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PHAs' Voucher Leasing Rates Increase While Administrative Fee Pro-rations Remain at 90%

Since enactment of the "Quality Housing and Work Responsibility Act of 1998" (QHWRA), the first year that Public Housing Agencies (PHAs) began to experience administrative fee funding shortfalls was 2004. NAHRO regards the statutory administrative fee rates in effect immediately prior to the enactment of the "Quality Housing and Work Responsibility Act of 1998" (QHWRA) as the appropriate benchmark for determining the adequacy of ongoing administrative fee funding for each household assisted under the Section 8 Housing Choice Voucher (HCV) program. The blue bar graphs in NAHRO's attached bar chart show how enacted annual appropriations funding levels for ongoing administrative fees have compared with this benchmark and the green graphs show the percentage of authorized vouchers assisted under the HCV program.

PHAs' lease-up rates of voucher-assisted low-income households increase each year, while PHAs continue to experience 10 percent shortfalls in ongoing administrative fee funding as compared with the pre-QHWRA benchmark. In other words, PHAs of all types — city, county, multi-county and state — that administer the HCV program received ten percent less on average each year from CY 2004 – CY 2010 than they were otherwise eligible to earn for each household assisted under the program at pre-QHWRA fee rates. HUD estimates 90 percent pro-rations for both FY 2010 and under the Department's budget request for FY 2011.

It takes PHA staff and information systems to help low-income families and participating property owners succeed under the HCV program. Fortunately, from FY 2006 to FY 2010, Congress appropriated additional funds for both ongoing administrative fees and Housing Assistance Payments to help increase the number and percentage of families served. However, continuing an average 90 percent pro-ration in ongoing administrative fees for an eighth consecutive year will take its toll on the HCV program. Restoration of a 100 percent pro-ration in ongoing administrative fees will enable PHAs to restore their program operations and services to low-income families and participating property owners. With ongoing administrative fees representing approximately 9.3 percent of HAP renewal funds, the HCV program provides the nation with one of the most economically administered programs. NAHRO's FY 2011 administrative fee and HAP funding recommendations for the Section 8 Tenant-Based Housing Assistance Program are included in NAHRO's 2010 Legislative and Regulatory agenda, which can be accessed online at: http://www.nahro.org/legislative/2010/nahro_2010_agenda.pdf

The ongoing administrative fee pro-rations in NAHRO's study do not include additional losses of operating revenue from the elimination of special fee funding for audit reimbursement, "hard-to-house" when assisting families that include three or more minors or a person with disabilities, lead-based paint assessment and clearance, closings for first-time homebuyers under the voucher homeownership program, or from conversion actions. Conversion actions include owner prepayment of a mortgage, owner opt-outs, HUD property disposition actions, and HUD enforcement actions. Special fees have been authorized but not fully funded for several years.

NAHRO Survey: Insufficient Admin. Fees Led to Reductions in Service

To help further gauge the impacts of administrative fee funding shortfalls from CY 2004 – CY 2008 on PHA services to low-income families and participating property owners, NAHRO conducted a survey of its membership which we published on September 30, 2009. A total of 44 PHA members from around the country responded to the survey. A brief summary of the survey results shows that from CY 2004 – CY 2008:

- ***Maintaining Overall Level of Service(s*): **79 percent of PHAs could not maintain the proportional level of service from 2004 - 2008 per voucher-assisted households and owners when compared with 2003. Of these agencies, 39 percent cited insufficient administrative fees; 49 percent cited insufficient Housing Assistance Payment (HAP) funding, Net Restricted HAP Assets (NRA) and administrative fees; and 12 percent cited insufficient HAP and NRA.

- ***Type(s) of Service(s) Lost:*** The types of services PHAs had to eliminate or reduce due to admin. fee reductions included: services provided beyond the minimum needed to perform eligibility verifications and dwelling inspections; housing counseling services; vacant unit listing services; fraud investigation services; and one-on-one interviews. Other effects included delays in conducting move-in inspections; a decrease in staff days and hours worked per household and increased caseloads; increased staff response time to answer telephone calls; reduced staff time to help families with social service referrals; discontinuation of the FSS program due to insufficient funding; reduction or elimination of staff to assist owners. One agency had to consolidate with two other agencies to form one PHA.

- ***Staff Layoffs:*** 35 percent of PHAs laid off staff. For these agencies, an average of 16 percent of their Full-Time Employees (FTEs) were laid off.

- ***Leasing Families with Insufficient Admin. Fees:*** 32 percent of PHAs were adversely affected in their ability to lease the total number of families that they could have otherwise served with the HAP funds and additional net restricted HAP assets available to them. Among the 32 percent, the average percentage of additional families they could have served (not to exceed 100 percent of their authorized vouchers) with 100 percent funding of pre-QHWRA administrative fee rates was approximately 8 percent per year.

- ***Agency Faced or Facing Terminating HAP Assistance on Behalf of Voucher-Assisted Families:*** 32 percent of PHAs have been in a financial position where they were working with insufficient HAP and net restricted HAP assets, such that they were forced to terminate housing assistance to participating property owners on behalf of voucher-assisted households from 2004 - 2008. 42 percent of the PHAs that were facing the possible termination of housing assistance to existing families under lease used their administrative fee funds to pay for voucher-assisted households' Housing Assistance Payments in order to prevent an average of 11 percent of the families they served from having their housing assistance terminated.

- ***Restoring Lost Services and Serving the Maximum Number of Families with HAP and NRA Available:*** In order to restore their PHAs' staffing and services to maximize the number of families they served with the total amount of HAP funding and net restricted HAP assets available to their highest level from 2003 to 2008, PHAs estimated that they would need an 18 percent increase in total administrative fee funding when compared with 2008 pro-rated funding levels.

- ***Quantifying Restoration of Lost Staff if Administrative Fees Were Increased:*** If PHAs were to receive an average 18 percent increase in total administrative fee funding compared with 2008 pro-rated funding levels, specific measures they would take to restore their staffing back to their highest level of service from 2003 to 2008 included: hire more inspectors; hire customer service staff to develop a call center for customer support; relieve program staff of some inspection duties; hire another staff person and contract for fraud investigation services; restore the director to 100 percent full-time from 90 full-time; restore lost staff wages; provide staff COLAs that had been frozen for three years; provide staff salary increases; restore level of staff health benefits; restore staff retirement funding; automate inspection process; upgrade computers, software, printers and digital imaging equipment; purchase audio visual equipment; and restore staff trainings.

Of the PHAs in the survey, nine agencies administer 250 vouchers or less, seven agencies administer between 250 to 500 vouchers, 17 agencies administer between 500 to 1,500 vouchers, and ten agencies administer 1,500 or more vouchers. Of the PHAs in the survey, 42 percent operate in a city, 37 operate in a county, 19 percent operate in multiple counties and 2 percent operate state-wide. Of the PHAs in the survey, 16 percent operate in metropolitan areas, 14 percent operate in suburban areas, 41 percent operate in rural areas, 9 percent operate in metropolitan and suburban areas, and 20 percent operate in metropolitan, suburban and rural areas. At least one agency participated in the survey from each of the following states: AL, CA, CO, CT, IA, IL, IN, KS, MA, ME, MN, MO, MS, ND, NE, NM, NY, OH, OK, OR, PA, WA, WI, and WV. A copy of NAHRO's "HCV Administrative Fee Administrative Actions Survey" is available at www.nahro.org/legislative/2009/adminactions_survey.pdf

Legislative and Regulatory Status of HCV Program Administrative Fees

HR 3045, The Section Eight Voucher Reform Act of 2009 (SEVRA), would allow the Secretary of HUD to change the administrative fee rate and structure through regulation, rather than submitting its study recommendations to Congress for consideration of statutory changes. A provision in SEVRA would require that PHAs receive the same administrative fee rates for administering project-based vouchers even where a PHA has an ownership interest in a unit (including a unit owned by an entity substantially controlled by the PHA where voucher-assisted households reside). After years of advocating that HUD correct this practice held over from the previous administration through administrative means, NAHRO applauds the Department for making this correction in PIH Notice 2010-5.

NAHRO’s Recommended Solutions for HCV Program Administrative Fees

Require HUD To Provide HCV Program Administrative Fee Study to Congress Before Any Statutory Changes to Fees Are Made: NAHRO urges Congress to require HUD to provide its HCV program administrative fee study findings and recommendations to Congress and to retain its statutory purview of any changes to administrative fees.

Provide efficient funding for Housing Assistance Payments and administrative fees: In the last seven years (CY 2004 – CY 2010) PHAs administering the Housing Choice Voucher (HCV) program have experienced 90 percent pro-rations of their ongoing administrative fees due in part to HUD’s underestimates of the amounts necessary to fully fund those fees. Due to the range variables that affect the number of families that will be served under voucher program each year, it is difficult for HUD to properly estimate funding needs with complete accuracy. NAHRO’s September 30, 2009 survey of PHAs found that 32 percent of PHAs could have otherwise served 8 percent additional families (up to their baseline number of vouchers) with the HAP funds and additional net restricted HAP assets available to them, but were unable to do so because of insufficient administrative fees. In short, it takes PHA people and IT systems to help people. For a variety of underlying reasons known to Congress, there have also been significant amounts of Net Restricted HAP Assets unspent over the years. As a result, hard fought existing appropriated funds did not go to benefit eligible low-income households or provide 100 percent pro-rations to PHAs so that they could increase the staff and services necessary to make full use of appropriated HAP and NRA.

The current method of funding both HAP and administrative fees ***within existing appropriated funds*** could be improved upon by restoring a practice followed before FY 2003. NAHRO believes the most efficient method for providing adequate funding for administrative fees and HAP costs is to appropriate in one combined sum the full amounts necessary for both voucher housing assistance payments and administrative fees and to permit agencies to draw administrative fees at the pre-QHWRA rate for each family that leases successfully. This would restore appropriations practice with respect to administrative fees followed in fiscal year 2002 and prior years. (However, HUD information systems will now allow separate reporting of HAP and administrative fee disbursements.) Alternatively, if Congress opts to maintain categorical funding and reporting of appropriate administrative fees and Housing Assistance Payments, then NAHRO has recommendations for inclusion in the FY 2011 THUD Appropriations Act.

Enable full utilization of Section 8 HAP funding with limitation: The administration's FY 2011 budget proposes that Congress eliminate unit cap restriction imposed by past appropriations bills on the number of families that each PHAs may serve. This would allow PHAs to lease to the maximum number of families its funding would allow, regardless of the authorized number of vouchers permitted to the agency under its annual contributions contract with HUD. While attractive at first glance, this policy will tend to ratchet up the size of agency programs in a way that is unpredictable to appropriators and likely lead to downward pro-rations when implemented by HUD.

Many PHAs have significant NRA discrepancies compared with the amounts identified for them by HUD in previous years. HUD's assessment of some PHAs' NRA is significantly higher than actually exists. This had the effect of compounding the impact of distributional shortfalls to many PHAs around the country, by overstating a primary source of funding - NRA - necessary to deal with them. In 2009, Congress and HUD took extraordinary actions to help remedy funding shortfalls for PHAs facing terminating families, which took place in large measure due to HUD's wholesale use of PIC data rather than VMS data for "mid-month" leasing. There are other PHAs that experienced funding shortfalls due to the same HUD error, who could not lease turnover vouchers and ended up serving fewer families than they could have otherwise served with no financial remedy. HUD's FY 2011 budget plans to cement its inaccurate assessment and offset of PHAs' NRA, by busting the caps in PHAs' Annual Contribution Contracts (ACCs) and allowing the "haves" to serve greater numbers of families than their ACC voucher level and the "have nots" to serve fewer families than their ACC voucher level. NAHRO recommends instead, Congress require HUD to recalculate PHAs' proper NRA using VMS data and in accordance with PIH Notice 2009-13, without any new appropriations and ***entirely within the existing amounts of NRA nationwide***. To supplement this effort, NAHRO recommends reinstating a version of the "maximized leasing policy" that was standard practice in the voucher program in 2003 and prior years to maximize the number of families served with funding available to PHAs.

The drafters of SEVRA have considered this matter in some depth, and NAHRO believes that the conclusion reached in the current House version of SEVRA is instructive. SEVRA (HR 3045) limits over-leasing with undesignated HAP fund balances to 103 percent of a PHA's authorized baseline number of vouchers. However, there is no limitation on over-leasing (i.e., 104 percent or higher) using same-year appropriated funds. Therefore, should appropriators opt to eliminate the unit cap restriction as proposed by the administration, than NAHRO strongly recommends that Congress also impose limits on over-leasing applicable to the use of both undesignated HAP fund balances (and same-year appropriated funds as described above). While NAHRO supports the concept of increasing the total number of families served, NAHRO also believes that it is important to keep the historic tie between the authorized level and the actual number of families served, so that Congress knows who is being served and whether the voucher program is achieving its stated goals.

Due consideration is needed to ensure that appropriations act provisions allowing full use of funding do not contribute inadvertently to HAP pro-rations in subsequent years below 100 percent of eligible funding needs. In instances where an agency's funding level is below 100 percent, the number of families that the agency can serve in their communities can be significantly compromised and tenants whose assistance is terminated may experience hardship.

Preserve 2010 language relating to additional funds for administration of Section 8 programs: NAHRO supports the continuation of language from the FY 2010 THUD Act providing additional funding for fees needed to administer tenant protection rental assistance, disaster related vouchers, Veterans Affairs Supportive Housing vouchers, and other incremental vouchers.

Providing Equal Administrative Fees to PHAs for Owned or Substantially Controlled Units: The costs of administration are substantially equivalent irrespective of whether a Section 8–assisted tenant resides in a unit owned by a PHA or a unit owned by another entity. In addition, PHAs administering vouchers in the HCV program or for the PBV program, where they own or substantially control an entity that owns a development where voucher-assisted households reside, are also required to contract with another eligible entity to perform initial Housing Quality Standard (HQS) inspections and rent reasonableness determinations to make a rent offer consistent with their determination for each dwelling unit. Fortunately, HUD ensured that PHAs now receive equal administrative fees. HUD PIH notice 2010-5 states that "beginning in CY 2010, HUD will no longer provide a lower administrative fee for PHA-owned units. A PHA earns the same amount of administrative fee for a PHA- owned unit as it does for a non-PHA owned unit." NAHRO recommends that Congress enact statutory language to amend existing statute (42 U.S.C. 1437f(q)(1)(E)) to reflect HUD's practice in 2010.

Provide opportunities for small PHAs to apply for higher ongoing administrative fee rates: HUD Notice 2010-5 PIH, relating to the 2010 implementation of the Section 8 voucher program, in paragraph 5. A) 2) (b) provides a procedure to apply for and receive additional administrative fees by PHAs operating programs over large geographic areas. Previously, these additional fees were also made available to small PHAs. This change represents a narrowing of the categories of agencies to which these fees are potentially accessible. The 2010 Appropriations Act calls for distribution of administrative fees according to Section 8(q) of the Housing Act as existing immediately prior to the enactment of QHWRA. It provides in pertinent part:

> "*The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.*" (italics added)

If the intent of the provision is to make sure that fees made available for two particular types of programs that experience higher costs actually reflect those costs, there would not seem to be a rational basis for suddenly eliminating one of the two categories of programs mentioned in the statute, although NAHRO is aware that there is an effort in some quarters to urge the consolidation of small PHAs and small voucher programs. NAHRO recommends that Congress instruct HUD to resume the original practice of making these additional fees available to small PHAs.

Equal Fees for Both PBV and HCV-Assisted Units: Additional language would be needed to be added to SEVRA (HR 3045), to make sure that an equitable administrative fee rate for PHA-owned units applied for both PBV and HCV tenant-based assisted units.

HCV Program Regulatory and Administrative Reforms Should Be Implemented Now

Over the years, Congress has directed HUD to take regulatory and administrative actions to increase flexibility, reduce administrative burden and streamline program implementation, and to report on its actions to the Committees of jurisdiction. In advance of passage of SEVRA, Since August 2003 and in successive years, NAHRO has requested the Department to move forward with regulatory and administrative reforms. In the vast majority of cases, these regulatory and administrative reforms do not require any new legislation or additional appropriations. NAHRO's recommended regulatory and administrative reforms are available at: http://www.nahro.org/legislative/hudactnow.pdf.

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