December 5, 2016

Regulations Division
Office of General Counsel Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410-0001


To Whom It May Concern:

On behalf of the National Association of Housing and Redevelopment Officials (NAHRO), I am pleased to offer the following comments in response to the 60-Day Notice of Proposed Information Collection: Energy Benchmarking of Public Housing (FR–5916–N–17), published in the Federal Register on October 4, 2016. Formed in 1933, NAHRO represents over 20,000 individual and agency members. Collectively, our membership manages over 970,000 public housing units, or approximately 83 percent of the entire public housing inventory, as well as 1.7 million Housing Choice Vouchers. NAHRO works to support policies that promote regulatory relief and provide local discretion and flexibility to housing authorities so that they may best meet the needs of their communities.

The Department of Housing and Urban Development’s (HUD or the Department) energy benchmarking proposal would require Public Housing Authorities (PHAs) to benchmark their utilities every three-years for public housing properties. After PHAs submit the information to HUD, the Department would aggregate the collected data in order to better understand the overall public housing portfolio. PHAs must collect two types of data in order to benchmark their energy and water use. The first type of data is basic information on the physical characteristics of a property that is only entered into the Portfolio Manager once, unless the property undergoes major construction and/or renovation. The second type of data needed is at least 12 months of recent utility data. PHAs may be required to work with local utility providers if the property’s utilities are not paid fully by the PHA. Each utility provider will have unique requirements for releasing the data in order to protect tenant privacy. HUD expects PHAs to submit whole building data where available.

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NAHRO does not believe that energy benchmarking is necessary for the proper performance of the functions of HUD or PHAs. Rather, NAHRO believes this additional data collection requirement will impede a PHA’s ability to focus on the needs of its residents. Due to historically low funding levels for both the Public Housing Operating and Capital funds, many PHAs are understaffed and overworked. Being required to submit information on their tenants’ energy use during a fiscal climate that is not conducive to taking on additional requirements outside of day-to-day management will prove significantly burdensome for PHAs. It would also leave PHAs less time to perform more important and time-sensitive activities that directly impact their residents. This is especially true for small PHAs, many of which have limited staff that would not have the funding or resources to fulfill these tasks. This additional data collection, which HUD may or may not use in the future to help guide the development of new policy initiatives, financial incentives, and technical assistance for PHAs, will have little benefit to PHAs in either the short or long term.

Energy benchmarking for various public housing properties would be more time intensive than HUD anticipates. Many PHAs do not pay utilities for their tenants. As PHAs would be required to work with local utility providers if the property’s utilities are not paid fully by the PHA, accessing tenant utility data would be challenging and time consuming. PHAs would be required to contact utility companies to get permission to access their tenants’ energy use. According to our members, these PHAs would have to get a waiver from the utility company to release the information and have their tenants sign a release allowing the utility company to provide the information. This requires the PHA to undergo considerable effort in order to provide data to HUD that may or may not be used. Moreover, many PHAs would face additional costs, as some may be required to pay utility companies to access information on their tenants’ energy consumption.

In practice, energy benchmarking would prove challenging for many PHAs, especially those that have public housing units in scattered sites. PHAs would need to access waivers and releases for different public housing units that are fundamentally different from one another. This would also lead to an apples to oranges comparison, as different units in different building types consume energy differently. This larger picture of energy use may benefit HUD, but at the local PHA level, it would be useless. This is especially unfortunate as HUD is not providing funding for the time or costs which PHAs would be required to dedicate toward completing this reporting.

Energy benchmarking may also prove duplicitous to PHAs that are currently under Energy Performance Contracts (EPCs). PHAs with an EPC are already reporting this information to HUD, and submitting this information through energy benchmarking reporting would require unnecessary duplicitous reporting. This would add additional administrative burden and effort to the PHA. In this time of limited funding, these efforts would not appear be the best use of PHA resources.

There are too many differing factors at play to make this information as useful to HUD as HUD is expecting. There are different metering schemes from state to state. Older buildings are not equipped with energy metering systems that would enable PHAs or utility companies to
understand individual energy use in the way HUD is anticipating. Energy benchmarking would make sense if all public housing properties were equipped with upgraded energy systems, however HUD is not making an effort to supply funding for those upgrades. In fact, PHAs are unable to upgrade their energy systems due to chronic underfunding for the Capital Fund. Before HUD requires PHAs to benchmark utilities, HUD should ensure PHAs have enough funding to upgrade their energy systems. This requires HUD to act as a strong advocate for adequate funding for the Capital Fund in Congress.

In this time of limited federal resources, data collection for the sake of data collection does not help PHAs. If anything, it adds additional tasks and burden to their already overreached staffs. If HUD wants to move forward with energy benchmarking, there needs to be a tangible financial incentive for PHAs. However, it is important that any financial benefit to this information collection remains an incentive and that PHAs are not punished if they are unable to reduce or report on their tenants energy use, which remains outside of the control of the PHA. It is also important for HUD to remember that PHAs cannot control how their residents use energy. It would put increased negative pressure on PHAs if HUD were to use information collected through energy benchmarking to incentivize behavior.

Currently, the Operating Fund is prorated at 83 percent of full eligibility, and the Capital Fund is funded at only half of its annual rate of accrual, and has been for years. This creates impediments to implementing and enforcing new, unfunded reporting requirements, regardless of their goals. The public housing inventory faces a mounting capital needs backlog, but Capital Fund appropriations continue to lag dangerously behind accruing modernization needs, including energy upgrades. NAHRO was extremely disappointed to see that the President’s FY 2017 budget requested a decrease in Capital Fund dollars from FY 2016 levels. If HUD is genuinely interested in helping PHAs properly upgrade energy systems that lead to decreased energy consumption, HUD needs to ensure it requests necessary and appropriate funding levels from Congress for the Capital Fund. Doing so would be more impactful for PHAs to help lower their tenant’s energy usage through upgraded systems than sending data on tenant utility consumption to HUD that would result in little to no benefit to the PHA.

Thank you for the opportunity to comment on this proposed information collection. Please do not hesitate to contact us if we can provide additional information or clarification.

Sincerely,

Eric Oberdorfer
Policy Advisor for Public and Affordable Housing