

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

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Recommendations for Improving HUD's 2530 Previous Participation Process

Background

On April 13 and 14, NAHMA will participate in the Multifamily Housing 2530 Policy Task Force. HUD's Office of Multifamily Housing is hosting the Task Force in Washington, DC. Participants will discuss the 2530 process, identify problematic areas, and recommend solutions.

Task Force members were asked to submit a 2530 "white paper" in advance of the meeting. In preparation of the NAHMA 2530 white paper, we conducted a web-based survey of our members, as well as phone call interviews. The survey was open from March 13 through March 30. NAHMA's white paper reflected the findings of our survey and interviews. The survey was informal, and not conducted in accordance with protocol that would ensure statistical accuracy with a defined margin of error.

This NAHMAanalysis examines the concerns raised and the recommendations we advocated for improving the 2530 process in the NAHMA 2530 white paper.

Summary

When asked to rate the effectiveness of the 2530 program in our online survey, most NAHMA members responded that they find the program to be ineffective in almost every aspect.

Of the comments provided in both the online survey and phone call interviews, key concerns with the 2530 program centered on flags, identifying principals, and a need for greater transparency and clarity in the process. This feedback became the basis of NAHMA's 2530 white paper. Brief summaries of the concerns and our recommendations included in our white paper are discussed under the "Issues of Concern to NAHMA" and "NAHMA's position" sections.

Sampling of Key Survey Results and Comments

2530 Process Effectiveness Ratings

NAHMA's online survey asked respondents to rate, on a scale of 1 to 5, where 1 represented very ineffective and 5 represented highly effective, various aspects of the 2530 process. Sixteen members participated in the online survey. Most NAHMA members responded that they find the program to be ineffective in almost every aspect, as follows:

- Application process – Definitions and directions of who should file, when and how – 64% rated this aspect somewhat ineffective, 7% very ineffective, for a total “ineffectiveness rating” of 71%;
- Notification that a flag exists or has been placed in participant's files – 21% rated this aspect somewhat ineffective, 71% very ineffective, for a total ineffectiveness rating of 92%;
- Tracking of application and/or notification process by participant – 21% rated this aspect somewhat ineffective, 50% very ineffective, for a total ineffectiveness rating of 71%;
- Getting information from HUD on details of the flag (why it exists, etc.) – 58% rated this aspect somewhat ineffective, 25% very ineffective, for a total ineffectiveness rating of 83%;
- Process for resolving issues related to the flag and communicating these to HUD – 55% rated this aspect somewhat ineffective, 27% very ineffective, for a total ineffectiveness rating of 82%;
- Securing removal of flags once issues are addressed – 42% rated this aspect somewhat ineffective, 33% very ineffective, for a total ineffectiveness rating of 75%;
- Overall timeliness and efficiency of 2530 process – 36% rated this aspect somewhat ineffective, 36% very ineffective, for a total ineffectiveness rating of 72%; and
- Overall fairness of 2530 process – 31% rated this aspect somewhat ineffective, 31% very ineffective, for a total ineffectiveness rating of 62%.

See the Appendix at the end of this NAHMA analysis to read selected comments on the effectiveness ratings for the 2530 process, the main aspects of the 2530 process that members would like to see changed, and recommendations for designing an “ideal” 2530 process.

Issues of Concern to NAHMA

The most frequently identified areas of concern in the online survey involved 2530 flags, determining which principals should be listed on the 2530, and the lack of transparency in the

entire process. Comments offered by survey participants are consistent with issues raised at NAHMA meetings and during other discussions with members about this process.

This section includes excerpts from NAHMA's white paper which summarize members' major concerns about the 2530 process.

FLAGS

a) The whole process surrounding getting a 2530 flag – and not being informed you have one, having all potential new work come to a standstill while you try to figure how you got the flag, whether it was warranted, and how to address it – serves as a serious disincentive to management companies taking on or staying with troubled properties.

This problem is exacerbated by the “under 60 REAC score” protocol of almost automatic flagging, and becomes even more problematic for larger management companies with dynamic portfolios. The current “mood” among management companies is to seriously consider avoiding troubled properties, so as to avoid the hassles of getting a flag, which will stop all of their potential new deals across the country. The harm to the management company in being stymied and missing new work, and the damage to the reputation with financial and other business partners, is very real, and companies will forgo working with troubled properties to avoid this harm.

b) There is no consideration for the “weight” of one flag on a participant's record, versus the size of the portfolio – in other words, “all flags are equally important and of equal weight” – but the feeling is that this shouldn't be so. If you have 250 properties and 2 flags, or have 5 properties and 2 flags, there may be a difference in company performance and management. Also, some flags might be more for “misdemeanors” versus “felonies,” but again, they have the same weight and effect.

PRINCIPALS

The 2530 process does not fit well with the current reality of complex layered financing, in determining which Principals to report, and how deep to go into complex partnerships. There doesn't seem to be a balance in considering how deep to report, versus what real control (i.e., very limited) some of the very removed Principals might have in running a property.

OVERALL TRANSPARENCY

The whole 2530 process needs to be clearer, more transparent, and more efficient. The perception now is that an owner/manager needs to “know” someone inside HUD to be able to deal with the process and any problems that might arise. Many of the online survey comments illustrate this point. Our larger members report having to add staff who devote all or most of their time to addressing 2530 issues. Getting issues addressed takes significantly more time than it should.

Positive Aspects of This Policy

As demonstrated in the “Summary” section, members did not have many positive things to say about the 2530 process in its current form. Nevertheless, some members felt that a user-friendly automated process could improve owners’ and agents’ to keep track of flag-related information.

NAHMA does believe that HUD should be commended for convening the Task Force. We welcome the opportunity to participate in a constructive conversation with the Department about this important issue.

NAHMA’s position

In addition to identifying the key concerns about the 2530 process, NAHMA’s white paper also recommended ways to improve the current system. This section includes excerpts from the white paper which represent NAHMA’s position statements regarding how the three most commonly cited areas of concern could be improved.

FLAGS

Many concerns our members raised about flags could be addressed by: developing consistent, clear guidance on what it means to have a “flag”; including a system in that guidance for “weighting” flags based on seriousness of the infraction; providing an opportunity for the owner/agent to correct the infraction before a flag is placed; improving notification procedures when flags are placed; and providing publicly available information on adjudication of flags and the process for removing them. Also, members believe that a clear, user-friendly automation process could help address these issues by giving agents, owners, and HUD staff (HQ and field) access to the same information. It is apparent from member comments that existing policies are either not clear, and/or implemented inconsistently, and that this system which must operate consistently throughout HUD does not.

PRINCIPALS

Clearer guidance on which principals must be identified is essential.

OVERALL TRANSPARENCY

Again, members believe that a clear, user-friendly automation process could help. However, without much better training and consistent implementation by field staff in this area, automation will only speed up a system that works inconsistently. Automation will not address the substantive managerial and policy problems that have been identified in the survey responses.

Conclusion

Overhauling the 2530 process will most certainly prove to be a long-term project. There are many complicated issues that must be addressed in making the 2530 process more accurate,

efficient and user friendly. These issues include policy and technological matters. NAHMA's 2530 white paper represents the major "common denominator" items identified by members. It is by no means an all-inclusive list of problems and possible solutions related to the 2530 process. NAHMA welcomes continued input from members on this most important matter.

APPENDIX: SELECTED COMMENTS FROM THE ONLINE MEMBER SURVEY

1.) Selected comments on the ratings given included:

“The bigger the organization, the harder this becomes. 2530 appears to be designed for smaller organizational structures.”

“Our entity has a flag due to a drawn-out litigation process of a construction problem. Causes flag that won't come off until litigation is over; 2 to 3 years. Every single HUD office is handling this different and we may have 2-3 HUD offices submitting to HQ for the exact same flag. Takes too long to get an answer on the same flag over and over again.”

“We have been told of flags on a property during a 2530 request that is complete news to us. One was even an erroneous flag ‘accidentally’ put on our company for a site we had nothing to do with! Didn't hear about it until we submitted 2530.”

“Application is very poorly written, can be very confusing.”

“Once we determined the system (by trial and error) and have a list of HUD people around the country to call, we are able to get details.”

“Depends greatly on relationships that have been built with HUD personnel rather than an official procedure.”

“For companies managing large portfolios, several attachments listing the sites managed are necessary. There needs to be a software program written for adding and deleting sites to keep the alphabetical or chronological order. We have had to redo pages of attachments as our portfolio has changed.”

“The system needs to be able to differentiate between an ‘owner-only’ flag and a more broad-based flag, so that the managing agent isn't caught up by the owner-only flag when submitting a 2530.”

“Sometimes we receive an approved 2530 within 30 days and sometimes it may take over a year. We received one last week for a site that we do not manage. We had submitted the 2530 in October 2002 to announce a new owner of our management company. It came back in March 2004 with an unknown site stamped on the front page.”

“Definitions of Principal Participants unclear. Role of each Principal in project may be varied and leads to multiple entries/forms. (Example: Principal is President of management company which would manage proposed property and is also owner of different property. Must list all properties in which Principal has ownership interest, then all properties in which Principal is President of management company, then all properties managed by management company.)”

“Paper process requires a lot of information to fill out the form initially, but wouldn't be hard to maintain if the form were laid out better and there wasn't so much duplication; repeating every

update to property in multiple locations for each principal. The APPS program requires an unreasonably large amount of information, much of it not easily accessible, including detailed info on participants that may have a relatively minor role in property. The amount of time required to accurately conform with the process is excessive.”

“We are very concerned about the effect that REAC scores have on the 2530 process and therefore on the management agent’s ability to secure new business. Sites which receive REAC scores below 60 due to material errors and require database adjustments or other corrections to the REAC inspection must go through a lengthy process with REAC, headquarters and the field office. The appeal notwithstanding, the disputed score is immediately recorded on the 2530, resulting in a flag. We further take exception to the refusal of field offices to exercise their discretion in the placing of flags. The field offices have been empowered to use their judgment in placing and removing flags on the 2530, but we have experienced first hand the reluctance on the part of the field office to accept this responsibility. Field offices have also not communicated to owners/agents regarding their ability to postpone REAC inspections in cases where major rehab of a property is underway.”

“HUD staff always say that ‘a flag doesn’t mean you can’t get new business,’ it’s only a pointer toward a potential ‘risk’ in a certain portfolio. They need to understand – the reality of how the system works is that a flag DOES mean you can’t get new business.”

“A flag should never be placed for an ‘under 60 REAC score’ that is under appeal – it should definitely be held up pending resolution of the appeal.”

“The field offices really slow down the process. They tend to wait until a deal is about to close before they submit information on a flag to headquarters for resolution. They need to follow-up on a flag right away, and not wait.”

2.) What are the main aspects of the 2530 process that you think should be changed, and why?

“Automate as soon as possible so all field offices and owners can see the same information and a flag doesn't have to cause repeat processing by multiple offices. Automate so owner can see a flag without having to hope for a magical letter to be sent by HUD. Recognize the complexity of today's financing strategies. Limit the ‘roll up’ to a reasonable number of levels.”

“Must get on-line as soon as possible. Volume of paper needed must violate the government's own paperwork reduction act. Have stricter controls outside of HUD Central for placing a flag. Develop a better procedure for resolving flag items, other than tracking down the flagger and getting a phone call returned.”

“Establish a timeframe for properties you no longer have an interest in. We need to be able to get a list of any flags that are set. Clearer instructions as to whether to list individual officers of corporations. And if so, all officers, or just the ones making HUD housing decisions.”

“Headquarters must reaffirm the field office’s discretion to place or not place flags without fear of criticism. We were informed by a field office in New England that they were concerned about

exercising their discretion in the event that there was a future problem with a site where their judgment would be questioned. Excessive information requested in electronic version. Extremely time-consuming to set up, and the possibility of future problems due to the complexity of the system is high.”

3.) *If you were to give a “thumb nail” sketch of your ideal 2530 process, how would it work?*

“Owner keeps the 2530 updated in a web-based system and owner is also able to extract this information into a report for internal use. Owner is able to get response from HUD HQ that is communicated to all field offices simultaneously so we don't have to re-educate every field office we are doing business with.”

“APPs with complete directions for each step and detailed charts with examples to show how to input. Then, the ability to check the status on-line at all times.”

“Submit an electronic request for approval and receive a response within 48 hours.”