HUD Multifamily Rental Programs: Administrative Reform Opportunities

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PRESERVATION OF AFFORDABLE HOUSING

The US Department of Housing and Urban Development (HUD) operates rental assistance and capital programs which provide essential affordable multifamily rental housing for millions of low- and moderate-income seniors and families. In recent years HUD has made great strides in strengthening its administration of its multifamily housing programs – but further opportunities remain for administrative improvements which could improve efficiency, impact, or both. This memo suggests seven such opportunities:

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1. **Streamline compliance procedures for high capacity owners.** For high-capacity owners with large HUD-assisted portfolios and a strong record of performance, HUD should streamline its oversight procedures to eliminate redundant or repetitive reporting requirements and reduce HUD oversight costs, freeing resources which can be focused on troubled or at-risk properties or evaluating new, untested partners.

   For owners meeting defined criteria for balance sheet strength, portfolio scale, and compliance track record, HUD should (1) replace transaction-level "previous participation" reviews in favor of a single annual review; (2) streamline submission requirements for the TPA (asset transfer) and 8bb (subsidy contract transfer) processes; and (3) streamline underwriting and scope/design reviews for FHA financing applications.

2. **Respond more proactively to troubled properties.** HUD has a range of tools at its disposal to identify and resolve troubled properties, and should continue to enhance its processes to ensure those tools are deployed in a proactive, coordinated, and effective manner.

   To improve its capacity to identify at-risk properties, HUD should continue its efforts to (1) focus Real Estate Assessment Center (REAC) inspections and Management and Occupancy Reviews (MORs) on material physical issues and deferred capital needs and (2) update the Transfer of Physical Assets (TPA) process to better evaluate purchaser capacity, capital needs and resources, and long-term viability (and improve consistency across field offices).

   HUD should continue to strengthen coordination between REAC, Performance-Based Contract Administrators, the Office of Asset Management and Portfolio Oversight, and the Department Enforcement Center to improve early identification and intervention with at-risk properties. HUD should formalize its internal "best practice" for responding to properties identified as troubled, beginning with use of "action teams" of relevant HUD staff and local stakeholders to develop and implement response plans. Where HUD determines an existing owner cannot or will not correct problems, it should use receivership and other available tools to effect transfers to responsible, high-capacity long-term owners, and should maintain a pre-vetted stable of owners willing to take over and stabilize troubled properties.

3. **Delegate oversight responsibilities for stable LIHTC properties to the states.** A significant proportion of HUD-assisted properties are financed with, and regulated under, the Low Income Housing Tax Credit (LIHTC) program administered by state housing agencies. These properties are subject to redundant and inefficient double oversight during both the transaction phase and during their ongoing operations.

   For properties financed with LIHTC (or other state/local capital programs), HUD should devolve responsibility to the appropriate state agency for (1) underwriting and subsidy layering review; (2) design/scope review; (3) environmental review; and (4) ongoing physical inspections. Where HUD determines an owner or property represents a higher risk or if a particular state agency fails to properly oversee HUD-assisted properties, HUD should take on a higher level of oversight responsibility. HUD should work with IRS and the state agencies to develop shared forms to eliminate duplication of effort.

4. Align program administration, rules and definitions and refocus from compliance to performance. HUD's administrative infrastructure is organized around individual programs authorized by Congress at different times, with a focus on enforcing compliance with each program in isolation from other HUD and non-HUD programs. Because many affordable rental communities operate under multiple HUD programs, variations in program rules or procedures needlessly complicate the process of operating similar properties under different regulatory regimes.

   HUD should refocus from compliance enforcement to promoting high performance by creating an Office of Rental Housing to replace its current siloed administrative structure. Local housing authorities, private owners of HUD-assisted buildings, and independent landlords are all capable of providing high-quality housing at fair market prices, but each should be subject to the same rules and incentives and allowed to grow based on their demonstrated performance and efficiency. In the same vein, HUD should eliminate current prohibitions on nonprofits and housing authorities to use property income to grow their portfolios and improve their services. This will expand choices for struggling families and make it easier for HUD to see which providers can deliver the best services to residents.

   At the program level, HUD should coordinate resident income definitions and reporting requirements for the LIHTC program (which is now combined with HUD rental assistance in properties in every state), project-based rental assistance (PBRA, including Section 202 elderly housing and project-based Section 8) administered by the Office of Housing, and project-based vouchers (PBVs) currently administered by the Office of Public and Indian Housing. Similarly, it should consolidate and simplify the process and approval requirements for site and neighborhood standards across the PBRA, PBV, Section 8(bb) subsidy transfers, Choice Neighborhoods, and Rental Assistance Demonstration (RAD) programs.

5. Eliminate unnecessary and burdensome program requirements. Many HUD programs offer opportunities to improve efficiency and performance by cutting or streamlining rules and requirements which are well-intended, but unnecessarily burdensome and/or ineffective in practice.

   HUD should conduct a global review of its programs' submission requirements to ensure all requirements are justified. For example, the requirement (in some HUD offices) for a detailed review ("Full TPA") of property transfers between legal entities where the ownership and management remain functionally unchanged imposes needless costs and delays on both owners and HUD staff. Similarly, many programs require forms and certifications to be re-filed in their entirety after a specified time period regardless of whether the information remains accurate and current.

   HUD should also look for ways to better align its programs' transaction reviews with private sector transaction/closing practices. HUD often conducts transactional reviews sequentially, rather than simultaneously, with the result that often reviews are required (notably Choice Neighborhoods and some subsidy layering reviews) after all other parties are set to close, imposing costly delays.

   Finally, HUD should be open to more efficient ways to achieve its goals and reduce costs – for example, allowing owners to set utility allowances based on aggregated utility data, rather than requiring them to obtain individual tenant data releases to calculate annual adjustments.

6. Update IT infrastructure to improve program effectiveness and strengthen oversight capacity. HUD has an opportunity to improve coordination across its programs by replacing its program-siloed legacy IT systems with new enterprise-level systems.

Implementing a new "enterprise data warehouse" would allow better access to comprehensive portfolio data for analysis and performance management – enabling HUD more readily to evaluate trends in property performance by common owner, manager, or other shared traits, for example. Similarly, a new customer relationship management (CRM) system could centralize and streamline HUD's interactions with its owners, grantees, and other stakeholders, replacing a number of cumbersome and inflexible program-specific platforms. For example, HUD's Active Partners Performance System (APPS), created decades ago, can take 10 days just to set up a new owner entity – imposing unnecessary delays on many transactions.

Finally, HUD should invest in improving its systems' ability to adapt to changes in its programs. For example, Congress extended the Family Self Sufficiency program (FSS) to Section 8 assisted properties in late 2015, but the Tenant Rental Assistance Certification System (TRACS) will not be able to accommodate full FSS reporting until late 2017. All of these infrastructure improvements will require Congress to make appropriate investments over a period of several years, but will vastly improve program oversight, administrative efficiency, and promote better delivery of services.

7. Revise program rules and procedures to promote resident earnings growth. HUD's rental assistance programs are built on the premise that a household can afford 30% of income for rent – but HUD could promote work and earnings by making the income-rent link somewhat less immediate. Under the current regime, a resident who gets a new job, takes on more hours or accepts a promotion must immediately report the change so that her rent can be increased, which may reduce the incentive to take those positive steps. HUD can undo that disincentive by implementing new authority which would require income recertifications no more than once per year, and by scaling up other promising models tested in "Moving to Work" public housing authorities.

   HUD should also seek to expand participation in the Family Self Sufficiency program, which provides a powerful earnings incentive by allowing participants to save rent increases attributable to earnings growth. HUD should improve the impact of FSS by allowing participants to escrow savings until their income reaches the statutory cap at 80% of median income, instead of capping the savings mechanism at 50% of median (which is below "self-sufficient" in most markets).

   Another potentially powerful tool to promote access to opportunity is HUD's "8(bb)" authority to transfer Section 8 rental assistance to properties in opportunity areas. However, unless HUD permits rent payments at market levels in the new location, 8(bb) will not support competitive acquisition bids for property in opportunity areas and will remain under-used. HUD should continue past policy of providing portable "relocation vouchers" to existing residents who may not choose to move when a contract is transferred – this temporary assistance is a crucial part of the mechanics of transitioning existing project-based rental assistance to higher opportunity areas.

ABOUT POAH: Preservation of Affordable Housing, Inc. (POAH) is a national nonprofit organization whose mission is to preserve, create and sustain affordable, healthy homes that support economic security and access to opportunity for all residents. POAH provides affordable and market-rate homes for more than 15,000 low- and moderate-income Americans, and has built or renovated more than 9,000 rental homes in 9 states and the District of Columbia since 2001. POAH owns and operates more than 80 rental housing communities, and provides services and supports to connect residents to opportunities.