had the lowest Operating Fund proration in the history of the program. In addition, the Capital Fund is less than half the amount it was in 2001, adjusted for inflation. Until January 15, 2014, agencies are operating under a continuing resolution, prolonging these historically low funding levels. At present, there is great uncertainty about final 2014 appropriations, but it is very unlikely that they will be significantly higher than 2013, and they may well be the same or even lower.

Given these funding realities, now is not the time to introduce a complex and expensive new requirement, which would have to be paid for out of these dwindling federal dollars. We respectfully ask that HUD continue to defer the PNA until housing authorities receive the funding they need to manage their properties properly.

None of our three groups oppose the PNA rule, and we understand the time and effort that have gone into its preparation. It is important, though, for us to explain our belief that there is no urgency in issuing this new regulation. It does not fill a gaping need that would immediately, or even in the near future, improve public housing management. Put simply, a catalogue of unmet needs serves very little purpose in a situation where resources to meet those needs do not exist.
Every housing authority with more than 250 units already completes a 5 year physical needs assessment. As a result, they are all in the midst of a five year planning process, resolving their most urgent problems, which will not be affected by expanding information to a 20 year timeframe. Since the Capital Fund is sufficient to address less than one-half of the annual accrual of capital needs and since there is a $26 billion capital backlog, the vast majority of these agencies are already faced with a greater number of capital improvement projects than they have the resources to handle. When it is time for them to conduct a new PNA, they will be consumed in trying to repair those items that will give out in the next five years, before they can even begin to think about issues in the 5-20 year range.

The PNA process also does not improve the ability of small housing authorities to plan for future capital needs. Their management staffs are generally housed directly at the properties and therefore are intimately aware of their condition. Like homeowners, these staffs know where their current and future problems lie.

Furthermore, those properties that may actually have adequate resources to pay for their capital needs can consider applying for the rental assistance demonstration (RAD). RAD applications require a 20 year PNA. HUD has announced that it has received applications from 76,000 units, and it has asked Congress for the authority to expand the demonstration to 150,000. Properties at Moving-to-Work (MTW) agencies are another category that does not need immediate application of the new PNA rule, as they also already have long-term planning processes in place. Of course, any property is free to conduct a 20 year PNA if it sees a need.

There is also no urgency to issue the PNA rule in regard to its other aspects. All agencies currently are required to conduct energy audits every five years, so this information is already well disseminated. As a result of the Abt capital needs study, HUD has a recent, reliable estimate of the capital needs for the public housing program. Housing authorities also report their capital expenditures to the Department. The current reporting requirements already provide HUD with the data necessary to monitor progress toward increasing energy efficiency in public housing, to estimate future appropriations necessary to preserve the nation’s public housing stock and to ensure accountability for federal funds.

In addition, we do not need to remind you that despite the historically low funding levels, housing authorities continue to be challenged by the Department with new and expanded regulations. HUD is also proceeding with new reporting frameworks, such as EPIC and NGMS. In light of the aforementioned budget concerns, we still believe the Department should institute a moratorium on all new rules and reporting requirements, and we look forward to further discussions with you regarding this proposal.

The message that we want to express is that with this confluence of circumstances—historically low and uncertain funding amounts, other new and challenging regulations and reporting requirements, and a capital needs planning process that is adequate for the present circumstances—HUD should continue to defer issuing the PNA rule.

HUD and the industry groups all agree that agencies are not receiving the funding they must have to administer the public housing program appropriately. Housing authorities need HUD’s
cooperation in coping with these inadequate resources. Please weigh the costs and benefits of issuing this rule at this time. We strongly urge you again not to issue this challenging and expensive new requirement at this time, since it is not immediately needed for the well-being of the program.

Thank you for your consideration.

Sincerely yours,

Timothy G. Kaiser
PHADA

Sunia Zaterman
CLPHA

Saul N. Ramirez, Jr.
NAHRO