VIA ELECTRONIC MAIL

July 10, 2012

Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 7th St. SW, Room 10276
Washington, DC 20410

Re: Public Housing Assessment System (PHAS): Capital Fund Interim Scoring Notice (Docket No. FR-5638-N-01)

To Whom It May Concern:

The National Association of Housing and Redevelopment Officials (NAHRO) is pleased to submit comments in response to the Department of Housing and Urban Development’s (HUD’s) Capital Fund Interim Scoring Notice. NAHRO represents more than 3,100 agencies and over 20,000 individual members and associates. Collectively, our membership manages over 970,000 public housing units, or approximately 83 percent of the entire inventory. Clearly our members have a vested interest in the outcome of any effort intended to improve the Public Housing Assessment System (PHAS) and its scoring.

NAHRO is pleased to see that the Department recognizes the inadequacy of the Capital Fund scoring notice as originally published. The Capital Fund (CF) indicator is a new component of PHAS, first introduced in the Interim PHAS rule, also known as PHAS III. Its unfamiliarity, coupled with the almost immediate implementation of PHAS III, made it particularly troubling. As a result, NAHRO applauds the Department’s decision to make first year scores for the occupancy sub-indicator advisory, giving PHAs an opportunity to understand the requirements and make adjustments before the scores go into effect. But while we support this change, we are deeply disappointed that this is the only change that the Department is making through this notice.

NAHRO has repeatedly expressed a broad range of concerns about the PHAS III rule. Although we will not use this opportunity to reiterate the full range of these comments, we do feel it is important to note that they are the backdrop against which this letter should be viewed.

As stated in our original comment letter to the PHAS III rule, the structure of the Capital Fund indicator is extremely troubling to NAHRO. First and foremost, NAHRO does not support the inclusion of a second occupancy indicator, beyond that which is included in the Management

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Assessment Sub-System (MASS), in PHAS. Furthermore, NAHRO believes that the formulation of the CF occupancy indicator is deeply flawed. By penalizing PHAs for vacancies considered “allowable” under the Operating Fund regulations, the PHAS rule creates an inherent policy contradiction which PHAs must navigate. Furthermore, by using a point-in-time snapshot approach to data gathering rather than truly measuring what happened during the course of the year, HUD is relying on an arbitrary and potentially misleading measurement. While we support making the occupancy score advisory in its first year of implementation, that change does nothing to remedy the inherent flaws of the sub-indicator. Put simply, it fails to address the underlying reality that the Capital Fund indicator uses a flawed measurement of occupancy based on flawed data.

Furthermore, NAHRO remains troubled by the threshold structure of the Capital Fund indicator, which creates an artificial tie between the timely obligation and occupancy sub-indicators. By recognizing the two measures as distinct sub-indicators, the Department acknowledges that they provide different information. Therefore, to bar a PHA from receiving points for one sub-indicator based on a failure to perform adequately on the other is inherently illogical and unfair. Stated simply, PHAs should not be able to lose more points than they can gain under any sub-indicator. Such a structure creates a double jeopardy situation and muddles the picture of performance which the assessment is intended to create.

Instead of a second measure of occupancy, the Capital Fund should include a sub-indicator for expenditure. Rather than a distant proxy or a backhanded mechanism to force PHAs to use their Capital Funds for HUD-specified, rather than locally-determined, purposes, a sub-indicator measuring timeliness of expenditure is a directly applicable indicator of whether PHAs are meeting their responsibilities under the Capital Fund program. In addition, PHAs should be allowed to appeal these indicators in cases where they have been approved by HUD for extensions to their Capital Fund obligation and expenditure timelines.

NAHRO, along with industry partners PHADA and CLPHA, have repeatedly met with the Department to discuss our larger concerns about the PHAS III rule. Given the significant investment of time and energy on the part of both HUD and the industry on this issue, we must confess we had hoped for more meaningful changes, and are disappointed that this scoring notice makes only a single, token, and temporary alteration to what is widely agreed is a flawed system.

Our critiques notwithstanding, we continue to urge HUD to engage the industry in meaningful, informed, and specific dialogue on the components of the Public Housing Assessment System before a final rule is published. Thank you for the opportunity to submit these comments on behalf of NAHRO. If I can be of further assistance, please feel free to contact me.

Sincerely,

Tamar Greenspan
Policy Analyst, Public and Affordable Housing