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June 16, 2016

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 Seventh Street SW., Room 10276
Washington, DC 20410-0001

RE: Retrospective Review – Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Programs Participants; Supplemental Notice of Proposed Rulemaking; Docket Number: FR–5850–N–03

Dear Sir or Madam:

The following comments are submitted on behalf of the National Affordable Housing Management Association (NAHMA).

About NAHMA

NAHMA members manage and provide quality affordable housing to more than four million Americans with very low to moderate incomes. Presidents and executives of property management companies, owners of affordable rental housing, public agencies and national organizations involved in affordable housing, and providers of supplies and services to the affordable housing industry make up the membership of NAHMA. In addition, NAHMA serves as the national voice in Washington for 19 regional, state and local affordable housing management associations (AHMAs) nationwide.

Comments

We are encouraged by HUD's efforts to provided transparency, flexibility, and "certainty" to the Previous Participation review process. We applaud HUD's efforts to revise and streamline the "2530" regulations. However, it was very difficult to provide meaningful feedback on the Appendix's Guide without knowing how public comments to the proposed rule were addressed. We hope HUD makes available all documents for public commenting, including regulatory changes, responses to public comments, and the draft Guide. We look forward to working with HUD to continue to improve the 2530 review process and have included recommendations below.

Controlling Participants –

Members are concerned that the Guide requires submission of an organizational chart and include individuals that are not considered to meet HUD's definitions of "Controlling Participant".

Recommendation: In regards to HUD's determination, please clarify in the Guide how a determination that an individual or entity does or does not exercise financial or operational control will be made. HUD should consider reviewing an organizational chart with the individuals identified as controlling participants highlighted and make the determination, before participants waste time submitting all of the data required for the people they "think" should be included.

Also, some of the exclusions are very helpful. (Tax Credit investors, Passive Participants, Minor Officers, Members of Board). Others are complicated – such as the less than 25% ownership interest, particularly having to aggregate your percentage with others with whom you have an identity of interest or conflict of interest (both are listed).

Definition of Risk

In the APPS system, the owner/agent can see Flags, but not "critical findings". This information was available only to HUD during review, but the owner/agent had no way to know it existed. In an effort to be transparent, it would very helpful for HUD to share their interpretations/classifications with owner/agents.

Recommendation: HUD should develop an easier method than program participants having to "Accept" every MOR and REAC finding, specifically having to "Accept" them on each entity. It is repetitive and unnecessary to "Accept" each finding on the ownership entity, the management entity, and each corporate officer's entity. It just seems like there should be an easier method.

We greatly appreciate the opportunity to comment on the proposed Previous Participation rule/supplemental notice. If you have any questions, please contact Larry Keys, NAHMA Director of Government Affairs, at lkeys@nahma.org or 703-683-8630, ext.111.

Sincerely,



Kris Cook, CAE
Executive Director