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
Office of Multifamily Housing
U.S. Department of Housing and Urban Development
Room 6106
451 7th Street, SW
Washington, DC 20410

Dear Mr. Metcalf,

Thank you for giving the National Affordable Housing Management Association (NAHMA) the opportunity to comment on HUD's discussion draft bills, the Section 202 Reform Act and the Section 811 Reform Act. We appreciate the opportunity to make our members' views known on these important programs.

While NAHMA appreciates the need to stretch limited federal dollars as far as possible, we are concerned that the proposed program changes fundamentally change the nature and purposes of the Section 202 and Section 811 programs. NAHMA has a number of concerns with both pieces of draft legislation as written. We are particularly concerned about the following proposed changes:

- Replacing capital advances with gap financing; and
- Replacing PRACs with long-term project-based Section 8 rental assistance as amended by the Preservation, Enhancement, and Transforming Rental Assistance Act.

Nevertheless, we remain interested in working with HUD to improve these important rental housing programs.

General Comments

Gap Financing

NAHMA is very concerned about the possible consequences of replacing capital advances with gap financing to finance new Section 202 and 811 developments. NAHMA members report that they typically use the Section 202 and 811 capital advances provided by HUD to leverage outside funding sources to complete deals. HUD's draft bills would significantly alter the existing funding paradigm of the Section 202 and 811 programs, and in turn, may have the unintended result of deterring small and medium non-profits, which have limited capital and may find leveraging outside financing difficult. In addition, if a non-profit is able to secure outside financing without the help of a capital advance, there is no guarantee they will receive enough gap financing from HUD to complete the Section 202 or 811 deals. This may actually exacerbate development delays, or worse, prevent completion of the deals altogether.

Furthermore, we believe the draft bills over-rely on low-income housing tax credits (LIHTC) as a primary funding mechanism for Section 202 and 811 developments as HUD proposes. While NAHMA members are interested in creating mixed-finance and mixed-income communities using the LIHTC, we recognize that the housing credit, Section 202, and Section 811 programs all have different purposes and program requirements. The LIHTC program helps provide workforce housing to a broad cross-section of Americans making 60 percent (or less) of area median income. The Section 202 program is specifically tailored to serve the vulnerable *very low-income elderly* population. The Section 811 program is targeted to serving the *very low-income disabled* population. NAHMA supports the *option* for project sponsors to create mixed-financed and mixed-income properties. However, we do not believe using the LIHTC should be the *expectation* for the Section 202 and 811 programs. As noted, the purposes of the current Section 202 and Section 811 programs are to create vibrant communities of quality where seniors can age in place and where disabled individuals can live independently. Each of these programs has very specific regulatory program requirements, as well as different entities responsible for regulatory oversight. Developing and managing mixed-financed properties requires a great deal of regulatory sophistication, and may discourage new participants in the program.

We believe it is premature to dramatically change the financing structure for Section 202 and Section 811 without first assessing the feasibility of these changes through a demonstration program.

Long-Term Project Based Section 8 Rental Assistance under PETRA

In the 1990's, PRACs were introduced as part of HUD's Section 202 and 811 accounts, distinct from traditional project-based Section 8 rental assistance. The PRAC funding allocations are based on property budgets and operations, and complimented the capital advance program.

HUD's proposal would offer new Section 202 and 811 properties long-term project-based Section 8 rental assistance, as amended by the Preservation, Enhancement, and Transforming Rental Assistance Act (PETRA), instead of project rental assistance contracts (PRAC). NAHMA remains unconvinced that HUD needs a new rental assistance program for senior and disabled housing. We feel that applying PETRA, an untested idea with unknown impacts, to these important programs is unnecessary and premature. In addition, NAHMA has detailed our serious concerns with PETRA on several previous occasions.

If Congress does not pass PETRA, and HUD proposed awarding new project-based assistance contracts under the current project-based Section 8 program, we would still have concerns. Such a change would likely increase the growth of the project-based Section 8 budget. In light of our federal deficit-conscious era, the growth would likely result in calls for curbing spending, and thereby increase the likelihood of funding reductions for these crucial programs that serve specific populations over time.

Nevertheless, NAHMA does support the dissemination of some Section 202 and 811 funding for planning grants and technical assistance included in both pieces of legislation.

Comments Specific to the Section 202 Reform Act

Section 202 Preferences

In the draft Section 202 Reform Act, HUD has proposed changing the preferences for applicants that receive financing and rental assistance.

NAHMA is concerned by the inclusion of a statutory preference for applicants that reserve a percentage of units for the frail and near-frail elderly on page 6 (lines 19-22) through page 7 (lines 1-2). Our concerns also extend to page 9 (lines 4-11), which would only provide funding for service coordinators in properties that reserve a percentage of their units for the frail and near-frail elderly. NAHMA members strive to create quality communities with adequate services that allow elderly residents to age in place. Our members currently provide outstanding apartment communities to numerous frail elderly residents. We do not believe there is a need to build a preference for frail and near frail elderly into the *statutory* language.

The language on page 6 (lines 19-22) through page 7 (lines 1-2) and page 10 (lines 10-16) has a very limited focus on what would be considered appropriately licensed supportive services, like those funded through the Program of All-inclusive Care for the Elderly (PACE) and Home and Community Based Services (HCBS) Medicaid waiver programs. While we applaud HUD for seeking out additional funding for supportive services and services partnerships, we believe this approach is too limited. NAHMA members believe this shift towards licensed services blurs the line between assisted living facilities, nursing homes and the Section 202 program. HUD's approach neglects a number of supportive services programs at the state and local levels that do not require licenses, which may be just as effective for assisting the elderly population living in a 202 property. Furthermore, licensing requirements vary from state to state, effectively creating 50 different ways to administer services coordinated with the Section 202 program. Obtaining licensed services is also time consuming and expensive, which may place an excessive burden on the Section 202 applicant who is seeking to improve their preferences for selection. These services may also be expensive for the property—once it is in operation—to administer, limiting the resources they have available to assist their elderly residents.

Instead, NAHMA would suggest considering a preference in the notice of funding availability (NOFA) for those applicants that can provide supportive services geared toward serving the frail and near-frail elderly, without defining any specific funding or service providers. This eliminates the limited focus issue, while allowing the provision of services to meet a variety of elderly needs and help elderly tenants successfully age in place.

Section 202 Allocation of Funding

NAHMA is intrigued by HUD's proposal on page 14 (lines 1-3) of the draft to allocate and award funds over larger geographical areas, depending on the housing needs of elderly populations. We would be interested in having further conversation with the Department on this subject.

Comments Specific to the Section 811 Reform Act

Section 811 Delegated Processing

NAHMA is supportive of the inclusion of delegated processing for the Section 811 program in the draft Section 811 Reform Act on page 8 (lines 19-23) through page 9 (lines 1-15). Allowing the processing of Section 811 applications through State and local housing agencies may help cut down on the time it takes to approve an application and allocate funding, speeding up the process of creating new disabled housing.

Conclusion

HUD has proposed substantial statutory changes for financing and providing rental assistance under the Section 202 and Section 811 programs. We urge HUD to reconsider writing such major changes into the statute before testing the impact under small demonstration programs.

Thank you for considering NAHMA's comments. Please do not hesitate to contact me or Michelle Kitchen, NAHMA's Director of Government Affairs, if you would like additional information.

Regards,

Kris Cook

Kristina Cook, CAE
Executive Director