

## Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

National Affordable Housing Management Association - 526 King Street, Suite 511 - Alexandria, VA 22314  
Phone 703-683-8630 - Fax 703-683-8634 - [www.nahma.org](http://www.nahma.org)



November 19, 2003

NAHMAanalysis 2003-1119

### Late Housing Assistance Payment (HAP) Survey Results

#### Effective Date or Deadline

The information in this NAHMAanalysis is derived from a survey of NAHMA and AHMA members which was conducted from August 20 through October 3, 2003.

#### Background

Late HAP payments have been a chronic problem for affordable housing providers. For some time, NAHMA had been receiving numerous reports of late HAP payments from members. Likewise, the issue of late HAP payments has been a steady fixture on the agenda for industry meetings with HUD. As reports of late payments continued to surface, and with HUD's acknowledgment at the June 26, 2003 meeting that no relief was in sight, NAHMA began to take our concerns about this issue to Congress. However, congressional staff found it hard to respond to anecdotes.

It became apparent that successful advocacy efforts would require more specific information about the hardship late HAP payments cause owners and management agents. In late August 2003, NAHMA sent a survey to members and the AHMAs. The purpose of the survey was to determine: how frequently late HAPs were occurring; whether problems were limited to contract renewals; how much money was at stake; how long it took to receive the payment; whether the problem was limited to certain parts of the country; and whether owners and agents were given explanations why their HAPs were not paid on time. A copy of the survey is attached to this NAHMAanalysis.

In considering the findings of this survey, members should understand that the results should **not** be considered the "final word" on the issue of late payments. The survey was an informal, first attempt to gather nation-wide information on this problem. It represented NAHMA's best effort to begin quantifying the problem. The results should be interpreted with caution. This survey

was not conducted in accordance with scientific research standards. Responses are based on self-report, have not been independently verified by NAHMA and are often the best estimates of the respondents. For all of these reasons, the results summarized below should be considered approximations.

Despite the scientific shortcomings of the survey, it served a very useful purpose. The survey suggested many of NAHMA's assumptions about this problem were correct: many but not all owners and agents experience late HAPs; the problem is not limited to contract renewals; the problem is not limited to a particular geographic area; and project reserves are generally the "go-to" account to cover the shortfalls. Most importantly, it suggested that the number one reason why late HAPs occur is a factor beyond the control of owners and agents-- because HUD runs out of money.

### **Summary**

The survey was sent in late August to NAHMA members and the AHMAs, and the closing date was October 3, 2003.

Ninety-four responses were received from NAHMA and AHMA members. For the most part, responses dealt with Section 8 HAPS, although a couple of PRAC responses and a RAP were included. Several contract administrators (CAs) sent back comments, which were reviewed separately.

### **Key Findings**

**\*Nearly three quarters of respondents experienced a late HAP payment in the last 2 years.** Questions #1 indicates 72% of respondents experienced a late HAP. Overwhelmingly, late payments happened more than one time and on multiple contracts. If a respondent reported no late HAPS, no further information was taken from his or her response; in most cases nothing more was reported.

**\*Late HAPs were frequently associated with contract renewals, but were not limited to those times.**

In questions #2 and #3, respectively, 84% said late payments occurred at contract renewal, but 64% said late payments occurred at times other than just contract renewal.

**\*It is difficult to draw precise conclusions about how much money was owed.**

Answers NAHMA and AHMA members gave to question #4 indicated the amount of money owed ranged from less than \$1000 to several hundred thousand dollars. Members reported the most frequent ranges of money owed exceeded \$100,000 or fell between \$20,000 and \$30,000. In many instances, answers to this question represented the best-educated guess of the respondent.

**\*Most late payments appeared to have been received within 3 months.**

Questions #5 and #6 were intended to determine how long it took for members to receive their HAP payments. The most frequent answers to this question were: less than one month; one

month; two months; and three months. A fair number of respondents to this question still had not been paid. Again, many of these responses were estimates. Also, the substantial number of responses that were still awaiting payments warrant caution in the interpretation, because it is not known how long it ultimately took for those payments to be received.

**\*HAP Payments eventually returned to a normal schedule.**

This conclusion is drawn from responses to question #7.

**\*Late HAP payments occurred nation-wide.**

When members responded to question #8, “What state was the property which had the late payments located in,” California and Ohio came in first and second place. Colorado and Georgia tied for 3<sup>rd</sup>. These statistics should be interpreted very carefully, because a substantial number of survey responses came from Ohio and California members. Because of the unscientific and voluntary nature of this survey, NAHMA cannot definitively say there is a greater problem in California and Ohio; it may be that NAHMA and AHMA members operating in those states were more likely to respond to the survey.

**\*Members did not generally receive advance notice that their payments would be late.**

74% of the responses to question #10 reported no advanced warning. Generally, those who were notified said they learned their HAP payment would be late from a notice in TRACS or REAC, through their contact administrators, and in some cases, through their HUD field office.

**\*Paperwork for contract renewal was completed on time.**

Nearly every member who answered question #11 stated the paperwork had been completed on time. For purposes of this survey, the paperwork was considered “on-time” if owners and agents noted they had fulfilled their responsibilities.

**\*Lack of funding appears to be the root cause of late HAP payments most of the time.**

When members inquired about late payments, the reason given, normally from a contract administrator or HUD field office, was lack of funding. Examples given included: funds had not been received from Washington; budget authority had been exhausted; or the amount of money received was insufficient. For question #13, lack of funding was noted in 70% of the responses as the reason owners and agents were told their HAPS were late. Processing and technology problems, such as paperwork delays, problems with TRACS or LOCCS, were also offered as reasons. In a few cases, staffing issues—such as somebody was on vacation, or a new employee was being trained, were given as explanations. In many instances, there were combinations of these reasons.

**\*Reserves were the “go-to” account to cover shortfalls.**

Slightly more than half of the answers to question #14 indicated members were advised to use reserves to pay for operations on the property until the HAP funds were paid. This advice typically came from the HUD field office. In other cases, residual receipts were used or the manager received a loan from the owner. Of those who answered this question, 45% said they received no advice.

## Replies from Contract Administrators

A few contract administrators also responded to the survey. They also agreed that funding shortfalls were the root cause of most late HAP payments. One CA explained:

“Late payments are most often associated with a lack of contract funding. Please be aware due to congressional funding mandates, this issue affects not only contract renewals but also rent adjustments (except AAF adjustments). These funding actions are associated with the HAP contract’s expiration date (renewals) or anniversary date (adjustments). Assuming the owner / agent has submitted the required (and complete) package on time, neither the contract administrator nor the HUD local office can control the availability of Section 8 funds for either individual developments or the portfolio.”

## Issues of Concern to NAHMA

Survey responses indicate the root cause of late payments is insufficient funding at HUD. This is particularly disturbing because it indicates a broken “system” beyond the control of owners and managers.

HUD attributes much of the late HAP payment problems experienced in late 2002 and early 2003 to continuing resolutions to fund the federal government at the start of the fiscal year. Because HUD’s final Fiscal Year 2003 budget was not signed into law until February 20, the Department received 4 months worth of its funds through a series of temporary continuing resolutions funded at 2002 levels. This created budgetary uncertainty for an extended period of time. HUD, in consultation with the Office of Management and Budget (OMB), had to figure out how much money was necessary to fund contracts, and how much was available. Even after the final 2003 appropriations bill had been signed into law, a serious funding backlog had been created, which prompted one HUD staff member to speculate the agency “will never catch up.”

Fortunately, the lack of a signed FY 2004 budget for HUD should not be causing late payments at this time. HUD has assured NAHMA that it has enough money to fund the expiring contracts for the first quarter of FY 2004 (October – December 2003) and for contracts that expired in the fourth quarter of 2003 (July – September 2003).

Even after HUD’s annual appropriations bill is signed into law, gaps in funding can develop if the Department runs out of money before it receives its quarterly allocation. The money does not automatically flow to HUD. The money must be released by the OMB, which reportedly can take between 30 days to 3 months. Also, HUD does not receive all of its money for the year at once. Funding is released quarterly. HUD’s funding requests must be justified, which can take considerable time.

There are two key sub-issues that result from HUD’s funding problems. First, contracts can’t be signed until funding is in place. This slows the process even more because once the contracts are signed, it can take an additional three to four weeks before owners actually receive funding. One frustrated manager explained why this policy is also slowing down rent increases,

“The LA HUD will not send out the approval of rent increases until after funding is received on the renewal of the contract, in some cases this is 60+ days after the contract has started. This requires additional staff time to go back to input the rent increase after the renewal date. We submit the renewal and rent increase paperwork 120 days before the start of the contract and in some cases do not receive the approval until 180+ days after the submission (HUD staff states they cannot approve until after funding is received).”

Using reserves to cover shortfalls creates an undue hardship for properties. Borrowing from replacement reserves is a time-consuming process. One commenter wrote, “...even when HUD processes quickly (and that depends on the servicer) the Mortgage Company is not always quick with the release, especially if the [reserve for replacement] funds are invested as HUD requires.” In the words of another manager who had to borrow from replacement reserves,

“Considering the circumstances, you would think that HUD would allow a more ‘streamlined’ withdrawal process, to hurry-up the money to the property, but instead, we had to follow the same procedures we would ordinarily follow to get funding from the reserve—which would take weeks. It was nail biting for us as we were concerned that services to the property would cease because contractors and service providers were waiting to be paid, etc.”

The late payment problem is particularly acute for small properties. Consider the comments of this operator,

“On one particular property, [a] 52 unit property with a 34 unit HAP set aside, that was not contract renewal, we were totally taken by surprise when no money came for almost 90 days. This property had only enough reserves to cover the minimum and counted on that HAP payment to make mortgage. The mortgage company gave us NO slack! My contract administrator could give me NO information as to when [I] could expect payment—my owner was not in a position to pay the mortgage or the vendors—I was in a real bind and I felt like no one really cared, it was just part of doing business.”

Private-sector owners and managers play an important role in providing quality affordable housing. Unfortunately, many NAHMA members have come to believe that this situation will not be resolved until some sort of penalty is assessed on HUD for making late payments. If the problem with late HAP payments continues, responsible owners and agents will be more likely to opt-out of HUD programs, and needy families will have even fewer housing options.

### **Positive Aspects of This Policy/Proposal**

One possible improvement to this scenario may come through HUD’s plans to convert all CA contracts to performance-based contract administrators (PBCAs). As a result of the conversion, HUD would pay all vouchers through the same database. Currently, non-PBCA contracts are paid through the HUDCAPS system, rather than TRACS. A couple of respondents specifically

mentioned they had problems with timely payments when non-PBCAs were involved. A manager who responded that late payments occurred at other than contract renewal times stated, “Yes, mainly with non performance based contract administrators.” Later, the manager noted, “Each contract renewal that we have in Mississippi with a non performance-based CA we are 2 to 3 months late [receiving payments]. This happens each year.” With the conversion of all CA contracts to PBCAs and all vouchers paid through the same system, it is possible that some administrative problems can be curtailed and hopefully avoided.

### **NAHMA’s position**

NAHMA’s position is unequivocal: affordable housing providers must receive their HAP payments on time. NAHMA continues to work with HUD and with interested members of Congress to seek solutions to this problem. We have also reached out to other trade associations whose members are experiencing the same problems.

Based on the overwhelming number of members who reported the number one reason for their late payments concerned funding issues, NAHMA’s advocacy efforts will focus on improving HUD’s payment forecasting, ensuring HUD receives sufficient appropriations, and moving the money through the Office of Management and Budget and the Department in a timely manner.

Finally, NAHMA would like to express its gratitude to the NAHMA and AHMA members who responded to this survey. Your time and effort in helping us improve our advocacy efforts are greatly appreciated.

## **NAHMA LATE HAP SURVEY**

Dear NAHMA Member:

For some time, many of you have expressed displeasure that HUD has been late with HAP payments. In order to assist our advocacy efforts on your behalf both through legislative and regulatory means, NAHMA needs to get much more ***specific*** information from you about this problem. Please note that these questions are specific to regular HAP payments—not special claims, or anything outside of regular order. If you have NOT experienced late HAPs, please also let us know. We are trying to determine the extent of this problem.

### **Frequency of the problem**

1. In the past 2 years, have you experienced a late HAP payment?
  - a. How many times?
  - b. On how many contracts?

### **Timing of the problem**

2. Did the late payment occur at contract renewal time?
3. Have late payments occurred at times other than just contract renewal?

### **Magnitude of the problem**

4. How much money were you owed in late payments for each contract that was late?

### **Duration of the problem**

5. When was the HAP payment supposed to be paid?
6. When did you actually receive the late payment?
7. Was the late payment a one time glitch which was paid at once, after which payments resumed as scheduled?
  - a. Or, were there a series of staggered late payments?
  - b. Did payments eventually get on the normal schedule?

### **Administrative Issues**

8. What state was the property which had the late payments located in?
9. What HUB?
10. Were you notified in advance that your payment would be late?
  - a. If so, by whom?
11. Was the paperwork for the contract renewal completed on time?
12. When you were not paid on time, did you contact anybody (i.e. the Contract Administrator, the HUB, the HUD field office, or HUD HQ) to find out what was wrong?
  - a. If so, who exactly did you call (i.e. the Contract Administrator, the HUB, the HUD field office, or HUD HQ)?
13. Were you given a reason why the payment was late by this entity?

- a. If so, what was the reason?
14. What, if any, guidance were you given about how to pay for operations on the property until your HAP funding was paid?
- a. By whom?

**Other Issues**

Please note any other specifics related to late HAP payments that NAHMA should be aware of.

Thank you in advance for your assistance.