December 16, 2015

United States Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

Re: The Report Titled “Very Small and Small Agencies Reviewed Had Common Violations of Requirements” Published by the Department of Housing and Urban’s Development Office of Inspector General

Dear Inspector General David A. Montoya:

On behalf of the National Association of Housing and Redevelopment Officials (“NAHRO”), I am writing to offer the following response to the Department of Housing and Urban Development Office of Inspector General (“OIG”) memorandum titled “Very Small and Small Agencies Reviewed Had Common Violations of Requirements.” NAHRO represents over 20,000 individual and agency members, many of whom fall into the reviewed categories of small housing agencies and very small housing agencies. Thus, we are interested in ensuring that any discussion around these categories of agencies is accurate and is a fair representation of the work performed by these agencies on behalf of families in need. In those instances where there is evidence of malfeasance in the operation of an agency or agencies, we will work with HUD to correct it. On the other hand, in those instances where compliance is hampered by overly burdensome regulations, we believe that some regulatory streamlining would be mutually beneficial.

This letter is divided into two primary sections. The first section provides a brief overview of the report. The second section lists the key points in NAHRO’s response to the OIG’s report. In our response section, we make the following points:

- OIG’s report does not describe behavior that is indicative of the behavior of all small and very small agencies;
- local control is critical in the administration and oversight of housing programs in small communities;
- the availability of vendors, suppliers, and contractors is limited;
- additional regulatory relief is required by small and very small agencies; and

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better trained HUD field staff—who are well informed about the challenges faced by small agencies by spending time with small agencies—would greatly assist small agencies in their ability to comply with complex regulations by providing accurate technical assistance and better on-site support.

1. A Brief Overview of the HUD OIG’s Report Titled “Very Small and Small Agencies Reviewed Had Common Violations of Requirements”

On September 16, 2015, the HUD OIG published a report titled “Very Small and Small Agencies Reviewed Had Common Violations of Requirements.” The stated objective of the review was “to summarize the results of prior audits, reviews, and investigations of very small and small housing agencies to identify common areas of concern or systemic deficiencies.”

To do this, HUD OIG looked at audit reports, memorandums, and investigative results of very small and small housing agencies in 2012, 2013, and 2014. It also looked through a more limited number of cases in 2015. The Office of Inspector General looked at these documents from HUD’s Region 6 jurisdiction, which includes Texas, Oklahoma, New Mexico, Arkansas and Louisiana.

The review found that the housing agencies reviewed had violations that followed certain common themes: not having adequate financial controls; not following procurement regulations or maintain documentation to support their procurement functions; not properly administering tenant rents; and having executive directors and boards of commissioners violate existing requirements.

In the category of inadequate financial controls, the report found that housing agencies lacked adequate books and records and that financial conflicts of interest occurred at housing agencies. Of those reviewed, the report claimed that many agencies’ management and boards did not implement controls necessary to ensure that they avoided financial conflicts of interest. Some agencies had business dealings with entities or individuals which may represent, in certain cases, a conflict of interest. In some cases, the annual contributions contract was not signed by the executive director of the agency. Some agency officials in very small and small housing agencies were convicted of or pled guilty to crimes.

The report also found that small and very small agencies did not comply with procurement regulations and guidance – that they failed to maintain contract or procurement documentation, including contracts and procurement file documentation such as cost analyses and independent cost estimates; did not conduct independent costs estimates; and did not ensure adequate competition. In addition, the report found that some small agencies did not ensure adequate competition in their procurement.

The report also noted that small and very small housing agencies also did not properly administer tenant rents. In these cases, improper administration included miscalculations, inadequate documentation, and poor rent collection processes. These mostly occurred because the agencies did not have proper procedures in place. Housing agencies were unable to accurately or consistently calculate, document or collect tenant rents.
Finally, the last group of violations that the report documented were based on inadequate oversight by agency boards of commissioners. These types of violations fell into two categories: lack of oversight and failure to keep appropriate minutes of meetings.

2. **NAHRO’s Response to HUD OIG’s Report Titled “Very Small and Small Agencies Reviewed Had Common Violations of Requirements”**

We believe the report is misleading in some fundamental ways. Here is our more specific response to it.

   a. **This Report Is Not Indicative of the Compliance Behavior of All Small Agencies and Very Small Agencies**

This report is not indicative of the behavior and rate of compliance of small and very small agencies with appropriate rules and regulations because it is limited in scope and only examines a selective area. The report:

- does not use a randomized sample of small and very small agencies;
- focuses on agencies that previously had problems (which may have been corrected); and
- only looks at a small sample of agencies.

While the text of the report states that it only looks at the HUD Region 6 jurisdiction—including Texas, Oklahoma, New Mexico, Arkansas, and Louisiana—the title fails to make this clear. The title of the report is misleading in that it makes it appear as though HUD OIG reached its conclusions through a study of all small and very small agencies in all regions.

In addition to the use of a selective region, in this case HUD Region VI, the report also did not draw a representative sample of small agencies. A selective sample will naturally skew towards a certain result depending on the parameters of the selection. A random sample, on the other hand, will be more likely to accurately represent the studied categories.

The report also only looked at previously completed audits and chose to focus on areas where small and very small PHAs had made mistakes in the past. Again, by using selection criteria that only examined PHAs that had not fully complied with regulations, the report was creating a skewed picture of the prevalence of non-compliance issues. This is not indicative of how small and very small PHAs operate in general.

In addition to not using a randomized sample, the report also only looked at a few agencies. Using a small sample, like using a non-randomized sample or a sample of agencies with past problems, will naturally skew the overall picture of compliance.
b. Local Control Is Critical in the Administration and Oversight of Housing Programs in Small Communities

The report fails to mention one of the greatest strengths of small agencies, which is local control. Local control is critical in the administration and oversight of housing programs in small communities. Neither regionalization nor absorption by larger agencies would solve local problems, and any one-size-fits-all philosophy would be against the spirit of the Quality Housing and Work Responsibility Act of 1998 (QHWRA). Small and very small agencies are able to avoid the trap of “institutionalized residents,” while striving for a greater focus on “residents living in communities.”

There are many reasons why small and very small agencies may be better situated to provide services to their communities than larger, consolidated agencies. Small agencies know their communities and local rental markets, allowing them to best work with local partners to provide services to their program participants. Small agencies are also best situated to know their local rental markets, and thus are better able to set their payment standards or help program recipients find suitable landlords for the Housing Choice Voucher (“HCV”) program. They can provide in-depth knowledge and connections to local stakeholders that may be highly beneficial for program participants.

c. The Availability of Vendors, Suppliers, and Contractors Is Limited

Improper procurement is an issue that poses problems for small and very small agencies, especially in rural areas. Isolation combined with the limited availability of funds for goods and services tend to reduce the number of respondents to bids (no money to be made or distances too great). The Procurement Officer is also likely to function in another role (e.g., Executive Director, Finance Manager, Human Resources Manager, Capital Fund Manager, Property Manager, etc.). Procurement regulations, combined with limited supply, hinder the procurement process. Many agencies find that in order to meet funding constraints or timelines, business must be conducted with local vendors, suppliers or contractors. Very often those sources are known to the agency because of the small community framework in which they operate. Again, this is another reason to craft regulations that fit within the context of the area—rural or urban—and size—large or small—of the agencies. All agencies want to comply, but rules should be crafted taking into account the appropriate context.

d. Additional Regulatory Relief Is Required for Small PHAs

Given the complexity of applicable statutes, regulations, and guidance, some degree of additional legislative or regulatory streamlining is required for all PHAs, but is particularly required for small and very small agencies. The regulatory burden that agencies face relative to the size of their staff, particularly for a small agency, is very high. Time spent on complying with highly burdensome components of HUD rules and regulations takes time away from complying with other more important rules and regulations as well as time that would be better spent housing families and effectively administering housing programs.
NAHRO, along with the Public Housing Authorities Directors Association (PHADA), an industry partner, can point to solutions to enable small PHAs to better calibrate the appropriate amount of regulation relative to the risk of the program. Recently Senator Tester (D-Mont.), along with Senator Fischer (R-Neb.), have introduced legislation titled “The Small Public Housing Agency Opportunity Act of 2015” (formerly known as the Small Housing Authority Reform Proposal). The bill proposes alternative processes to govern small agencies to create an appropriate balance between regulatory burden and serving the maximum number of households possible with the highest quality services.¹

**e. The Department Needs to Improve Training so Field Staff Are Better Able to Provide Technical and On-Site Assistance**

Lack of institutional, regulatory, and historical knowledge may impede the efficacy of HUD field staff. Some of NAHRO’s members have discussed instances where PHA staff have made every effort to comply with all applicable guidance and regulations, but have been unable to do so because of misunderstandings with HUD regional and field staff. Some members have noted situations where HUD field staff were themselves unaware of regulations or had interpretations of regulations that substantively varied from the guidance promulgated by HUD headquarters. This lack of knowledge by some HUD staff has negatively affected the ability of some small agencies to properly comply.

More understanding of the daily processes and challenges of running small housing agencies will help HUD field staff better support these agencies. The Department needs to improve training for its field office staff so that they are able to better provide technical assistance and on-site assistance. The field staff should spend additional time at small agencies so that they are more cognizant of the specific issues and dilemmas that small agencies face. Spending time with small agencies will also allow the field staff to gain some understanding of the on-the-ground realities faced by small and very small agencies. This understanding will better allow them to act in supporting the efforts of small agencies.

Thank you for the opportunity to express our views. Although small agencies have a relatively modest share of inventory and much smaller budgets, they are still subject to the same regulations, oversight, and monitoring as their larger brethren. Overall, small agencies have made heroic efforts to comply with all regulations, and we would appreciate a future report that accurately depicted all of these efforts.

We would like to move forward with HUD and continue this with an in-person conversation. Please feel free to contact me (202) 580-7216.

¹ To learn more about the Small Housing Authority Reform Proposal (SHARP), the immediate predecessor of the Small Public Housing Agency Opportunity Act of 2015, please visit [http://www.nahro.org/SHARP](http://www.nahro.org/SHARP).
Sincerely,

[Signature]

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