



National Association of Housing and Redevelopment Officials

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June 17, 2016

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW., Room 10276
Washington, DC 20410-0500

Re: [Docket No. FR-5928-N-01] Notice of Demonstration to Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing

To Whom It May Concern:

On behalf of our agency members--who manage over 970,000 units of Public Housing and 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 titled "Notice of Demonstration to Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing" published in the *Federal Register* on May 4, 2016.

NAHRO would like to thank the Department of Housing and Urban Development (HUD or the Department) for the opportunity to comment on this Demonstration to test the Uniform Physical Condition Standards - Voucher (UPCS-V) protocol. NAHRO hopes that its comments are given serious consideration as the Demonstration moves forward and HUD continues to revise the protocol.

This comment letter is divided into four primary sections. The first section articulates a concern about the cost of transitioning to the UPCS-V protocol. The second section details specific concerns about this UPCS-V Demonstration. The third section articulates concerns about the protocol itself, while the fourth section provides feedback on specific inquiries by HUD.

1. Cost of Transitioning to the UPCS-V Protocol

NAHRO believes that there will be a cost of switching from Housing Quality Standards (HQS) to UPCS-V. Although HUD has stated that the transition will be budget-neutral, absent additional evidence from HUD, NAHRO has difficulty believing this. If HUD continues to believe that the transition to UPCS-V will be budget neutral, then it should identify the variances in cost and how HUD believes the protocol will make up for them.

NAHRO worries that funding for the additional required electronic devices and other costs will not be covered by HUD. Other potential costs may include administrative costs for staffing, marketing materials,

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postage, and additional trainings. While HUD may provide some trainings, these may not address regional and local nuances. Local rent and eviction ordinances, rent control, and grandfather clauses will require Public Housing Agencies (PHAs) to have additional trainings based on local needs. Training courses may be several hundred dollars each. NAHRO strongly recommends that in HUD's next budget request to Congress, it includes funding for the required electronic devices and any other costs, as necessary, needed to implement the protocol. Asking for additional funding is completely within the scope of control of HUD and would indicate to PHAs, HUD's commitment to a smooth transition.

2. Concerns about the UPCS-V Demonstration

NAHRO has several concerns about the Demonstration. First, while NAHRO is pleased that HUD is proceeding with a Demonstration and is not prematurely implementing the UPCS-V protocol, NAHRO would like to note its dissatisfaction with one aspect of how the Demonstration is currently structured. The notice asks for comment on both the Demonstration and asks for volunteer agencies to be participants in the Demonstration. This creates a situation where potential applicant agencies are not clear about what they are volunteering for and the specific privileges and responsibilities of participating in the Demonstration. For many agencies, a decision to participate requires a detailed knowledge of the nature of the Demonstration that the agency is participating in, so that the agency can conduct a cost-benefit analysis about whether participation is in its best interest. In the future, NAHRO recommends that HUD first solicit comment on a Demonstration, then finalize the Demonstration structure, and, finally, publish another notice asking agencies to participate in the Demonstration.

Second, NAHRO is worried that some of the general participation requirements are tailored too narrowly. We worry that these requirements will not allow for HUD to select from a diverse group of applicants so that the UPCS-V protocol can be tested in a variety of scenarios. Specifically, NAHRO is worried that the requirement that a "PHA must conduct at least 10 inspections per week, and the geographic spread of those inspections should be such that 90 percent of inspections are accessible within a 30 mile (or 1 hour) driving range."¹ This requirement would require that a PHA have at least 520 units that require inspection. This will exclude a great deal of small PHAs. NAHRO anticipates that small PHAs will have the greatest trouble implementing UPCS-V. It is essential that HUD include these smaller PHAs so that HUD knows that the UPCS-V protocol is workable on PHAs of any size. The majority of PHAs are small agencies, defined as 550 units or less, and the vast majority of those PHAs will not be able to participate in the UPCS-V Demonstration as it is currently structured.

NAHRO is also concerned about the number of available Demonstration spaces available to participants. NAHRO suggests increasing the size of the Demonstration to include more PHAs. NAHRO believes that the best way to make sure that the transition to UPCS-V is a smooth one is to make sure that UPCS-V is tested by a wide variety of PHAs under many different conditions. To ensure that it is tested in a wide variety of situations, HUD should create criteria that make sure that a diverse spectrum of PHAs are eligible for the Demonstration and to also make sure that a sufficient number of PHAs are selected. NAHRO believes that if there are more than 250 PHAs that want to participate in the selection that HUD accommodate them. This will be mutually beneficial to HUD and the PHAs because HUD will have more test data from the Demonstration and PHAs that want to participate in the Demonstration to make sure that their concerns are adequately expressed.

Finally, NAHRO is concerned that there are many small agencies that may want to participate in the Demonstration, but are unable to participate because they cannot afford the costs of purchasing the

¹ 81 Fed. Reg. 26,762, (Proposed May 4, 2016).

required electronic devices. HUD should find a way to allow these agencies to participate. This will, again, be mutually beneficial in that it will allow HUD to discover the issues with the UPCS-V protocol that affect small PHAs, of which there are certain to be many, and it will allow those small agencies that want to be on the forefront of the protocol to have that opportunity.

3. Initial Concerns about the UPCS-V Protocol

NAHRO's members have voiced concerns about the UPCS-V protocol. These are initial concerns about the protocol and should not be taken as an exhaustive list of all potential concerns. The first concern is about the "minimum, standardized list of life threatening items that PHAs participating in the Demonstration must treat as '24 hour' deficiencies."² In many instances, this 24 hour period is not long enough to correct the deficiency. This is particularly true when a deficiency in this category is noticed on a Friday afternoon. Frequently, it is impractical to have the deficiency fixed on the next day, in the example--Saturday. Additionally, in situations where the tenant owns the refrigerator or stove, or pays for utilities, he or she may need a longer time to resolve the deficiency, as the tenant may not have the money to reconnect the utilities or repair or replace the appliance. NAHRO recommends a time period of between five and seven days. This period appropriately balances the need for the tenant to have a serious deficiency corrected in his or her unit with the realities of the logistics of having someone at the unit quickly and making sure the tenant is able to let him or her into the unit to make repairs.

A second concern expressed by our members involves small agencies in rural areas. These agencies have told us that their jurisdictions may encompass hundreds of square miles of rural land where there will be no wireless internet connections. One member even informed us that when she goes back to the building where the administrative office of her PHA is housed, it does not have a wireless connection either. It is crucial that HUD take into account those agencies that operate in areas without wireless connections and make sure that UPCS-V is designed with contingencies for those who operate in those areas.

A third concern of NAHRO's is that HUD not shift the responsibility of conducting inspections to outside contractors. NAHRO supports allowing those agencies with inspection programs to continue to operate those programs under any new UPCS-V protocol.

NAHRO also urges HUD to work with major software vendors as the protocol is being developed. This will ensure that the protocol will be usable by all of the major software vendors when they are crafting their custom software solutions. It will also ensure that the software vendors are familiar with the protocol when the protocol is finalized. NAHRO strongly encourages HUD to begin this collaboration immediately, if HUD is not already doing it.

² 81 Fed. Reg. 26,761 (Proposed May 4, 2016).

4. NAHRO's Responses to HUD's Inquiries

NAHRO has the following responses to the specific questions posed by HUD in its notice.

- a. HUD is considering selecting for participation only PHAs that do not utilize contract inspectors. Are there any instances where an exception to this might be useful?**

NAHRO has received word from agencies that have contract inspectors that would like to participate in the Demonstration. Absent a substantive rationale for not including these agencies, NAHRO believes that agencies that use contract inspectors should be allowed to participate. Again, NAHRO would like to stress the need to test the protocol in a variety of situations.

- b. Will utilizing commercial, off-the-shelf hardware, such as internet connected tablets or smartphones, reduce the barriers to participation for PHAs as opposed to having PHAs use more specific devices such as those required for other HUD UPCS inspections?**

NAHRO notes that one of the largest obstacles to the successful transition to the UPCS-V protocol from the HQS protocol is the cost of devices. NAHRO strongly recommends that HUD ask for the funding to pay for devices nationally in its next budget request. If HUD is unable to pay for the cost of devices, then the device that should be selected is the one that will be the cheapest for the PHA to purchase.

It is a mistake to think that choosing internet connected tablets or commercially available smartphones would be ideal to use because PHAs already have them. While it is true that many PHAs already do their HQS inspections with these devices, there are still many PHAs that do not use electronic devices to do their HQS inspections.

NAHRO also does not believe it is acceptable to advise PHAs to ask their employees to use their personal devices or smartphones to conduct inspections. The use of personal devices raises personnel risks. For example, personal phones may harbor discoverable evidence in a legal action. Additionally, there may be concerns about storing data on landlords and tenants on unsecured personal devices, which may be accessed by family members.

- c. Are there other PHA characteristics that HUD should consider in selecting PHAs to participate in the Demonstration?**

Yes, as mentioned above, HUD should alter the characteristics of the PHA selections to make sure that HUD is selecting small agencies. Small agencies represent the majority of PHAs in the nation and small agencies are where the transition to UPCS-V will be the most difficult. Since HUD is testing more than just the UPCS-V protocol, but also the oversight and performance of the PHAs implementing this inspection protocol, it is essential that HUD not only strive for a diversity of unit types, but also a diversity of PHA size types. By including small agencies in the Demonstration, HUD will be better equipped to deal with problems that will occur in the nationwide transition from HQS to UPCS-V. By not including small agencies, HUD will not anticipate the vast majority of problems that will occur.

NAHRO strongly recommends that HUD use its flexibility in selecting PHAs to select a wide variety of PHAs with fewer than 550 units.

d. Are there other revisions outside of the UPCS criteria that HUD should consider when moving toward a single inspection protocol?

There are several things outside of the UPCS criteria that HUD should consider when moving toward a single inspection protocol. First, HUD should give serious consideration to ensuring that there is adequate technical assistance for PHAs that are transitioning to the UPCS-V protocol. This technical assistance should encompass both in-person training and online training as well as include clear and concise written documentation. Second, HUD should make an effort at landlord outreach to alleviate any concerns that landlords may have about the new protocol. We have heard from our membership, especially those that operate in tight rental markets, that they are concerned that the transition to the UPCS-V protocol will drive landlords from the Housing Choice Voucher (HCV) program. NAHRO believes that HUD should be making a national effort to address landlord concerns about the protocol immediately. Finally, the Department should make sure that it implements a multi-year transition period, after the Demonstration ends, when it implements the protocol. It should also make clear to stakeholders that it intends to implement a multi-year transition period after the end of the Demonstration.

Again, NAHRO hopes that HUD will carefully consider these comments as it moves forward with the UPCS-V Demonstration.

Sincerely,



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