NAHRO HOTMA (H.R. 3700) Summary

The Housing Opportunity Through Modernization Act of 2016 (HOTMA, HR 3700) has several provisions that impact the Public Housing, Section 8, and Community Planning and Development programs.

Income Reviews

HOTMA requires PHAs to use an estimation of current year income to determine initial eligibility. All income reviews after eligibility will use prior year income. PHAs may make adjustments for other incomes as they see fit. HOTMA allows PHAs to use other federal data to determine income including TANF, Medicaid, and SNAP.

Under HOTMA, elderly and disabled families receive a deduction of $525 and families receive a $480 deduction per dependent, both adjusted annually for inflation. Other deductions include any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education. Elderly and disabled families are also able to deduct any amounts that exceed 10 percent of annual income for unreimbursed medical and health expenses and any unreimbursed attendant care or auxiliary apparatuses needed by disabled family members for purposes of employment.

An amendment to the bill requires HUD to enact regulations providing exemptions for families who, due to financial hardship, cannot pay rent increases required under HOTMA’s deduction provisions. NAHRO expressed concerns about potential rent increases for senior and disabled households under the original language contained in HOTMA, and is pleased to see the inclusion of this amendment as an additional safeguard in ensuring vulnerable households are not negatively impacted by the bill.

If any of the changes to income reviews result in a disproportionate reduction in rental income for PHAs within the first year of implementation, HUD can make appropriate adjustments to the formula for those agencies experiencing the reduction. NAHRO will closely monitor the impact of this new language to ensure rents do not increase for the most vulnerable households.

Over-Income Tenants

In light of increased Congressional and media scrutiny of over-income families residing in public housing, HOTMA includes language aimed at limiting tenancy for over-income families. The language places the threshold for over-income families as those with incomes over 120 percent of area median income (AMI) for the most recent two consecutive years. PHAs have the option of either charging the higher of the fair market rent for the unit or the monthly subsidy (Operating Fund and Capital Fund), or terminating the tenancy within 6 months for families meeting this threshold. The language also provides the Secretary the discretion to establish different income limitations based on local construction costs or unusually high or low incomes, vacancy rates, or rents.
Housing agencies will also be required to submit to HUD and make public a report listing the number of families in public housing with incomes above the 120 percent of AMI limit and the number of families on public housing waiting lists each year. NAHRO hopes that this will show the minimal impact that over-income tenants have on public housing and help minimize recent scrutiny of the issue.

**Limitation on Eligibility Based on Assets**

HOTMA includes limitations on eligibility for families with net assets of over $100,000 per year (adjusted annually for inflation), families that have ownership interest in, a legal right to reside in, and the effective authority to sell real property suitable for occupancy. Exemptions will include property receiving assistance under the homeownership option or the assistance for rental of manufactured housing provided under Section 8 of the 1937 Housing Act, victims of domestic violence, or persons selling their house. Exclusions to asset limitations include personal property, retirement accounts, real property that the family has no legal authority to sell, educational savings accounts, or amounts received from civil action or settlements resulting from a claim of negligence, malpractice, or other breach of duty that resulted in a disability. Trust funds are also excluded so long as the fund is held in trust. PHAs can determine the net assets of a family based on self-certification so long as the family’s net assets do not exceed $50,000, adjusted annually for inflation. Families will be able to self-certify that they do not have any current ownership interest in real property. PHAs could delay evictions for families that do not comply with asset limitations for a period of not more than 6 months.

PHAs may establish exceptions or choose not to enforce asset limitations during income recertifications so long as a policy stating so is set forth in Section 5A of the PHA Plan.

**Capital and Operating Funds**

Using NAHRO language also included in the Senate FY 2016 Appropriations Bill, HOTMA allows PHAs to voluntarily establish Capital Fund replacement reserves. At no time would the replacement reserve balance be allowed to exceed the amount determined to satisfy anticipated capital needs for properties as outlined in the Capital Fund Five-Year Action Plan. In addition, HOTMA allows HUD to impose a more restrictive maximum replacement reserve level based upon the size of a PHA’s portfolio. When first establishing the fund, PHAs would be allowed to transfer more than 20 percent of their operating funds into the reserve. NAHRO strongly supports the establishment of a reserve fund for PHAs to better plan and save for future capital needs, a common practice in real estate.

HOTMA also authorizes reverse-fungibility for PHAs to transfer up to 20 percent of their Operating Funds to their Capital Fund, language NAHRO has advocated for strongly over many years.

**Inspection of Dwelling Units**

HOTMA includes several provisions on the inspection of dwelling units. With respect to initial inspections, PHAs have to inspect any units before assistance is made. Non-life threatening conditions are given 30 days to be fixed before assistance may be stopped. In certain scenarios, alternative inspection methods may be used as a substitute until a Housing Quality Standards (HQS) inspection. The provisions also detail how to enforce HQS, including determining non-compliance with the standard, when to withhold assistance, when to abate assistance amounts, and the steps required for notification of abatement of assistance. Additionally, there are protections for tenants (e.g., the owner of a unit may not terminate tenancy because of a withholding or abatement); rules for when to terminate assistance (if the owner does not comply within 60 days of a determination of non-compliance); rules on family relocation; and rules on tenant-caused damages.
**Project-Based Voucher Program**

HOTMA incorporates changes to the project-based voucher (PBV) program. This includes, among other things, changing the amount a PHA may project-base. PHAs can change the amount they may project-base from 20 percent of their voucher funding to 20 percent of their authorized voucher allocation, allowing most PHAs to project-base additional units. Additionally, PHAs that have units targeting homeless individuals and families, veterans, elderly households, disabled households, or units in areas where vouchers are difficult to use, are permitted to project-base up to 30 percent of those targeted units.

HOTMA also changes project-based voucher income mixing requirements and includes other miscellaneous provisions. PHA project-based voucher assistance may not exceed 25 percent of the units in a project or 25 units, whichever is greater. Additionally, in areas where vouchers are difficult to use and in census tracts with a poverty rate equal to or less than 20 percent, PHAs may provide project-based voucher assistance for up to 40 percent of the units in a project. Other miscellaneous PBV provisions allow PBV contracts and extensions of up to 20 years; allow PHAs to permit site-specific waiting lists managed by owners; and clarify that PHAs may project-base HUD-VASH and Family Unification Project (FUP) vouchers.

**Family Unification Vouchers**

HOTMA increases the age of individuals eligible for FUP vouchers from 21 to 24 and to eligible youth who will leave foster care within 90 days and are homeless or at risk of homelessness. HOTMA also includes provisions that expand FUP vouchers by allowing eligible youth “who have attained 16 or 17 years” and who have left foster care to remain in the program for up to 36 months.

**Other Changes for PHAs**

HOTMA allows a PHA to hold harmless a payment standard applied to families that continue to live in a unit for which the family was receiving assistance when the fair market rent for that area is reduced. HOTMA also requires the publication of data regarding utility consumption and costs in local areas.

**Inclusion of PHAs and Local Redevelopment Authorities as ESG Subrecipients for Solutions Grants**

HOTMA includes statutory language, supported by NAHRO, that permits any state or local government receiving ESG allocations to distribute all or a portion of its grant funds to PHAs and LRAs (alongside private nonprofit organizations).

**Special Assistant for Veterans Affairs and an Annual Supplemental Report**

HOTMA creates a new position of Special Assistant for Veterans Affairs that reports directly to the Secretary of HUD. The special assistant would be responsible for, among other things, ensuring veterans have access to housing programs and homeless assistance, coordinating veteran-related programs at HUD, and serving as a liaison between HUD, the Department of Veterans Affairs (VA), the United States Interagency Council on Homelessness (USICH), and officials of state, local, regional, and nongovernmental organizations.

HOTMA also requires HUD, the VA and the USICH to collaborate and submit to congress an annual supplemental report on veteran homelessness. The report would offer, among other things, the number of homeless veteran estimates, demographic characteristics, and insights into how veteran homelessness has changed over time. HUD is also required to report upon its veterans-related activities, its ongoing efforts to coordinate veteran housing and services delivery between federal departments, and detailed information on the HUD-VASH program.
Reopen Continuum of Care Program Public Comment Period
HOTMA includes a provision that directs HUD to reopen the comment period for the interim rule entitled, “Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH): Continuum of Care (CoC) Program” within 30 days of the enactment of this Act so that stakeholders may provide input on how to most equitably utilize HUD resources to address homelessness. The CoC Interim Rule became effective in 2012, with a public comment period that concluded the same year. HOTMA would also require HUD to provide a definition of “geographic area” for CoC grantees within 90 days of the bill’s enactment.

Modernize the Housing Opportunities for Persons with AIDS Program
HOTMA will update the Housing Opportunities for Persons with AIDS (HOPWA) program allocation formula so that funds are distributed to jurisdictions based on living cases of HIV/AIDS. The current formula is based on cumulative AIDS cases, which include individuals deceased from AIDS. Many HIV/AIDS advocates, as well as the current Administration, agree that a restructured HOPWA formula would better target resources to communities with high existing concentration of this epidemic. The formula update will be phased in over a 5-year period and no jurisdiction will lose more than 5 percent in funds or gain more than 10 percent in funds compared to the allocation received by the grantee in the previous fiscal year.

Budget-Neutral Demonstration Program for Energy and Water Conservation Improvements at Multifamily Residential Units
HOTMA establishes a pay-for-success demonstration that would execute budget-neutral, performance-based agreements aimed at reducing energy or water costs in multifamily units. From FY 2016 through FY 2019, projects will be carried out for no more than 20,000 residential units in multifamily buildings that participate in HUD’s Section 8 Project-based Rental Assistance, Section 202 Supportive Housing for the Elderly, and Section 811(d)(2) Supportive Housing for Persons with Disabilities programs.