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United States Senate

WASHINGTON, DC 20510

January 10, 2014

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The Honorable Shaun Donovan
Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

Dear Secretary Donovan:

I write on behalf of the public housing authorities (PHAs) across the state of North Dakota to request that you expedite steps to reduce the regulatory and administrative burdens that are impeding their important work to meet the critical housing needs in my state. While oversight is critical, we must be sure it is effective.

Since assuming office last year, I have held a number of meetings and affordable housing forums to discuss the housing challenges we have across the state. During these forums, I have heard of unprecedented budget cuts resulting in unsustainable program reductions. Like PHAs nationwide, North Dakota PHAs continue to strive to do more with less. Nevertheless, I understand program reserve balances have been depleted and reduced staffing levels can no longer keep up with the administrative burdens placed on these agencies.

I understand that to relieve some of the regulatory and administrative burdens PHAs are experiencing, they have requested that HUD reduce the level of regulatory and administrative program requirements on local housing authorities, particularly for those that have seen their program spending reduced rather dramatically. I am concerned that prior commitments made by HUD to help reduce administrative burdens have, for the most part, not been realized.

Specifically, the PHAs in North Dakota would like for HUD to take action by addressing the following areas of regulatory requirements:

Monitoring: HUD should reduce the level of program monitoring through reporting to the minimum statutorily accepted levels. PHA Plans (5-year), the Section 8 Management Assessment Program (SEMAP), and Public Housing Assessment System (PHAS), I'm told do very little in the provision of much-needed services provided by PHAs to their clients. Without the administrative funding to fully support the programs, PHAs should not be expected to retain the ability needed to meet all requirements of these programs and expend administrative resources needed in the preparation of mandated documents. Additionally, PHAs in North Dakota have asked that SEMAP and PHAS scores be considered advisory only.

Reporting: The Voucher Management System (VMS) and Enterprise Income Verification (EIV) System, although considered to be useful tools by PHAs, I'm told give cause for considerable administrative burden in these challenging times. Issues such as prior period adjustments in VMS

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or “false positives” in EIV often result in more work for PHAs that is unnecessary, especially during this time of historically low administration fee funding. In the case of VMS, allowing PHAs to use cash accounting instead of accrual accounting would dramatically reduce the administrative burdens of maintaining financial records for the voucher program. Using the cash method would prevent PHAs from having to repeatedly restate their financials for several months until there are no more retroactive HAP expense changes. In the case of EIV, PHAs often have access to more recent, more accurate information than that which appears in the system. As a result, HUD should provide PHAs with relief with respect to required use of the EIV system.

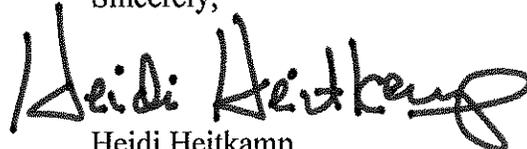
Inspections: As you are well aware, there is a \$28 billion deferred maintenance shortfall in our public housing properties and the annual Capital Fund appropriation falls short of the annually accruing needs adding to the overall shortfall. PHAs in North Dakota argue the so-called Physical Needs Assessment (PNA) requirement should be suspended. I understand many of the results to be realized by the PNA are already known to HUD through other reporting tools. I am also advised that implementation of the so-called Green Physical Needs Assessment, currently being developed by HUD, should be suspended. The assessment is costly and burdensome for PHAs to implement during this period of budget restraint and provides little or to no return on investment at the local level. Finally, PHAs in North Dakota feel strongly that any plan to replace the Housing Quality Standards (HQS) inspection requirement with another type of inspection process should be suspended until such time that administrative funds are adequate to provide training for the new process. Bi-annual, or even tri-annual, HQS inspections would reduce administrative costs by a considerable amount.

There are, I understand, many additional actions HUD could take to relieve the administrative burden on PHAs. Specifically, I refer you to the letter dated April 1, 2013, from Saul Ramirez, CEO of NAHRO, to Deputy Secretary Jones and to the letter I received from the members of the North Dakota Chapter of NAHRO dated October 4, 2013, which is attached.

Secretary Donovan, I know you are well aware of the fiscal difficulties PHAs across the nation are having in the provision of housing to the more vulnerable citizens of this great country and the unique challenges we face in North Dakota. It concerns me, however, that the Department is not taking more immediate and decisive action on the requests from PHAs for programmatic, regulatory and administrative relief.

Thank you for your timely attention to the issues. I look forward to your reply.

Sincerely,

A handwritten signature in black ink that reads "Heidi Heitkamp". The signature is written in a cursive, flowing style with a large, prominent "H" and "K".

Heidi Heitkamp
U.S. Senator



October 4, 2013

Senator Heidi Heitkamp
United States Senate
SH-502 Hart Senate Office Building
Washington, DC 20510

Re: Regulatory / Administrative Relief for Housing Authorities

Dear Senator Heitkamp:

As President of North Dakota NAHRO, which represents 35 Public Housing Authorities (PHAs) covering every county of the state, who administer and own 8,230 Section 8 Housing Choice Vouchers and 1,830 Public Housing units, respectively, serving the affordable housing needs of low-income elderly, disabled, and families with children in North Dakota, I am writing to ask you to urge HUD Secretary Shaun Donovan, Deputy Secretary Maurice Jones, and Assistant Secretary of Public and Indian Housing, Sandra Henriquez to immediately provide PHAs with much-needed regulatory and administrative relief. Said relief will ease the negative impacts of a decade of funding shortfalls, exacerbated by sequestration in FY 2013, which have severely affected our ability to administer these programs and adequately serve our communities.

Only twice in the last ten years have PHAs received full funding under the Public Housing Operating Fund formula. Right now, PHAs are receiving only 82 percent of the formula eligibility. PHAs' Public Housing Capital Fund, used to maintain and improve our properties, has seen draconian cuts this past decade. The Section 8 administrative fee, which is used for personnel and administration of voucher programs, is now funded at only 69 percent of formula eligibility. Furthermore, 94 percent HAP pro-rations have led to many PHAs not being able to lease turnover vouchers, leading to an eventual reduction in the number of families assisted and further damaging administrative fee earnings and attendant IT and staffing capacities. Nationwide, there have been significant and widespread staff layoffs, furloughs, reduction of work days, and not filling vacated positions, all of which has led to severely strained program operations. As a result of dramatic funding reductions, many PHAs are in a very difficult position of having to limit and reduce their program services and experience declining performance. The cost, scope, time and schedule requirements necessitated by existing program regulations and HUD assessment systems have inherent, competing constraints that adversely impact the quality of our program delivery.



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Given unprecedented shortfalls in both Public Housing and Section 8 Voucher programs, the need for meaningful intervention in the form of temporary but significant regulatory and administrative relief is arguably greater than it has ever been. Given these dire circumstances, we are asking you, Senator Heitkamp, to use your oversight authority of HUD to assist PHAs with securing timely regulatory and administrative relief. If implemented by HUD, the regulatory and administrative relief measures (listed below) which have been recommended to the Department for years without action, will enable us to direct scarce Federal resources towards meeting program outcomes rather than providing information that can be gathered and verified by HUD through other means for their oversight functions. We want to make sure we do everything possible within our ability to ensure that low-income household and participating property owners in the Section 8 Housing Choice Voucher program do not go un-served and Public Housing units do not fall into disrepair due to a combination of ongoing funding shortfalls and existing regulations promulgated during years of more adequate funding.

Under existing statutes and regulations, HUD “grades” the performance of PHAs on how they manage their Public Housing and Housing Choice Voucher (HCV) programs. For this purpose, HUD uses the Public Housing Assessment System (PHAS) and the Section 8 Management Assessment Program (SEMAP), respectively. We believe that *non-statutory* elements in HUD’s two assessment systems should be suspended and the scores made advisory, to reflect the limitations and adverse program impacts caused by sequestration and other recent multibillion dollar reductions in funding for both Public Housing and Section 8 Voucher programs. Specifically, we concur with the three housing authority associations (NAHRO, PHADA and CLPHA) that the *non-statutory* aspects of PHAS and SEMAP should be suspended while statutorily-required provisions are made advisory only. This is a recommendation that our national PHA Industry groups made to HUD for several years, to no avail. Attached are copies of their more recent correspondence with HUD on this and other regulatory and administrative relief recommendations.

Under our PHAS and SEMAP regulatory relief recommendations, HUD would still be able to pull data from various sources to assess potential risk of non-compliance and target its oversight resources to further assess performance and implement corrective actions with applicable PHAs where needed. Without this measured regulatory relief, the funding cuts in place will leave PHAs vulnerable to lowered PHAS and SEMAP scores that are largely beyond our control. Conversely, if you could help secure these measures, it would allow PHAs to direct limited resources toward core program responsibilities of serving families and participating property owners.

We respectfully request you urge HUD to take immediate action in the following areas:

- ***Public Housing Assessment System (PHAS):*** Although the 1937 Act requires the Secretary to assess agency performance, it does not require that scores be used for any purpose other than identifying troubled agencies. HUD should immediately designate all PHAS scores above 59 – the threshold for “troubled” PHAs - as advisory.

- ***Section Eight Management Assessment Program (SEMAP):*** Suspend SEMAP ratings until ongoing administrative fees are restored to a meaningful level above the current 69 percent pro-ration and Housing Assistance Payments are funded to a meaningful level about the current 94 percent pro-ration. Until then, HUD should provide PHAs with advisory SEMAP scores for *statutorily-required* only. Any “troubled” PHAs under SEMAP would remain subject to its Corrective Action Plan with HUD.
- ***Public Housing Operating Reserves:*** Public housing capital improvements should remain an eligible use of operating reserves for all agencies and this policy should be reinstated. Prior to February 2011 PHAs, under policy and in practice, were permitted to use operating reserves for public housing capital improvements. To ensure that sufficient funds were available to implement the 2012 operating reserves offset, the Assistant Secretary sent a letter to all PHAs stating that capital improvements were not eligible uses of operating reserves for agencies with 250 or more units of public housing. Although PIH 2012-2 extended the allowable uses, it referred to language in the FY 2012 appropriations act and has since elapsed. We believe that capital improvements remain an eligible use of operating reserves for all agencies and recommends that the Department formally reinstate that policy.
- ***HUD’s Waiver Process:*** Reinstated a functioning process through which PHAs may request and receive regulatory waiver decisions – either approval or denial - from HUD Public and Indian Housing Headquarters in a timely fashion. At a minimum, non-shortfall PHAs and all other PHAs that are not close to becoming shortfall PHAs in 2013 due to sequestration, that submit regulatory waivers to the HUD’s field office with all of the proper documentation and supporting should receive a timely up or down decision. HUD’s quarterly waiver approvals were published in the Federal Register on September 16, 2013 for the period beginning April 1, 2013 – June 30, 2013. Other than PHAs’ regulatory waivers regarding reasonable accommodation which is also governed by statute, Project-Based Voucher program, Rental Assistance Demonstration, changes of fiscal year-end dates and related unaudited financial audit submission deadlines under SEMAP, there was not one single PHA waiver request approved by HUD PIH relating to Section 8 tenant-based voucher programs from April 1, 2013 – June 30, 2013. In the meantime, many PHAs are being indirectly forced to not lease turnover vouchers as a HAP cost-saving measure, which will result in PHAs serving fewer households than they otherwise could in 2013. Left unchanged, this will also eviscerate PHAs’ ongoing administrative fee eligibility and permanently reduce the number of families they can serve in 2014 and beyond under the annual voucher re-benchmarking HAP renewal formula.

Listed below is a summary of the regulatory and administrative relief recommendations that HUD PIH committed to implement during an April 8, 2013 meeting with NAHRO, PHADA and CLPHA as well as the current status of each item:

Short-Term Reforms, to Be Implemented Within 30 Days from April 8:

Program Relief Measure	Status
Suspend issuance/implementation of final PNA rule	No PNAs will be required until at least June 2014.
Reduce/suspend PHA Plan requirements	Pending, but no completed actions.
Reduce/suspend EPIC reporting requirements	Pending, but no completed actions. No guidance has been issued.
Reduce/suspend Capital Fund P&E report	Pending, but no completed actions. No guidance has been issued.
Revisit 2013-3 titled, "Public Housing and Housing Choice Voucher Programs – Temporary Compliance Assistance" and relief under HUD's Enterprise Income Verification (EIV) system.	On June 1, 2013, HUD issued PIH Notice 2013-13 which extended the Department's existing notice on EIV until August 31, 2013. HUD states, "further streamlined guidance will be forthcoming in the near future."

Intermediate-term reforms, to be implemented within 60+ days from April 8:

Program Relief Measure	Status
Eliminate or reduce PHA plan requirements	Pending. HUD's FY 2014 budget request summarized the Department's plans to propose legislation in the Spring 2013 simplifying and improving the annual plan requirement. No legislative proposals have been announced.
Make financial and management PHAS scores advisory	Pending, but no completed actions. No guidance has been issued.
Suspend SEMAP scoring	Pending, but no completed actions.
Eliminate community service reporting and allow tenants to self-report participation	Pending, but no completed actions. HUD's FY 2014 budget included this proposal.

As you can see, we desperately need your help in getting HUD to follow-through and implement much-needed regulatory and administrative relief measures in a more timely fashion. For additional details on many of these recommendations, please find enclosed NAHRO's April 1, 2013 letter to Deputy Assistant Secretary Maurice Jones.

October 4, 2013

PHAs in North Dakota remain committed to the low-income families we serve and to their right to decent, safe and sanitary housing as required under program statutes and regulations. North Dakota PHAs want to ensure that applicants and program participants continue to have the protections afforded them under both Section 8 Voucher and Public Housing programs.

We appreciate your attention to this matter. Please do not hesitate to contact me should you have any questions or require additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terry Hanson".

Terry Hanson
Executive Director

Encl.