NAHMA™
NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

400 North Columbus Street
Suite 203
Alexandria, VA 22314
(703) 683-8630
(703) 683-8634 FAX
www.nahma.org

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Mr. Ben Metcalf
Senior Advisor
Office of Housing
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410

Dear Ben,

Thank you for the opportunity to participate in the April 25 industry stakeholder discussion about HUD's FY 2013 budget proposal to provide Section 202 "operating assistance" in lieu of capital advances. HUD's specific description of the proposal stated:

> "Under this model, for a portion of these funds, state housing agencies, in partnership with state health care agencies, will act as a delegated agent for HUD, taking advantage of efficiencies inherent in these same agencies' oversight responsibilities for tax credits, HOME funds or similar housing funding. Up to 3,450 units could be made available with support from this project rental assistance, assuming three-year upfront funding of contracts. In addition, HUD will continue to support and expand its service coordinator program supporting residents to live independently in the community for as long as possible. All of these changes better align Section 202 developments with health care reforms at the state and federal level and better support elderly residents as they age in place in the community."

HUD invited further comments from stakeholders at the conclusion of the meeting. NAHMA's answers to the Department's three discussion questions are respectfully submitted for your consideration.

General Consensus of NAHMA Members:

1. The "baby boomer" generation is aging, and the need for affordable rental housing to serve very-low income elderly households is growing. The traditional Section 202 framework (new construction with rental assistance) is still very necessary as the U.S. population grows older.

2. NAHMA members are open to discussions about alternative means of financing Section 202 properties.

3. The purpose of the Section 202 program has always been to foster new production of units to serve elderly tenants. HUD should continue to ensure that Section 202 funds, whether in the form of capital grants or operating assistance, are used to support construction of new housing for elders.

4. The proposal's strong emphasis on requiring grantees to serve the frail elderly and to demonstrate health care partnerships seems to blur the line between the Section 202 housing and assisted living facilities.

5. HUD must draw a bright line between the traditional Section 202 housing and assisted living. The costs and regulatory requirements for assisted living facilities are much greater than traditional Section 202 programs. Assisted living facilities often require licensing at the state level, they have higher insurance costs, and they have higher operating costs.

6. There is undoubtedly a need to provide more affordable housing options for the frail elderly. In fact, Section 202 sponsors already serve many frail elderly, some of whom have aged-in-place. To provide a higher level of assistance to frail elderly with health and service needs, HUD might look to its existing Assisted Living Conversion Program (ALCP) and FHA Section 232 Healthcare Facility Insurance Program rather than adding costly preferences in the Section 202 program.

Responses to HUD's questions for comment following the 4/25/12 Section 202 Convening & Discussion:

1. Allocating Funds

a. Given the limited amount of funds available, how should HUD compete the funds? Should HUD provide funds only to states, or directly to nonprofits or to both?

The competition for operating assistance should not be limited to states. In fact, a number of NAHMA members were uncomfortable with the idea of states competing against each other for the funding. It is simply not known if States would even be willing to invest the time and effort necessary to bid on the NOFA for operating assistance.

HUD proposed issuing a NOFA specifically for the states, who would then re-compete the funds to nonprofits within those winning states. If HUD moves forward with this plan, there should also be a separate competition for non-profits in the states that did not receive funding through a NOFA. Nonprofits should still have an opportunity to compete if they are located in states that either do not submit a bid under the NOFA or lose the competition. NAHMA has serious concerns about this approach, but if HUD does proceed with it, the process should be implemented as a demonstration program to gather data on what works best.

All things considered, NAHMA members would prefer that the competition for operating assistance take place at the national level among nonprofits. However, we are open to giving states a role in processing the grants for nonprofits that win the national competition.

b. *If both, what is the right mix of funds to award in the first year between states and nonprofits? What kind of other state affordable housing investments does it make sense to layer Section 202 into (E.g., LIHTCs, HOME, state affordable housing trust funds, etc.)?*

With the small amount of funding HUD is proposing, it would not make sense to divide the $100 million less than 75/25 one way or the other. A preferred ratio would probably range from 75/25 to 50/50. Without knowing how many states would actually submit a bid, it is hard to recommend an exact ratio.

Section 202 funds should be used to leverage as much federal, state and local resources as possible.

c. *If a state receives an award through the state competition, can a nonprofit in that state also apply for an award through the nonprofit competition?*

Nonprofits should be allowed to compete at the national level to fund projects located in states that did not receive funding either because the state did not submit a bid on the NOFA or because the state did not win a grant under the NOFA.

2. Long-Term Operating Assistance

a. *Should HUD add debt service as an allowable expense for new projects in order to help sponsors leverage private capital?*

YES, HUD should absolutely add debt service as an allowable expense.

b. *How important is it to continue to pre-fund the initial 3 years on a PRAC in this context?*

It's more important to make the term of the contract consistent with other HUD programs—a 20-year contract subject to annual appropriations. The 20-year contract is known and preferred by lenders.

3. Targeting

a. *How does HUD best ensure that every property assisted with Section 202 support a mix of elderly residents, including some with health and service needs and others that are active and healthy?*

The Section 202 program is currently supporting a mix of residents who are active and healthy, as well as those who are frail or near-frail. HUD should gather better data at the national level to evaluate the mix of residents that sponsors house at their properties.

b. *What kinds of preferences should HUD build into its NOFAs to prioritize projects that set-aside units for frail or at-risk of frail elderly? How should nonprofits evidence their relationships with service providers at application?*

Before adding preferences that will substantially increase operating costs and fundamentally change the nature of the Section 202 program, HUD should make better use of its existing programs to serve the frail elderly—the Assisted Living Conversion Program (ALCP) and Section 232 Healthcare Facility Insurance Program.

The ALCP provides grants to private, nonprofit owners of eligible developments to convert some or all of the dwelling units in the project into an Assisted Living Facility (ALF) or Service-Enriched Housing (SEH) for elderly residents aging in place. An ALF must be licensed and regulated by the State (or local government in the absence of state regulation). According to HUD's description of the ALCP program,

> "Assisted Living Facilities (ALFs) are designed to accommodate frail elderly and people with disabilities who can live independently but need assistance with activities of daily living (*e.g.,* assistance with eating, bathing, grooming, dressing and home management activities) ALFs must provide support services such as personal care, transportation, meals, housekeeping, and laundry." Similarly,
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> "Service-Enriched Housing (SEH) is housing that is designed to accommodate frail elderly persons or elderly persons with service needs who are aging in place. Residents are able to live independently but need assistance with activities of daily living comparable to services typically provided in a licensed assisted living facility, such as healthcare-related services. These supportive services must be available through a licensed or certified third party service provider."

Furthermore, the Section 232 Healthcare Facility Insurance Program is an FHA-Insured loan product that covers housing for the frail elderly, including nursing homes, assisted living facilities, and board and care. Section 232 may be used to finance the purchase, refinance, new construction, substantial rehabilitation of a project, or a combination of these options.

Finally, it is important to preserve the requirement that applicants demonstrate their experience in providing housing, but HUD should not be overly prescriptive about requirements for nonprofits to show their relationships with service providers. The current NOFA procedures are working well to ensure frail and at-risk frail elderly are served in Section 202 housing.

c. What kinds of health care partnerships (e.g., with Medicaid or Aging agencies) should state housing agencies have in place in order to receive an allocation of funds?

Again, HUD should not be overly prescriptive in its requirements. States already run the Medicaid program.

Sincerely,

Kris Cook, CAE
Executive Director