October 4, 2016

Regulations Division  
Office of the General Counsel  
Department of Housing and Urban Development  
451 7th Street SW  
Washington, DC 20410-0500

Re: [Docket No. FR-5874-P-03] Housing Choice Voucher Program--New Administrative Fee Formula

To Whom It May Concern:

On behalf of our agency members--who manage 1.7 million Housing Choice Vouchers--and the more than 20,000 individual members that make up the National Association of Housing and Redevelopment Officials (NAHRO), I would like to offer the following comments in response to the notice published in the Federal Register on July 6, 2016, titled “Housing Choice Voucher Program--New Administrative Fee Formula.” NAHRO would like to thank the United States Department of Housing and Urban Development (HUD or the Department) for the opportunity to comment on this proposed formula for administrative fees for the Housing Choice Voucher (HCV) program.

This comment letter makes several suggestions over the course of two main sections. The first section highlights some of NAHRO’s general comments, while the second section responds to HUD’s solicitations of comments. While there are numerous suggestions, the themes of NAHRO’s suggestions are the following:

1. The new administrative fee formula should properly compensate PHAs for additional administrative and regulatory burdens added after the Housing Choice Voucher Program Administrative Fee Study occurred;

2. The new administrative fee formula should not focus on incentivizing PHA behavior, but rather should focus on accurately measuring the costs of running a HCV program and then allocate funding accordingly; and

3. Any transition between formulas should prioritize making sure that decliners’ funding shifts happen in a controlled manner over a long enough time span so that they can make the appropriate changes to their programs.

1. NAHRO’s General Comments

NAHRO would like to make two points before answering the Department’s specific solicitation of comment. First, NAHRO would like to incorporate its prior concerns about the Housing Choice Voucher

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Program Administrative Fee Study (the study) from its previous comment letter.\(^1\) Since this newest iteration of the formula still relies heavily on the work done in the study, the concerns outlined in NAHRO’s previous letter are worth remembering, especially the concern that the study was conducted during the height of sequestration.\(^2\)

Second, NAHRO would like to note that the administrative fee formula should take into account the significant regulatory burdens that HUD has imposed since the study. While listing all the regulatory changes and burdens added are outside the scope of this comment letter, NAHRO would like to focus on two that will add significant administrative costs to HCV programs. These regulations are the affirmatively furthering fair housing rule and the small area fair market rents (FMRs) rule. NAHRO suggests a supplementary fee be added to the formula so that HCV programs are best able to meet their regulatory requirements under the affirmatively furthering fair housing rule.

In HUD’s small area fair market rents proposed rule, it states that “PHAs administering Small Area FMRs will likely face higher administrative costs. Initial costs would include training employees and setting up new systems. Periodic costs include costs related to payment standard and rent determinations as well any increase in moves and contract rent changes than those operating under one metropolitan FMR.”\(^3\) As HUD has publicly acknowledged that the small area FMR rule would increase administrative burdens, NAHRO requests that the administrative fee formula pay a supplementary fee for those PHAs using small area FMRs and that HUD not implement the small area FMR rule until an administrative fee formula that properly compensates PHAs for their additional administrative burdens is in place.

2. HUD’s Specific Solicitations of Comment

What follows is NAHRO’s responses to a selection of HUD’s specific solicitations of comment. Some of the solicitations have been edited for brevity and clarity.

Should HUD consider constraining the coefficient estimate for program size? Should the proposed rule reduce the impact of the formula’s program size adjustment for only certain categories of small PHAs, such as small PHAs that have overlapping jurisdictions with other PHAs that administer the HCV program, as opposed to constraining the size coefficient estimate in the regression model?

The final administrative fee formula should not have a constraint on the coefficient estimate for program size. There is no reason to artificially constrain what the formula allocates on the basis of size. NAHRO strongly believes that the purpose of the administrative fee formula should be to measure the costs of running the HCV program in a specific area and should allocate that cost accordingly. The decision to maintain a small, autonomous program is the decision of the local community and should not be influenced by the federal government. In a large, heterogeneous country with a variety of rental markets, top-down decision making from a centralized authority will lead to situations where programs are not best serving their local markets.

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\(^1\) NAHRO’s previous comment letter can be found at the following web url: https://www.regulations.gov/contentStreamer?documentId=HUD-2015-0058-0061&attachmentNumber=1&disposition=attachment&contentTyp=pdf.

\(^2\) NAHRO is aware that the study authors did their best to correct for this.

Local governments are capable of understanding the inverse correlation between administrative cost per voucher and size of program. If they choose smaller programs, it is probably because those programs have hard-to-quantify advantages. The Department is not in a position to appreciate those hard-to-quantify benefits of smaller programs on local communities, therefore the choice about program size should be left to local communities with the Department adequately allocating the amount of money to effectively implement whatever choice the local community makes.

The Department should not consider reducing the impact of the program for small PHAs that have overlapping jurisdictions. Again, there may be benefits to having multiple small PHAs with overlapping jurisdictions. The local community has better access to on-the-ground information and is better placed to make the decision about whether an area is better served by multiple small PHAs than the Department.

**Should HUD increase the unit size threshold and the corresponding adjustment range from 500 leased units (250 to 750 unit range) to 750 leased units (500 to 1000 unit range) or 1,000 leased units (750 to 1,250 unit range)?**

The Department should increase the unit size threshold and the corresponding adjustment range to 750 (500 to 1000 unit range) leased units because this would allow for no increase in the program size adjustment for any program size below 500 units, which the study identifies as the number of vouchers leased where PHAs below that number had significant increased costs. NAHRO believes that this is superior to narrowing the range over which the adjustment is made (e.g., 400 to 600 units) because a broader range means a smoother gradient and may make yearly changes in vouchers leased less impactful to program operations.

**Should the program size variable value for the PHA be updated based on the average vouchers under lease for the most recent 12 months of data available at the time the new administrative fee is calculated, as is being proposed, or for a longer period of time, such as the most recent 24 or 36 months.**

The program size variable should use a three year average to help prevent any administrative fee shocks as a result of a major increase in program size.

**HUD seeks comment on whether the size variable would discourage creating greater efficiencies through consortia.**

Applying the same reasoning that HUD applies to the earned income variable, NAHRO is uncertain why HUD would think that the size variable would discourage consortia. The size variable is not being used to incentivize small PHAs to remain small, but rather to adequately pay the costs of running their program. Thus, as long as the formula adequately measures the costs of running a small program and the costs of running a consortia and allocates formula funding appropriately, the administrative fee should not have any effect on the decision to form a consortia.

**HUD seeks comment on how the size variable could be adjusted with respect to consortia or to consolidate programs (e.g., phasing out higher fees for small PHAs) and adopting such a policy for a small PHA when another PHA has overlapping jurisdiction.**

NAHRO does not believe that HUD should incentivize consortia or consolidation when PHAs have overlapping jurisdictions. As mentioned before, the federal government is not the appropriate level of
government to make this decision as it does not have all the information about the on-the-ground effects of smaller PHAs.

Additionally, while the study found that large PHAs have fewer per voucher administrative costs, to NAHRO’s knowledge, there is no empirical evidence stating that consortia would have fewer administrative costs per voucher. Local communities may have chosen multiple small PHAs because of local idiosyncrasies that make small PHAs more efficient in that particular market. Thus forcing consolidation or consortia may not result in efficiency gains that the study shows because local communities may only have chosen bigger programs in those areas where bigger programs made sense.

**HUD seeks comment on the new benefit load variable. Is it a better proxy for variations in benefits than the original health care cost variable or should the final rule revert to the study’s original health insurance cost index.**

NAHRO commends HUD for listening to NAHRO and its membership and implementing the benefit load variable which better takes into account employee costs in running a HCV program. NAHRO encourages HUD to think of ways that this variable can be further expanded to take into account other relevant costs.

**HUD seeks comment on whether the small area rent ratio (SARR) or some other indicator that would address the variation in administrative cost as it relates to locational outcomes and expanding housing opportunities should be reconsidered for inclusion in the core formula.**

NAHRO commends HUD on removing the small area rent ratio variable. NAHRO believes that this variable should not be added again or replaced. NAHRO also does not believe that expanding housing opportunities should be incentivized in this formula. While expanding housing opportunities is a commendable goal, the formula should not be used to incentivize behavior but should be used to accurately measure the costs of running a HCV program and then allocate program funding accordingly. HUD should strive to maximize accuracy of the formula and remember that adding incentives lowers the predictive value of the formula and makes it harder to argue to appropriators that HUD’s first priority was creating an accurate formula.

**HUD seeks comment on whether the earned income variable should be removed from the formula despite the strong correlation between it and administrative costs. HUD also seeks comment on ideas to broaden or modify the variable. HUD seeks comment on how to address concerns related to this indicator on efforts to assist the homeless.**

If HUD believes that this variable only captures the costs faced by programs and does not believe that it incentivizes HCV programs to seek program participants with earned income, then HUD should include it, if it maximizes the accuracy of the formula.

For comments on how the formula should address homeless households, please see below.

**Would the homeless new admission add-on fee adequately address the concerns that the fee formula may inadvertently create a disincentive for PHAs to serve the homeless? Should a formula variable for homeless new admissions or current participants who were formerly homeless be included in the base fee calculation?**
While a homeless add-on fee would help to address some of the perceptions that the fee formula would inadvertently create a disincentive for PHAs to serve the homeless, after again consulting our membership, NAHRO believes that a formula variable for homeless new admissions (or a similar variable, like one for current participants who were formerly homeless) should be included in the base fee calculation. NAHRO’s membership feels that a one-time fee would not accurately capture the costs of serving this population and that it should be incorporated into the base formula.

HUD requests comment on whether the numerator for the new admissions rate should include families that initially leased in the PHA’s jurisdiction under the portability procedures to capture the increased cost for the receiving PHA, regardless of whether the PHA chooses the billing option instead of absorbing the family into its own program.

Yes, the numerator for the new admissions rate should include families that initially leased in the PHA’s jurisdiction under the portability procedures to capture the increased cost for the receiving PHA, regardless of whether the PHA chooses the billing option instead of absorbing the family into its own program. Including these families will capture the work that the initial PHAs completed to bring the households into the voucher program.

HUD requests comment on whether to reduce the distance from 60 miles to a shorter distance of 50 miles, for the distance variable, to account for the potential deficiencies in the 60 mile “point to point” calculation method instead of attempting to map the distance by road each year. HUD seeks comment on whether the formula should constrain the coefficient estimate for the 60 miles variable. NAHRO believes that this variable should be included in the final formula and has no proposed alternative. After consulting with our membership, NAHRO strongly feels that HUD should not reduce the distance from the 60 miles to a shorter distance of 50 miles, while still keeping the “point to point” calculation method. Our membership feels that HUD should keep the 60 mile distance and determine the distance by road, even if determining that distance is complicated or hard. While NAHRO understands that taking into account local conditions (e.g., road closures, traffic, etc.) is not possible, NAHRO still believes that this variable will be more effective if the “point-to-point” calculation is replaced by the distance by road calculation.

HUD seeks comments on how to address the concern that if an agency primarily serves households in a relatively small area, but the area is more than 60 miles from the PHA headquarters, the distance variable’s impact on PHA costs could be significantly overstated. HUD seeks comment on how HUD should establish a threshold. Should the formula use a measure of dispersion?

NAHRO believes that integrating a measure of dispersion may increase formula accuracy. This variable’s contribution to the overall formula could occur via a two-step process. First, the formula allocates some money for those PHAs that have service areas over 60 miles from their headquarters, then it allocates additional money if those service areas have program participants that are widely dispersed.

HUD seeks comment on whether the limitation on PHA values in the proposed formula should be modified or removed in the final rule for some or all of the formula variables.

At this time NAHRO believes that the limitations on PHA values in the proposed formula should remain the same. NAHRO also believes that the formula should allow for those limitations to be revisited after a
few years (e.g., five years) to make sure that the current limitations are working properly. If at that time, there appear to be problems, then NAHRO may advocate for the narrower set of limitations.

**Should HUD use a longer time period, such as a 5 year average, for some or all of the variables?**

The wage index variable and the distance variable should use the most recent one-year data. The benefits load variable, the earned income variable, and the new admissions rate variable should use the three-year average as HUD’s internal analysis suggests. The program size variable should use a three-year average to protect programs from massive funding changes because of one time shifts in program sizes.

In general for the benefits load variable, the earned income variable, the new admissions rate variable, and the program size variable, NAHRO believes that a three-year period is an appropriate length of time. Our membership feels that the averaging out of three years would provide the optimal trade-off between the excess volatility that may occur without any averaging and the lack of responsiveness in the formula that may occur with a five-year average. While volatility will make planning harder, a lack of responsiveness in this factor may leave PHAs short-funded, if there are spikes or troughs in variable values.

**HUD seeks comment on its proposed approach to setting fee floors and ceilings.**

NAHRO does not have any suggested improvements to HUD’s method of setting fee floors and ceilings.

**HUD seeks comment on the proposed approach to limiting decreases and increases.** HUD seeks comment on whether the proposal to constrain the maximum percentage increase for gainer PHAs when necessary to ensure that the decliner PHAs’ fees do not decrease by more than 5 percent annually. In light of the comments expressing concerns about insufficient funding and the potential adverse impact on the new formula’s implementation—HUD seeks comment on whether the rule should provide that implementation of the new formula shall or may be delayed or suspended in the event that administrative fee funding is insufficient to the degree that implementation may seriously disrupt or impair PHA operations.

Although NAHRO recommended a different transition schedule in its previous comment letter, we stated that we would remain open to new suggestions and would seriously consider alternative proposals from HUD or other stakeholders. NAHRO’s membership believes that the ideal transition plan would be one that held harmless all those PHAs that were decliners under the new formula.

Should the above proposal fail to garner sufficient support within HUD, then NAHRO is pleased with the transition phase-in suggested by HUD. The phase-in tries to allocate money to gainers as quickly as possible, while controlling the rate of decline in administrative fees for decliner PHAs. While NAHRO declines to comment on absolute percentages or whether gains should be capped, NAHRO does believe that HUD should adhere to the principle that controlling the rate of decline for decliners at a small manageable yearly level should be highly prioritized ensuring that PHAs have the time to make the necessary structural changes to their programs that the new fee levels may require.

Finally, NAHRO believes that in the event that appropriated funding is not sufficient to limit the fee reduction for decliner PHAs to no more than 5 percent from the previous year’s fee per unit month leased (UML), HUD should have the authority delay implementation of the new formula without imposing significant fee prorations to the new fees. Again, NAHRO declines to comment on specific threshold
percentages or caps on gainers, but believes that this method should only be implemented if it would prevent the new formula from causing significant operational impairment for a significant plurality of PHAs.

**HUD seeks comment on the blended inflation rate, particularly the methodology proposed to account for inflation in wage and benefits costs and whether HUD should consider using regional data for the inflation factor where available.**

While NAHRO appreciates HUD’s lack of access to good regional data on wage and benefit costs, if there is data available for Consumer Price Index for All Urban Consumers (CPI-U) at the regional level, then NAHRO suggests that HUD use it. While the wage index and benefit variables may account for metropolitan and state differences, they only account for metropolitan and state differences in labor costs. By using regional data for the CPI-U, the formula will help account for regional inflationary differences in non-labor costs.

**HUD seeks comment on the homeless new admissions fee and how it relates to the ongoing administrative fee set forth in this proposed rule. HUD is interested in whether this additional fee would alleviate concerns about how the households with earned income variable might inadvertently impact homeless admissions.**

If HUD were to give supplemental fees for new homeless admissions and new HUD-VASH vouchers (as opposed to changing the base formula), as mentioned earlier, this would help to change the perception that the new administrative fee formula incentivized serving families with earned income over homeless individuals.

After consulting our membership, NAHRO does not believe that the amount proposed (thirty percent of the administrative fee annualized) is an adequate amount. Our membership feels that HUD does not understand the nature of serving homeless populations. The cost is ongoing and one time fees are not enough to cover the full costs. Additionally, our members would like to know how HUD will treat program participants that repeatedly cycle on or off the program, which happens frequently. Will the same program participant who is admitted more than once over the span of several years receive multiple supplemental fees?

NAHRO suggests either restructuring the base formula to include homeless program participants or thinking of another way to structure the payment so that it covers the duration of time the homeless program participant is being served as opposed to a one-time fee. Another alternative suggested by one of our members is to structure the payment in two steps. The first step is a one-time payment, which covers leasing-up the individual, while the second, ongoing payment, takes into account any chronic needs the individual has and depending on what those chronic needs are, pays more.

**HUD seeks comment on the new allocation fee for homeless new admissions and HUD-VASH new admissions and whether a fee equal to 30 percent of the PHA’s annualized ongoing administrative fee multiplied by the number of vouchers in the new allocation would be sufficient.**

After consulting NAHRO’s membership, NAHRO does not believe that this amount is enough for the HUD-VASH program. The reasons are similar to those mentioned for the homeless program participants stated above.
HUD seeks comment on whether the small area rent ratio or some other indicator that would address the variation in administrative cost as it relates to locational outcomes should be reconsidered for inclusion in the core formula. HUD also seeks comment on how to effectively structure an incentive fee for improving locational outcomes of HCV households.

As stated before, NAHRO does not believe that the administrative fee formula should be used to incentivize PHA behavior. In those instances where it makes sense, encouraging locational outcomes through voluntary programs is a laudable goal. The administration has proposed a mobility demonstration program, which is voluntary, offers regulatory flexibilities, and offers additional funding. The administrative fee is not the appropriate venue, but voluntary programs, like the mobility demonstration program, are better avenues to pursue those goals.

NAHRO greatly appreciates the opportunity to provide the Department with additional feedback and information on the new administrative fee formula. We look forward to continuing to work with HUD on this and other issues to balance all stakeholder considerations as HUD moves forward with promulgating new regulations.

Sincerely,

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