January 10, 2013

The Honorable Milan Ozdinec
Deputy Assistant Secretary for Public Housing and Voucher Programs
U.S. Dept. of Housing and Urban Development
550 12th Street, SW
Suite 4130
Washington, DC 20410

Dear Deputy Assistance Secretary Milan Ozdinec:

In lieu of HUD making more systemic revisions to PIC and VMS to fix inequalities in initial PHAs’ portability Housing Assistance Payments (HAP) and ongoing administrative fee payments that NAHRO has requested on behalf of our PHA members for years, for 2013 we urge you to implement a timely and simple change that would have the same positive outcome for voucher holders, PHAs, and HUD. In advance of portability rulemaking or reforms implemented through HUD’s Next Generation Management System (NGMS), through one or more timely and simple changes described below, HUD could provide meaningful and sensible relief to initial PHAs that have and would continue to experience HAP and administrative fee funding inequities. These funding inequities have diminished the number of low-income families that could be assisted, and therefore HUD’s progress against its strategic goals. To varying degrees, these HAP and ongoing fee funding losses to initial PHAs have been going on for ten years (from FY 2003 – FY 2012).

As you know, the only voucher HAP program expense that HUD uses to determine PHAs’ HAP eligibility based on PIC data rather than VMS, is portability billings. One example where this occurs (details below) is if there are portability billings where the initial PHA has its portability data properly entered into PIC and VMS for the calendar year (i.e. 2012), but where the receiving PHA that is billing the initial PHA, has not fully entered all of the relevant portability and leasing data into PIC under PIH Notice 2012-14. HUD’s PIH Notice 2012-14 suggests that initial PHAs attempt to work with receiving PHAs where there is a portability billing arrangement/agreement, to correct the receiving PHA’s improper coding in their 50058 submissions to HUD that would prevent initial PHAs from receiving 100 percent eligibility of their net HAP deficit expenses attributable to those portability billings. If portability billings are not fully accounted for in PIC, applicable initial PHAs do not receive reimbursement for their full net HAP deficit expenses to which they are entitled out of HUD’s HAP set-aside fund, and they are not paid ongoing administrative fees for voucher billings that remain unaccounted throughout the year. As is the case in other areas of voucher program administration, even though HUD has a PIH Notice for all PHAs to follow, not all receiving PHAs comply with it for all voucher-assisted households where there are portability billings. As a result, through no fault of initial PHAs with portability billings in these circumstances, initial PHAs to varying degrees
suffer losses in their HAP renewal funding eligibility and in their ongoing administrative fee earnings.

Listed below is a table from HUD’s “Regulatory Impact Analysis - Public Housing and Section 8 Programs: Housing Choice Voucher Program Streamlining the Portability Process - Proposed Rule.” The basic fact section of HUD’s analysis includes national figures:

<table>
<thead>
<tr>
<th></th>
<th>Month of March 2011</th>
<th>Annualized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of portable vouchers under lease</td>
<td>49,524</td>
<td>49,524</td>
</tr>
<tr>
<td>Total units under Lease</td>
<td>2,162,516</td>
<td>2,162,516</td>
</tr>
<tr>
<td>Percentage</td>
<td>2.3%</td>
<td>2.3%</td>
</tr>
<tr>
<td>Total HAP for portable vouchers under lease</td>
<td>$38,619,715</td>
<td>$463,436,580</td>
</tr>
<tr>
<td>Total Budget Authority</td>
<td>$1,413,075,669</td>
<td>$16,956,908,028</td>
</tr>
<tr>
<td>Percentage</td>
<td>2.7%</td>
<td>2.7%</td>
</tr>
</tbody>
</table>

Nationally, the total percentages of monthly and annual vouchers ported and their associated HAP costs as well as the potential subset of national figures that are attributable to inadequate reconciliation of port-billings for purposes of funding PHAs for their previous calendar year’s net HAP deficit expenses are things that HUD could determine by following a step-by-step query process described below and included in attachment A. At the local level, however, the extent to which the subset of initial PHAs’ leased vouchers and associated HAP expenses from port-billings attributable to the problem identified in our letter, when compared with each initial PHA’s annual leased vouchers and HAP expenses overall, likely outstrips 2.3 percent of vouchers leased and 2.7 percent of their HAP expenses attributable to port-billing data errors. At the local level, the adverse impact on initial PHAs’ ongoing administrative fee eligibility attributable to the subset of leased vouchers affected by this problem, coupled with the obligation to pay receiving PHAs 80 percent of the pro-rated ongoing administrative fee rate (even though the initial PHAs receiving no administrative fee revenues in these instances) is also considerable.

As you well know, the ratio of per voucher HAP cost associated with “port” billings between receiving PHAs versus initial PHAs is often 2:1 to 3:1. In cases where the proportion of an initial PHA’s calendar year voucher leasing and/or per voucher HAP expenses in one or more programs (i.e. HCV, HUD-VASH, FUP, etc.) from portability billings is substantial relative to their overall leasing and/or HAP costs, this is a very serious problem that is ultimately beyond their control and one for which HUD could provide significant relief with a modest measure. Additional administrative expenses are incurred by initial PHAs if/when HUD sends PIC reporting errors that include “port-out” billings that remain unresolved which are beyond their control to correct. Further potential financial sanctions and reduced SEMAP scores are also possible depending on the extent of adverse impacts on initial PHAs’ PIC reporting rates. If you look at this problem more broadly not only are initial PHAs adversely affected, but voucher holders (and in turn receiving PHAs) are also adversely affected, due to the fact that if/when initial PHAs have insufficient HAP monies they do not have to honor a voucher holder’s “port-out” request to move under 24 CFR 982.314(e)(1).
Instead of waiting to make portability IT system corrections for which we’ve asked in the past (attachment B) that will likely require longer term solutions, we urge you to implement one of the following short term solutions in order of preference where HUD could provide very significant relief with one or more modest measure(s):

1. **Provide Initial PHAs with Control Over their Port-Billing Eligibility:** Not much would change under this option other than HUD would give initial PHAs the access, functionality and responsibility for entering all of the Form 50058 information needed to start and complete a successful port-out where the receiving agency leased-up the voucher holder within the search time allotted on their voucher and is billing the initial PHA.

   This is largely what happens now under HUD’s current procedures (PIH Notice 2012-14) where “the initial PHA completes Part I of the Form HUD-52665 and sends it to the receiving PHA, along with a copy of the family’s voucher issued by the initial PHA, a current copy of Form HUD-50058, and copies of the income verification supporting the form. The receiving PHA sends Part II of Form HUD-52665 to the initial PHA. If the receiving PHA will bill the initial PHA, the receiving PHA not only completes Part II of the Form HUD-52665, but also attaches a copy of the new Form HUD-50058 before returning it to the initial PHA. The receiving PHA must complete and mail (which may include electronic mail or fax) Part II of the form within 10 working days from the date a HAP contract is executed on behalf of a family but with sufficient time so that it is received by the initial PHA no later than 60 days following the expiration date of the family voucher issued by the initial PHA.” This would entail the initial PHA still entering into Form HUD-50058 field 2a code 5 = “Portability Move-out (VO only)” and upon receipt of part II of the Form HUD-52665 and attached copy of the new Form HUD-50058 from the receiving PHA, the initial PHA enters the remaining necessary information into Form HUD-50058 to facilitate the financial transaction.

   This option may also pose some work for PHAs’ software providers, but if there is a change in HUD’s PIC requirements (which occurs up to two times each year), PHAs’ software vendors would eventually modify their products to accommodate this change.

2. **HUD Would Run “Port-Out” Comparisons and Provide Information to PHAs for Reconciliation:** Before an initial PHA has to deal with the process of contacting and reconciling inadequately or improperly coded “port-outs” that are being billed by a receiving PHA, the manual process that initial PHAs have to go through just to determine if there are “port-outs” past the anticipated search time on participant’s voucher is administratively burdensome. Initial PHAs have to run their Ad-Hoc Query report through PIC, which provides them with a voucher holder’s SSN, last name, first name, code 5 = “Portability Move-out (VO only)” and the receiving PHA’s Code. The initial PHA has to produce its Portability PIC Report including a voucher holder’s first name, last name, Alien Registration Number, Receiving PHA Code, HAP cost billed, last
effective action code, and the effective date of the last action. The initial PHA has to then cross-reference these two reports manually, to determine which code 4 = “Portability Move-in (VO only)” entries are correctly coded and which ones are not. Because HUD’s Voucher Management System (VMS) is set-up in such a way that does not allow PHAs to designate special purpose vouchers such as HUD-VASH, FUP, etc. in respective program-specific “port-out” fields but to include those figures instead in the single “port-out” field provided, those initial PHAs with special purpose “port-outs” have to go through an even more difficult process prior to determining whether or not all of their “port-outs” are properly accounted for by virtue of receiving PHAs properly coding and submitting these participants’ 50058 data.

This option involves HUD running queries with the data available to it (described below) and providing the results to initial and receiving PHAs in a timely manner, to help them identify the voucher participant 50058 data records and specific fields needing coding and/or proper coding to reconcile “port” billings for payment purposes. Attached, please find a description of the step-by-step process HUD would need to go through to identify for PHAs, ported voucher holder data that needs reconciliation in order for initial PHAs to receive accurate HAP and ongoing administrative funding based on 100 percent of their funding eligibility.

3. **HUD Would Provide Initial PHAs with Viewing Access Rights to Applicable Voucher Holder’s Form 50058 Data:** Not much would change under this option other than HUD would give initial PHAs viewing access rights to the 50058 household record (not additional functionality or responsibility for entering all of the Form 50058 information) for their applicable voucher holders with code 5 = “Portability Move-out (VO only)” from the initial PHA so that, unlike the existing system, initial PHAs would have the ability to see which specific household data is entered by the receiving PHA in PIC and then engage with the receiving PHA (and HUD if necessary) to reconcile in a timely manner the missing or incorrect 50058 data coding. If necessary, HUD’s Field Office Representatives should play an active role in helping facilitate the time reconciliation and submission of “port-out” billings so that initial PHAs can receive HAP and ongoing administrative fee payments based on their actual eligibility.

With each option above, HUD’s Field Office Representatives should play an active role in helping facilitate the time reconciliation and submission of “port-out” billings if necessary, so that initial PHAs can receive HAP and ongoing administrative fee payments based on their actual eligibility.

**Please know that we are urging HUD to implement this process in advance of PHAs’ application to the Department for category 1 under the HAP set-aside fund for portability reimbursement later this year.** The final appropriations bill was enacted for FY 2012 (P.L. 112-74) on December 23, 2011. HUD issued its implementing notice (PIH Notice 2012-9) on February 8, 2012 and HUD’s initial deadline for PHAs’ HAP set-aside applications was March 27, 2012. Using these same frame frames between events, if a final FY 2013 appropriations bill was enacted today (January 10, 2013) HUD’s initial deadline for PHAs’ HAP set-aside applications would be approximately April 14, 2013 at the earliest. With a FY 2013
appropriations bill up in the air for the foreseeable future, HUD’s HAP set-aside application deadline may be more like May 14, 2013 or June 14, 2013. Given the alternative solutions we recommend, we hope that the Department would be able to implement one or more of them as a short-term fix in time. In addition, NAHRO urges HUD to ensure that reimbursement to initial PHAs for their portability HAP deficit expenses in 2012 are pro-rated at 100 percent (or no lower) than the downward pro-ration as all PHAs’ base voucher HAP pro-ration. While the other eligibility categories within the HAP set-aside fund are also important, initial PHAs’ portability net HAP deficit expenses are identical in purpose and use to all PHAs’ base voucher HAP expenses for voucher participant households who did not “port” and should be treated accordingly.

After ten years under a budget-based HAP renewal formula (where many PHAs no longer receive enough HAP budget authority to lease to their ACC baseline), several of which have been under downward pro-rated HAP funding allocations and nine of which have been under downward pro-rated administrative fees, the financial consequences of HUD maintaining the status quo in this program area are untenable.

When Assistant Secretary Sandra Henriquez met with four Colorado PHAs and NAHRO in September 2012 to discuss and possibly advance six specific areas of regulatory relief that our PHA members from the Mountain Plains Regional Council of NAHRO first wrote to you and later met with you about in March 2012, Ms. Henriquez started by saying that when it came to these issues she wanted to figure out a way to “get to yes.” Citing a book that was first published in 1981 - “Getting to Yes: Negotiating Agreement Without Giving In” – was a really important overarching principle to us then, and one that is equally germane on this issue. It is in this spirit that we offer a series of new alternative options to HUD that we hope you will consider implementing in a timely fashion.

We urge HUD to come up with a timely way in 2013 to “get to yes.” NAHRO and a working group of PHAs that are willing to work with HUD on this are available. Please feel free to call us at 202-289-3500. Thank you for your time and consideration in this important matter!

Sincerely,

Jonathan Zimmerman
Senior Policy Advisor

cc: Michael S. Dennis, Director, Housing Voucher Programs
    Laure Rawson, Director, Housing Voucher Management and Operations Division
    Miguel Fontanez, Director, Housing Voucher Financial Management Division
    Carissa Riddle, Director, Housing Voucher Financial Management Center
Attachment A: Step-by-Step Process for HUD to Identify Ported Voucher Holder Data That Needs Correction by PHAs

Problem: Identify participants that have ported and may be incorrectly coded in PIC.

Logic: Participants in PIC who have an overdue recertification (and have not been terminated) or are marked as searching, MAY have ported to another PHA and that receiving PHA has not correctly reported the voucher as administered in PIC.

Step 1: Search for possible “orphaned” participants:
   - Search current and historical PIC data base by PHA;
   - Ignore all records with transaction code 6 (terminated)
   - Record all participants with last recertification date greater than one year
   - Record all participants with transaction code 9 (searching for a unit)

Step 2: Determine if “orphaned” participants identified in Step 1 exist at another PHA.
   Compare the list of participants identified in Step 1 against the universe of current PIC records. Identify any participant from Step 1 who has a current PIC record WITH A DIFFERENT associated PHA code.

Step 3: Determine if the participant is correctly coded as a port in administered voucher

Inspection of the most recent PIC record for the participants identified in Step 2. Determine if the record contains data for the port indicator and the ID of the PHA being billed. If data is missing indicating that the participant is a “port-in” administered voucher, log the participant.

Step 4: Create Cross Reference Report

Create a report sorted by PHA number. List on that report all the participants identified in Step 1 who are also identified in Step 3. The report would contain the participant Name, SS number, original PHA ID, last transaction code and date from the original PHA, the apparent receiving PHA ID, last transaction code and date from the “receiving” PHA.

Result - The report created in Step 4 would contain a list of participants who are still active but lack current PIC records at their “initial” PHA, and who appear at another PHA, and who are not coded as port in administered vouchers.
Attachment B: Excerpts from NAHRO’s Previous Correspondence with HUD Recommending Portability IT system Corrections

Use VMS Voucher Leasing and Cost Data for All Voucher Funding Purposes (excerpt from NAHRO’s memo attachment regarding HUD’s proposed portability rule – 05/29/12)

“From a policy perspective, improving the portability feature of the voucher program has been an important area of interest to senior HUD officials. Yet there is still need for HUD to improve the data used in PIC and VMS so that PHAs get 100 percent reimbursement and in a timely fashion for their net HAP deficit expenses resulting from the portability feature of the HCV program (described below). Reimbursement for PHAs’ net portability HAP deficit expense is the only item in all of HUD’s HAP calculations for PHAs that are still based on PIC data rather than on VMS data. For this to have to remain unfixed for ten years, illustrates the extent to which HUD operates in silos within and between Departments.

VMS has been in existence since FY 2003, with multiple adaptations of VMS and hundreds of millions of dollars to further improve it. Nevertheless, despite our repeated requests, HUD PIH has been unable or unwilling to make the necessary changes to VMS that the Department states it needs in order to determine 100 percent of PHAs’ eligibility for renewal HAP funding relating to PHAs’ portability billings.

NAHRO believes that HUD should be required to use VMS voucher leasing and cost data (rather than PIC data) for all HCV program-related funding decisions. HUD indicated through PIH Notice 2010-5 and through information posted on its website that the Department will use PIC data for voucher leasing and cost data in order to implement funding adjustments for portability (as opposed to using VMS data for this purpose). HUD employed the same approach in FY 2012. Portability is one of several categories where funding problems would continue to be created if PIC data is used instead of VMS data. The “Port Outs” field in HUD’s Delinquency Report for PHAs has a host of problems that would best be fixed programmatically by HUD PIH through the rulemaking process. However, there is an inherent problem that initial PHAs with portability billings that are dependent on receiving PHAs to correct data coding in PIC so that PHAs receive proper HAP renewal funding as well as accurate PIC reporting rates for SEMAP purposes. This is the process that HUD asks initial PHAs to undertake with a myriad of receiving PHAs with whom they have portability billings that are not properly coded in PIC.

PIC was not designed as a financial information system, whereas VMS was created at the direction of Congress for that very purpose. All PHAs report through the Voucher Management System’s existing fields on portable vouchers paid: port-out, as well as portable vouchers administered: port-in. This information on portability voucher leasing and costs in VMS provides HUD with the data it needs to determine each agency’s net portability HAP expenses under section 8(r) of the Act. After what happened in 2009 and HUD’s extraordinary actions to help remedy the funding shortfalls that took place in large measure due to HUD’s use of PIC data rather than VMS data for “mid-month” leasing, we believe that all interested parties wish to avoid such a crisis from occurring again through continued use of PIC data for portability reimbursement or for other funding purposes. With the considerable amount of money Congress has appropriated to HUD for its “Next Generation Voucher Management System,”
finally making the necessary improvements to facilitate accurate and timely portability reimbursements to PHAs should be achievable.”

Use VMS Voucher Leasing and Cost Data for Portability Reimbursement (excerpt from NAHRO’s regulatory comment letter to HUD’s proposed portability rule – 05/29/12)

“NAHRO recommends HUD use VMS data for voucher leasing and costs associated with portability rather than PIC data. NAHRO reviewed HUD’s explanation of how the Department arrived at the set of PHAs with known net portability HAP deficit expenses in its preliminary calculations. NAHRO is concerned about HUD’s method as it relates to the use of PIC data – as opposed to VMS data - to determine the reimbursement amount for PHAs with net HAP deficit expenses attributable to portability.

The “Consolidated Appropriations Act, 2010” (P.L. 111-117) states: “… Provided, That notwithstanding any other provision of law, from amounts provided under this paragraph and any carryover, the Secretary for the calendar year 2010 funding cycle shall provide renewal funding for each public housing agency based on voucher management system (VMS) leasing and cost data for the most recent Federal fiscal year…”(emphasis added)

To implement the FY 2010 appropriations law, HUD has to date used VMS voucher leasing and cost data for PHAs’ base renewal HAP funding. To implement the same appropriations law HUD has indicated through PIH Notice 2010-5 and through information posted on its website that the Department will use PIC data for voucher leasing and cost data in order to implement funding adjustments for portability (as opposed to using VMS data for this purpose).

All PHAs report through the Voucher Management System’s existing fields on portable vouchers paid: port-out. This information on portability voucher leasing and costs in VMS, provides HUD with the data it needs to determine each agency’s net portability HAP expenses under section 8(r) of the Act. PIC was not designed as a financial information system, whereas VMS was created at the direction of Congress for that very purpose.

HUD officials have expressed the Department’s desire to incentivize portability and remove barriers to portability. Properly reimbursing PHAs for their actual net HAP deficit expenses relating to portability billing in a timely manner through the use of VMS data directly relates to HUD’s larger public policy objective in facilitating portability. Currently PHAs are reimbursed a year to a year and a half after their portability billing expense at only a fraction of their actual portability HAP expense. The Department’s use of PIC rather than VMS and a pro-ration of 69.34 percent from the $150 million set-aside fund in FY 2010, is a barrier to facilitating portability. Use of VMS data to facilitate monthly reimbursement to PHAs, would be a major improvement.

Regrettably, PIC not VMS was used as the data source for portability reimbursement in FY 2010. Without improvement to VMS with the $100 million provided by Congress in FY 2010, FY 2011 will feature continued underfunding of PHAs’ portability reimbursements using PIC not VMS data. Improvement in this area is essential to the success of portability reform.”