

PHADA Comments on AFH Tool – Expresses Many Concerns on Burdens, Other Requirements

On May 23, PHADA sent HUD 15 pages of comments on its Assessment of Fair Housing (AFH) Tool. The association has numerous concerns with both the AFFH regulation and the tool. Excerpts from PHADA's comments are included below. The complete version can be found on PHADA's website at: www.phada.org/pdf/HA-AFH-Tool-CommentsFINAL.pdf

Objection to Burden Estimates

HUD's published estimates of the administrative burdens created by its AFH process are daunting. With the three tools HUD has published, program participants will commit a total of just under 1,000,000 person hours to AFH completion every five years or so. The current notice estimates that one-third of all HAs will submit an AFH independently and that these submissions (which will occur once every five years for each HA) will consume almost 320,000 person hours or 30.3 person years annually. In combination with previously published tools for entitlement communities and for states

and insular areas, **the AFH, a procedural approach to AFFH, will consume more than 100 person years annually.**

In addition, PHADA has come to mistrust HUD's methods for estimating these burdens. The department first estimated that the entitlement community tool would take 200 hours each to complete, but subsequently revised that estimate upward to 240 hours for entitlement communities and HAs and to 1,500 hours for states. However, HUD also determined that HAs collaborating with entitlement communities or states would only need 120 hours to fulfill their responsibilities in preparing an AFH. Finally, without evidence, HUD has estimated that the population of HAs would divide equally into groups that 1) collaborate with a neighboring entitlement community, 2) collaborate with a state, or 3) prepare their own AFHs. Each HA that chooses to complete its own AFH rather than collaborate will add an additional 120 hours to HUD's overall estimate. If only half of the almost 4,000 HAs choose to collaborate, the estimated burden of

See "AFH Tool Comments" continued on page 8

Please Submit Comments to UPCS-V Demonstration Notice Now!

Background

The Department of Housing and Urban Development (HUD) issued a "Notice of Demonstration to Test a Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing" on May 4. PHADA has reported extensively on UPCS-V – the proposed new standard for assessing the physical condition of Housing Choice Voucher (HCV) program units – which HUD expects to replace the current standard, Housing Quality Standards (HQS) in the voucher program. The Association has also frequently communicated to the Department numerous questions and concerns since the introduction of the proposal to shift from HQS to UPCS-V.

A number of comments and unanswered questions are detailed below that could be utilized as a foundation to assist members in the development of agency-specific statements. PHADA highly encourages all housing authorities (HAs) to submit comments to the notice. As discussed thoroughly below, the demonstration and potential implementation of a new physical inspection standard in the HCV program in the current environment of decreased federal funding and increased admin-

istrative and regulatory burdens is imprudent and could have serious and far-reaching consequences to the voucher program as a whole.

In addition to HUD's notice of intent to test UPCS-V, the Federal Register includes an appeal to agencies to apply as a participant in the demonstration. Those HAs interested in participating should notify HUD by July 5, 2016, by emailing the Department at: UPCSV@hud.gov, and providing the agency name, address, contact name, contact phone number and email address. Agencies are encouraged to thoroughly weigh the many advantages and disadvantages of participating in a demonstration. For example, the demonstration is likely to be both burdensome and time-consuming. However, participants will also receive a great deal of training and technical assistance from the Department that other agencies may not receive if UPCS-V is fully implemented in the HCV program at a later date. If your agency decides to apply, please notify Crystal Wojciechowski at: cwojciechowski@phada.org, so that PHADA can be of assistance throughout the demonstration.

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 511 Capitol Court NE, Washington, DC 20002
 Phone: 202-546-5445 Fax: 202-546-2280
 www.phada.org

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Contributing Writers: Jim Armstrong • Tim Kaiser • Kathi Whalen • Crystal Wojciechowski
 Jonathan Zimmerman

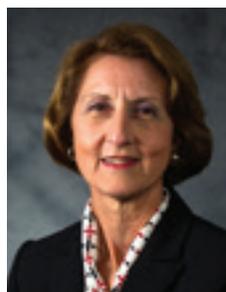
President’s Forum: Price Is Right

Washington Can’t Continue to Ignore Real Budget Problem

“As I’ve said many times before, having a modest budget agreement that avoids the worst impacts of sequestration is better than the alternative, but it is not enough. We still have a massive public housing capital backlog, decaying highways and bridges, and congested roads and airports; we have not constructed new rental units for the elderly or the disabled, under sections 202 and 811, for several years; and we are still far short of the comprehensive neighborhood renovation HOPE VI used to make possible.

We can never make the bold investments that are necessary to address these problems without a comprehensive, bipartisan budget deal to address the main drivers of our deficits—namely, tax expenditures and mandatory programs [Social Security, Medicare and Medicaid]. The scope of this problem is much bigger than this Subcommittee or the full Appropriations Committee.”

—Rep. David Price (D-NC), Ranking Member, House T-HUD
 Appropriations Subcommittee on May 18, 2016



PHADA President,
 Nancy Walker

Representative David Price, PhD (D-NC), a strong supporter of our programs, is a former Professor of Political Science & Public Policy and has served in the House for more than 25 years. He made the foregoing statement during the T-HUD subcommittee’s markup of its FY 2017 appropriations bill (see the related chart on page 5). Price is the highest ranking Democrat on the subcommittee and is well-versed in the budget problems facing not only that panel, but all other federal programs as well.

Background

Funding for domestic discretionary programs such as housing constitutes about 15–16 percent of all federal dollars in our nation’s multi-trillion dollar annual budget. Interestingly, most outlays are on “auto pilot” – not subject to the congressional appropriations process. That is because so-called “mandatory” programs – Social Security, Medicare, and Medicaid are funded automatically through a different process. When you add the spending in those accounts with Defense spending and interest payments on the U.S. debt (now running about \$19 trillion), it totals to more than two-thirds of our annual federal budget. The federal government also expends considerable sums through thousands of tax provisions such as the ones we are most familiar with – the mortgage interest deduction and low income housing tax credits.

Congressman Price’s point is that Washington will never adequately address our country’s debt and revenue problems by reducing domestic spending in the appropriations process. Unfortunately, lawmakers and the Administration have chosen to pursue that flawed strategy

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PHADA Assists with *Amici Curiae* Brief in Possible U.S. Supreme Court Case

The Housing and Development Law Institute (HDLI) recently filed an *amici curiae* brief in support of the Housing Authority of the City of Los Angeles' (HACLAs) petition for certiorari with the U.S. Supreme Court, to appeal a Ninth Circuit Court of Appeals' adverse ruling concerning the legal standards governing Housing Authorities' (HAs) generalized advisory notices to voucher-assisted households when they lower their voucher payment standards. If sustained, the Ninth Circuit's decision, under review by the U.S. Supreme Court, will have adverse impacts on a regional and national scope.

Overview of an HA's Notice to Tenants Regarding Its Lowered Voucher Payment Standards

On April 5, 2004, HUD required HACLAs to reduce expenditures to bring its spending in line with the budget authority available. In turn, HACLAs reduced its voucher payment standard amount from 110 percent to 100 percent of the Department's Fair Market Rents (FMRs). HACLAs sent a notice to each tenant whose rental subsidy might be reduced after the tenant's annual reexamination, and informed them that the reduction would not take effect for a full year. The notice included a chart that listed lower payment standard amounts and indicated the existing rental subsidy that would remain in effect for the next year.

At least 30 days prior before the reduction actually went into effect, each participant received another individualized notice which specified their Housing Assistance Payment (HAP) amount under the lowered payment standard and the starting date of that change, as well as the increase, if any, that the participant would have to pay the property owner in monthly rent. The notice informed each tenant that he or she had a right to a hearing if there was any dispute about the action of HACLAs, and included a telephone number to contact the HA within 30 days to request such a hearing.

Ninth Circuit Court's Ruling

In 2007, two individuals representing a group of tenants who received housing assistance through the Section 8 Housing Choice Voucher Program, and a nonprofit organization, submitted a class action lawsuit against HACLAs. In the case of *Nozzi v. Housing Authority of the City of Los Angeles*, the Ninth Circuit Court of Appeals ruled in 2015 that voucher recipients have a cause of action against HACLAs. The court based its finding that the agency violated recipients' procedural due process rights and its notice of an across the board reduction in benefits, put into effect more than a year later, was not sufficiently "comprehensible" to voucher recipients.

Amici Curiae on behalf of HACLAs

PHADA provided HDLI with extensive research on HUD's applicable program regulations, notices and guidebooks to support legal arguments for the brief. In addition to HDLI and PHADA, the organizations comprising the *amici curiae* include: the Council of Large Public Housing Agencies (CLPHA), the National Association of Housing and Redevelopment Officials (NAHRO), and the Housing

Authority Risk Retention Group, Inc. (HARRG). HUD is not planning to file an *amici curiae* brief in this case.

Ramifications if Ninth Circuit Court of Appeals Decision Is Left Standing

Provided below is a summary of the legal arguments and ramifications spelled out in the *amici curiae* brief to the U.S. Supreme Court, in relation to the Ninth Circuit's adverse ruling against HACLAs.

The *amici curiae* brief asserted that a right of action and property interest by voucher participants only occurs if an agency violates governing statute(s). The *amici curiae* brief underscores that there is no statute that dictates the specificity of HAs' advisory notices to voucher participants when they lower their voucher payment standards.

HDLI and others demonstrated that HACLAs followed HUD regulations concerning the content of a generalized advisory notice sent to voucher participants regarding its lowered voucher payment standards. The *amici curiae* brief posits that HACLAs complied in all respects with the applicable regulation, 24 C.F.R. §982.505(c) (3). HDLI and others also argued that giving voucher participants a property interest in the one-year waiting period created by a HUD regulation according to the Ninth Circuit's ruling, is contrary to the U.S. Supreme Court's precedent, and will also contradict existing HUD policy that provides no such property interest or due process right under its regulations.

Despite not violating statute or regulation, the groups state that HACLAs finds itself potentially liable to upwards of tens of thousands of voucher participants for monetary damages. HDLI and other groups contend that the ramifications of letting the Ninth Circuit's ruling stand, would include potential damages awards in this case that could cause far-flung financial devastation to HUD's Section 8 program and deny housing opportunities to millions of voucher families. The whole cost-saving purpose for allowing HAs the discretion to lower their payment standards in order to subsidize eligible households within their available HAP funds, may be completely lost. Such awards could result in the loss of the very savings to the program that could be achieved by the reduced payment standard.

HDLI and other organizations argued that if left standing, the Ninth Circuit's ruling will contradict existing HUD policy that provides no such property interest or due process right under its regulations. The *amici curiae* brief argued that if other courts also begin to create due process rights that exceed any rights derived from agency regulations, where those due process rights directly conflict with existing HUD policy, the adverse decision in this case will be far-reaching.

Since Federal law and HUD policy mandate that HAs adopt measures to balance their budgets given funding deficits, many HAs have and will continue to reduce their voucher payment standards in order to keep their voucher programs solvent and to avoid having to terminate existing voucher participants' assistance. The brief supporters contend that the legal standards governing generalized advisory notices concerning voucher payment standards changes, interferes with the ability of HAs to manage their housing programs success-

fully. If sustained, the Ninth Circuit Court of Appeals' decision under review, will have a detrimental effect upon the ability of HAs to meet their legal responsibilities to operate their programs and provide safe and affordable housing to the millions of low-income households that they serve.

The Ninth Circuit Court of Appeals ruled that HACLAs' advisory notice to all participants was insufficiently "comprehensible." However, *amici curiae* brief points out that the Ninth Circuit also left unanswered what constitutes a universally "comprehensible" advisory notice. The groups also argued that individual courts across the country should not impose their own standards concerning generalized advisory notices, when the regulator of the industry, in this case HUD, has provided a standard. Instead, courts should continue the long tradition of deferring to the agency's expertise in this area and not impose

their own interpretations of whether an individual advisory notice that meets the regulator's requirements is sufficient or "comprehensible." Left standing, the Ninth Circuit's ruling will also create mass confusion, unnecessarily complicate the existing federally assisted housing scheme, and lay the groundwork for systemic inconsistencies across the country. This will result in increased administrative and litigation costs that HAs will be forced to expend during this era of underfunded housing programs.

The Ninth Circuit's decision will also affect not only HUD and its housing programs, but all regulatory agencies that issue advisory notices.

PHADA will inform its members of this case as it proceeds. A full copy of the brief is accessible at: www.phada.org/pdf/AMICUS_NOZZI_BRIEF_2016_4TH_DRAFT_5.30.16.PDF ■

Cantwell Bill Expands Housing Tax Credits

Expanded Credits Might Reach More HA Projects



Sen. Maria Cantwell
(D-WA)

Sen. Maria Cantwell (D-WA) introduced legislation (S. 2962) on May 19, entitled "Affordable Housing Credit Improvement Act of 2016." The purpose of the bill is: 1) to sharply increase the value of the Treasury Department's Low Income Housing Tax Credit (LIHTC) over the next five years; 2) allow "income averaging" for LIHTC properties; and 3) establish a minimum credit rate for the 4 percent tax credit. Upon introduction of her bill, Sen. Cantwell commented that, "Affordable housing is a crisis all across America. With skyrocketing rents and an increase in homelessness, more affordable units are a necessity. That is why today, Senator Hatch and I are introducing legislation to expand the Low Income Housing Tax Credit. By building more affordable housing units across the United States, more people have a shot at the American Dream." In addition to Sen. Orrin Hatch (R-UT), Sen. Chuck Schumer (D-NY) and Sen. Ron Wyden (D-OR) are also original co-sponsors on the bill.

The tax credit is a prized affordable housing financing tool that has successfully produced more than 2.7 million housing units that are affordable to working poor households (50 or 60 percent of area median income). The tax credit was established as part of the Tax Reform Act of 1986 as a shallow subsidy through the tax code to entice private-sector lending and investment in affordable housing for "working poor" families and individuals. The program requires tax credit properties to provide at least 20 percent of units that are affordable to households with incomes at 50 percent of the area median income or below – or properties can choose to provide 40 percent of its units that are affordable to households at 60 percent of AMI.

The tax credit program is the only affordable housing development program that produces significant number of new units. The Treasury Department program produces 100,000 units annually with the LIHTC by relying heavily on the existing private-sector risk analysis and due diligence processes. State housing agencies that allocate credits to qualified housing developments also establish housing pri-

orities, assess demand, score applications, perform asset management on their statewide portfolios and monitor compliance. The tax credit, while a complex program, is not hampered by procedural red tape typically associated with many HUD programs. As a result, those most closely aligned with the tax credit – state housing finance agencies, banks, investors, housing intermediaries, non-profit housing organizations (including housing authorities) – clamor for more tax credits. The annual Treasury allocations to states are currently based on each state's population multiplied by \$1.75 per capita amount.

The Cantwell bill would provide incremental increases in the annual per capita amounts: \$2.35 for 2016; \$2.59 for 2017; \$2.82 for 2018; \$3.06 for 2019; \$3.29 for 2020 and \$3.53 for each year thereafter. These increases would double the credit amount available by 2021 and help close the gap between the number of affordable units produced annually with the tax credit (100,000) and the number of new affordable housing units needed annually (400,000) per estimates by Enterprise and the Harvard Joint Center for Housing Studies.

The Cantwell bill allows tax credit properties to use income averaging in order to serve a wider range of incomes. This would be especially beneficial for homeless families and others with extremely low incomes. Finally, the bill establishes the 4 percent credit for acquisition and bond-funded projects at 4 percent rather than a floating rate below 4 percent. Cantwell sponsored a bill in late 2015 that fixed the 9 percent tax credit at a minimum 9 percent level to take some of the unpredictability out of financings that too often developed equity gaps late in the process. Fixing the 4 percent credit at a minimum of 4 percent will similarly ease the financing process.

Any housing authorities that anticipate using the LIHTC to develop new housing in their communities or to redevelop existing public housing through a RAD conversion or with a Choice Neighborhoods grant award should be involved with the tax credit program at their state housing finance agency. State housing agencies can provide the latest communications about: 1) the LIHTC funding timetable and submission dates, 2) public hearings that take comments on the shape of and priorities in the state's Qualified Allocation Plan, 3) any existing or planned set-asides of tax credits for non-profits or public housing authorities and 4) tax credit training workshops.

PHADA supports Senate Bill 2962 and urges members to ask their Senators to sign on to the bill. ■

...“President’s Forum”

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over the last several years. Rather than dealing with the real problems, they have focused on a relatively small portion of the budget, imposing strict budget caps and sequestration. As Price noted, this has had severe consequences such as the \$26 billion backlog of

unmet capital needs.

For obvious reasons, we tend to focus on how the budget cuts impact our programs. Price’s subcommittee also funds transportation needs and it is interesting to hear his perspective on how those budget cuts have crippled the nation’s infrastructure. The problems he cites above will become even more pronounced next year when sequestration returns unless there is a budget compromise.

Focus on the Real Problem

Representative Price is absolutely correct that Congress and the Administration have been very shortsighted in their approach. His

FY 2017 T-HUD Budget Proposals

	Industry Estimate of Need	FY 2016 (current)	White House	House	Senate
Operating Fund	\$5.464 B	\$4.500 B	\$4.569 B	\$4.500 B	\$4.675 B*
Capital Fund	\$5.000 B	\$1.900 B	\$1.865 B	\$1.900 B	\$1.925 B
HCV Renewals	\$18.477 B	\$17.680 B	\$18.447 B	\$18.312 B	\$18.355 B
Admin Fee	\$2.122 B	\$1.650 B	\$2.077 B	\$1.650 B	\$1.769 B*
Choice Neighborhoods	\$200 M	\$125 M	\$200 M	\$100 M	\$80 M
RAD	N/A	Ø	\$50 M	Ø	\$4 M

* The House version would prorate the Operating Fund at about 82–83 percent of formula eligibility while the Senate version is slightly higher at roughly 86 percent. On Admin Fees, the House bill provides on 78 percent of formula eligibility compared to the Senate version at roughly 82–83 percent.

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view, which PHADA shares, is supported by a recent Congressional Budget Office report, which noted that, even though domestic discretionary spending is slated to drop to “a smaller percentage (of the U.S. economy) than any year since 1962” projected deficits and the debt will continue to escalate unless Washington stems the tide. This is mostly attributable to our aging population that is more reliant on Social Security and Medicare, which will both become fiscally insolvent in the next dozen to twenty years. The CBO report further adds that Congress must address rising debt and the need for more revenues. If Washington does not act, says the bipartisan CBO, “the likelihood of a fiscal crisis in the United States would increase... and lawmakers would have less flexibility to use tax and spending policies to respond to unexpected challenges.”

How much have you really been hearing about all this during the ongoing presidential and congressional campaigns? Yes, some candidates have discussed the possibility of increasing taxes. However, one does not hear much, if anything, about needed entitlement reforms. In fact, some candidates have talked about *increasing* the scope of entitlement programs.

Regardless, there is no question that Rep. Price and the CBO are correct. It is unwise for Washington to continue cutting our programs and not focusing on other major parts of the budget. PHADA very much appreciates the Congressman’s eloquent articulation of the problem and will continue to work with he and other members of Congress to address it.

Thank You to All Who Attended Our Annual Convention

I want to thank all the housing professionals, commissioners, residents, and exhibitors who attended our May 22–25 convention in Las Vegas. It was a successful and timely event focusing on several important topics including the Fair Housing rule, MTW expansion, mobility initiatives, SHARP legislation, UPCS-V and other priorities. As always, the Bollinger Scholarship Luncheon was one of the highlights as we awarded more than \$13,000 to this year’s recipient and an additional \$10,000 to other scholarship winners. Look for photos from the meeting to be published in the next *Advocate*. I hope to see many of you this coming September during our Washington Legislative Forum. ■

HUD Increases Admin. Fee Prorations to 84 Percent *Additional Funding and Reforms Needed in FY 2017*

HUD recently notified Housing Authorities (HAs) that it raised administrative fee prorations to 83.94 percent for 2016. To its credit, the Department exercised its statutory authority to reprogram other carryover funds within the Section 8 tenant-based account that remain unobligated and recaptured, in order to raise the proration for a sixth year in a row. In addition, HUD’s notification and disbursement occurred more expeditiously than in the past.

In a May 26 letter to HAs, Lourdes Castro Ramirez, Principal Deputy Assistant Secretary of HUD PIH, states, “[t]he Department is well aware of the effects of the reduced administrative fee proration across the board for housing agencies administering the HCV program.”

PHADA Urged HUD to Raise the Proration Earlier

On March 21, PHADA sent a letter to Ramirez, urging the Department to access additional carryover of unobligated and recaptured funds in order to further increase the fee proration above 80 percent. PHADA urged HUD to take this action sooner rather than later, to help HAs sustain and increase leasing of low-income households with already HAP-funded and authorized vouchers, above historically low voucher lease-up rates of 88 and 89 percent over the last two years. To make this matter plain the association wrote, “In PHADA’s view, it would be imprudent for HUD to do the same thing at the same level for a third year in a row and expect a different program result.”

On April 11, PHADA President Nancy Walker and PHADA staff met with senior HUD officials to discuss a range of issues including this matter. President Walker provided HUD officials with specific examples of the difficulties HAs have with utilizing available HAP funds when the fee prorations are woefully inadequate. President

Walker also underscored the time sensitive nature of HUD moving forward with its authority as soon as possible.

On May 6, HUD responded to PHADA with a letter stating that such administrative fee announcements can only go out when actual re-allotments have been recorded in the administrative fee account and funds have been reconciled with actual leasing. Therefore, in order for HUD to increase fee prorations and make disbursements, the Department had to validate HAs’ leasing data in the Voucher Management System from January through March.

PHADA’s Fungibility Proposal Will Increase Lease-ups

PHADA also appreciates Congressional testimony by Secretary Julián Castro and Lourdes Castro Ramirez, as well as the Administration’s budgets, which cite low administrative fee prorations as contributing in part to historically low voucher lease-up rates. Despite the fact that the President’s FY 2017 HUD budget request included \$2.077 billion for ongoing administrative fees, the Senate’s FY ’17 Transportation-HUD appropriations bill (S. 2844) provides only \$1.758 billion for a 82.8 percent administrative fee proration, and the House Appropriation Committee’s version of the bill provides only \$1.640 in ongoing fees for a 77.2 percent administrative fee proration. If a final bill splits the difference, it would result in \$1.699 billion for a 80 percent administrative fee proration in FY ’17. Further funding and reform is needed in order to further improve leasing in the voucher program.

Underfunding of Section 8 administrative fees has, in part, contributed to stagnating and inadequate voucher lease-up rates of low-income households. Inadequate administrative funding continues to compromise HAs’ ability to fill voucher program vacancies quickly, perform inspections, ensure housing quality, and fulfill other

important voucher program obligations. For years, PHADA has also described other contributing factors.

To help remedy voucher leasing problems, PHADA has proposed an alternative approach that would apply to HAs that do not receive 95 percent of the full amount of administrative fees to administer Section 8 voucher programs at the existing authorized statutory fee rate (pre-Quality Housing and Work Responsibility Act of 1998 rate) for each leased household. In such cases, HAs would be able to utilize their Housing Assistance Payment balances from a previous year(s) in order to receive a combined administrative fee using direct and indirect funding from Congress, up to a 95 percent proration. In its March 21 letter, PHADA reiterated its fungibility proposal to HUD for its consideration.

PHADA's modeling of the costs to bring prorations from 80 percent to 95 percent would cost approximately seven-tenths of one percent (0.7 percent) of the total HAP-related funds. If this were to occur, for every dollar spent out of HAs' HAP-related balances from prior year(s), 88 cents would be spent on housing subsidies and 12 cents would be spent on agencies helping low-income households lease, etc. PHADA's analysis shows that to implement its proposal, the total amount of HAP Reserve funds needed to augment HAs' admin. fees to 95 percent is the equivalent of approximately 15,000 – 17,000 households' HAP funds. In exchange, HAs would have greater administrative fee revenues for staff and IT investments, to be able to lease up over 140,000 low-income households (6 percent of funded and authorized vouchers) with existing subsidy funding.

For many years, although not all, unleased vouchers and accumulation of corresponding HAP Reserve balances have been and may continue to be offset by Congress and HUD. When this takes place, there is no guarantee in the budget and appropriations process that those precious financial resources stay within the voucher program and/or other affordable rental assistance programs for low-income households. Depending on the nature and severity of future offsets of HAP Reserve balances, the number of households HAs can serve in their voucher programs, may be reduced and capped for years to come.

After comparing the short and long-term benefits and drawbacks of its fungibility proposal PHADA believes that under a difficult set of circumstances, providing HAs with the ability to use relatively negligible amounts of HAP Reserves in order to help them administer the program and lease more low-income households is a pragmatic solution. PHADA will continue to make this point to HUD and Congress.

Related Resources

- PHADA Urges HUD Action on HAP Reserve and Admin. Fee Fungibility Measures Voucher Lease-up Rates are in Jeopardy of Continued Stagnation or Decline (April 6, *Advocate*): www.phada.org/advocate/article.php?storyid=2462
- PHADA's issue brief titled, Over 140,000 Go Without Housing - PHADA's Cost Neutral Proposal Would Help Fix this Growing Voucher Leasing Crisis, is accessible at: www.phada.org/pdf/Sec8_AdminFee_100K-Vouchers_FINAL.pdf ■

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...“AFH Tool Comments”

Continued from page 1

this tool would rise by almost 500,000 hours to 150 percent of HUD’s current estimate.

PHADA believes that:

- HUD does not know how long it will take to prepare an AFH using any of the three tools published so far,
- HUD’s assumption that HAs will divide equally among those collaborating with localities, those collaborating with states and those preparing their own AFHs has no basis in facts, and so
- HUD’s estimates of administrative burden created by its AFH process are unsupported and probably inadequate.

Procedural and Compliance Focus

As mentioned above, HUD began implementing AFFH requirements using a procedural approach, requiring HUD’s partners to conduct an AI and submit that AI to HUD for review, and requiring HUD to determine that submitters complied with AI requirements. Had HUD’s partners all submitted AIs in good faith, and had HUD fulfilled its monitoring and oversight responsibilities, nothing in the AI process would assure outcomes any different than the actual outcomes that have resulted from the spotty compliance and uneven oversight and monitoring cited by the GAO.

An alternative approach focused on encouraging steps not just to reduce segregated housing patterns but to encourage integrated patterns, coupled with a focus on elimination of illegitimate practices that help maintain segregated residential patterns might produce more positive outcomes than the existing procedural compliance approach. An alternative approach would probably also be less burdensome for HUD’s almost 5,200 partners and for the department’s own staff. Reduced procedural burdens for departmental staff may permit that staff to focus resources on efforts to eliminate illegitimate practices that contribute to segregated residential patterns rather than to review over 1,000 AFH submissions annually.

Regional Analyses and HA Jurisdictions

Throughout the notice and the tool, HUD refers to HAs’ “service areas.” For agencies chartered by states, service areas correspond to jurisdictions and the alternative terminology HUD uses may be confusing to some agencies. In addition, HUD has indicated that it will require a single submission for agencies describing their jurisdictions. It is surprising that, with the federal government’s relationships with HAs since 1937, HUD lacks a record of the jurisdictions of the housing authorities with which it conducts business. These institutions may own public housing properties subsidized by HUD, and execute Annual Contributions Contracts, among other things. PHADA urges HUD to use its own records to establish agencies’ jurisdictions and permit HAs to submit any necessary corrections to those jurisdictions on an exception basis. Although HUD has estimated that this task will only consume one hour of administrative time, requiring all agencies to submit this information will require almost two person years of time to complete.

Regional analyses required by HAs are overly burdensome and irrelevant to their operations on a number of fronts. For agencies

operating within one of the Office of Management and Budget’s (OMB’s) Core Based Statistical Areas (CBSAs), the AFH will require them to assess fair housing issues over an unreasonably broad geographic area over which they exercise little or no influence. For example, the Washington, DC CBSA runs from Frederick County, MD in the north on the Maryland-Pennsylvania border to Spotsylvania County, VA in the south that is south of Fredericksburg, VA. The City of Frederick Housing Authority in Maryland manages 479 public housing units and 724 Housing Choice Vouchers and serves a community of approximately 65,000 people. That agency may be required to conduct a regional analysis that includes Fredericksburg, VA, a community almost 100 miles south with over 28,000 people over which the Maryland agency exercises no authority or influence. Such an analysis appears to be a complete waste of the City of Frederick Housing Authority’s time and resources.

For agencies located outside of a core based statistical area, the region HUD is expecting for analysis is unclear. It may at least cover the county in which the agency operates, but it may be larger. As with agencies in CBSAs, a regional analysis of the county in which an agency is located may be beyond the agency’s authority and influence and may include other HAs with which the agency may or may not wish to collaborate and which it may or may not be able to influence.

Even more complex are situations where CBSAs or regions cross state borders, raising very complex questions of influence and authority. The agencies operating in the New York City metropolitan area will be required to conduct an analysis that includes parts of New Jersey, the state of New York, Pennsylvania and Connecticut. That circumstance pertains to agencies in the Washington DC CBSA which includes portions of Maryland, Virginia, West Virginia and the District of Columbia.

Particularly for HAs, requirements for regional analyses that reach beyond their jurisdictions is overly burdensome and likely a waste of time and resources. In many instances, agencies may be prohibited by their charters to operate outside their jurisdictions.

Other Analyses Beyond HAs’ Expertise or Influence

The AFH for HAs includes a number of other questions and issues agencies are required to consider, but over which they exercise little or no influence and about which they have little or no expertise. For example, the tool asks:

- How school related policies limit or enhance families’ access to proficient schools by race/ethnicity, national origin, or disability.

HAs have no policy role in setting school assignment policies. Agencies also lack the expertise to suggest or advise local school boards concerning how various policy alternatives may or may not enhance assisted housing participants’ access to proficient schools. In the case of the Housing Choice Voucher program, agencies will likely need to create tools to discover the schools to which voucher holders’ children are assigned and then investigate those schools’ levels of proficiency.

Some large agencies’ participant households send their children to large numbers of local school districts. In at least one case, PHADA understands that 25 school districts serve an agency’s households. It appears that the tool will require an analysis of school performance at every school in every

district that serves children in HA participating households, even if the number of children is very small. A further complication for this analysis involves districts that operate various forms of school choice where a child's residence may be unrelated or only loosely related to the school that they attend. In the District of Columbia, the school system operates a lottery that assigns children to schools based on their families' preferences and a drawing to assign children to schools. The large number of districts and their diverse policies concerning school assignment would appear to render an analysis of access to proficient schools a very expensive waste of time and energy.

- Voucher holders' and applicants' access to employment opportunities by race/ethnicity, national origin, familial status, or disability. HAs may know where participants currently work, but may have little knowledge of their "access to employment opportunities." Once HAs invest the time and resources discovering the levels of this access, agencies have little or no influence over where employers chose to locate, where transportation systems offer access, skill sets of participants and their match to accessible employment opportunities, or access to employment and training services that are overseen by other public and private entities independent of the HA.
- Program participants' and applicants' access to transportation. Current and proposed transportation networks may be readily available to HAs. But with that knowledge, HAs

have little to say in establishing or changing transit routes or their scheduling. Obtaining the information and conducting the analysis does little or nothing to provide the agency with any influence over decisions made by the managers of local transportation networks.

- Geographic distribution of people with disabilities in the jurisdiction and the region by type of disability. In other notices, HUD has acknowledged that local and regional geospatial data on the distribution of people with disabilities is largely unavailable. These questions should be removed from the tool unless and until reliable, comparable, national, regional and local data becomes available to use in the AFHs.
- Whether the HA or its local governments or the State have implemented an *Olmstead* plan to integrate people with disabilities into local communities.

Some HAs may participate as housers in implementing *Olmstead* plans for ending inappropriate institutionalization of people with disabilities. However, they exercise little or no influence over institutions where people with disabilities may be housed appropriately or inappropriately, lack the expertise to evaluate that appropriateness, and may have no more voice or influence over the contents of an *Olmstead* plan than any other member of the general public. Questions concerning *Olmstead* plans in an AFH appear to make unnecessary and unproductive work for HAs. If HUD wishes to investigate outcomes from individual *Olmstead* plans, it may do so with

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the responsible federal or state entity with appropriate competence, expertise and responsibility.

- Whether people with disabilities in the jurisdiction and the region have more or less access to public infrastructure (e.g. sidewalks, pedestrian crossings, pedestrian signals, transportation, proficient schools, educational programs, and jobs).

While HAs are responsible for the accessibility of their own physical assets, they are not responsible for nor do they have the resources or authority to address the accessibility of other public physical or social infrastructure. HAs are in the same position as other members of the general public when it comes to curb cuts, pedestrian crossings and signals, and similar improvements which are generally the responsibility of the unit of local government or the state. As to the accessibility of or to proficient schools, responsibility lies with local school boards. Questions such as this represent an unreasonable level of busy work imposed on HAs by the AFH tool, purported to have been tailored to the needs of local agencies.

Requests for Information HUD Already Has

The AFH tool requests information that HAs have already routinely submitted to HUD through many of its online systems. For instance:

- Demographics concerning public housing property residents and voucher holders is submitted through HUD's Form 50058.
The public can access much of this information through HUD's web based Resident Characteristics Reports. PHADA presumes that HUD staff may access much more detailed information through HUD's PIC systems and suggests that HUD do so.
- Comparison of these demographics with the population of agencies' jurisdictions and with the income eligible population.
This calls for comparisons between participants' characteristics and demographics of the jurisdiction's population. HUD possesses the former and the Census Bureau possesses the latter. PHADA suggests that HUD obtain the Census Bureau's data and make these comparisons to data already in HUD's possession. The department may then share the comparisons with its program participants for their use in the AFH.
- Locations of public housing properties and addresses of voucher holders.

HAs are reporting this information through HUD's Form 50058. PHADA suggests that HUD use that dataset to find the locations of public housing properties and of voucher holders' residences. HUD may then prepopulate the AFH tool with data already in its possession to reduce burdens on HAs.

Broad Geospatial Analyses of Rental Housing

The AFH tool requires HAs to assess rental housing, affordable rental housing, project based Section 8 housing, other multifamily assisted housing, and LIHTC assisted housing in the HA's jurisdiction and region. While an agency may influence the location of affordable housing development in its jurisdiction, that is not likely to be the case in the agency's region. Given the size of some regions, the exercise proposed in the AFH tool seems to offer little utility to local

agencies. PHADA suggests that a regional analysis of rental housing be removed from an AFH tool for use by HAs.

Time Frame of these Analyses

The AFH requires analyses of several data elements involved in the AFH over the past 26 years, since 1990. These include all local and regional demographics assessed, include changes in the local and regional dissimilarity indices measuring segregation, and include changes in local and regional Racially or Ethnically Concentrated Areas of Poverty (R/ECAPs). The time period required for these analyses seems excessive, and the relevance and utility of data 26 years old seems questionable.

Data Maps and Tables

In its original notice concerning AFFH and the AFH tools, HUD promised that a large amount of geocoded data will be available on its web site in maps and tables. The department has made that data available for use by CDBG entitlement communities (and thus for HAs within their jurisdictions which chose to enter a collaboration or not), but maps and tables tailored to the needs of states, insular areas and HAs outside of CBSAs remains unavailable. That unavailability poses a serious problem for HAs and their stakeholders. The character of the data and the maps is unknown at this time, and so it is impossible to offer HUD any rational assessment or comment of the utility of those missing maps and tables.

The problem is compounded for HAs that must make decisions concerning their approach to AFH tool completion. Should they pursue a collaboration with a neighboring entitlement community? Should they consider collaborating with neighboring HAs, or with their state? Should entitlement communities consider collaborations? Will states be interested in collaborating with HAs? These decisions become increasingly complicated when HUD has failed to make maps and tables available for HAs and other entities to use in evaluating their situations.

PHADA suggests that HUD rescind all AFH notices and information collections until such time as all of HUD's maps and tables appropriate for each kind of entity that may be submitting an AFH are available. Then commenters will be in a position to offer the department advice informed by the data rather than speculative hypothetical comments based on only one set of the data HUD has made available appropriate only to one set of AFH submitters.

A Streamlined Tool for Small Agencies

The lion's share of HAs are small. They have fewer than 550 combined public housing units and Housing Choice Vouchers. Many of these agencies are located outside of metropolitan areas in more rural, less diverse communities where they manage or fund a significant proportion of the rental housing inventory (subsidized or unsubsidized), and where resources are scarce. Many such agencies lack the slack resources they would need to complete the AFH tool as it has been published. They may have difficulty supporting a collaboration as well.

PHADA believes that the tool as published is unnecessarily complex and overburdens all HAs. But that is particularly true as it relates to small agencies. In addition to a drastic revision to the published AFH tool, HUD must offer a significantly streamlined and simplified AFH tool for use by agencies with 550 combined units or

fewer that will be of some use to them as they analyze steps they can take to affirmatively further fair housing. HUD's tool should not require a series of less than helpful tasks leading to little or no benefit to the agency, its participants or the community it serves, and the tool should only impose minimal burdens and costs on small agencies. Fewer very simplified questions should be capable of addressing fair housing issues for small agencies that may operate in non-urban, fairly homogenous communities. HUD's one size fits all approach to the AFH fails to serve small agencies or HUD well.

Safe Harbors

Neither the tool nor the rule provide program participants with much information concerning what constitutes an acceptable AFH, how deeply agencies must search for local knowledge, or how the department will assess progress in dealing with fair housing issues. For instance, though the department has declined to impose a requirement of the number of agencies constituting a legitimate regional collaboration, presumably HUD will want a certain minimal number of participants. In some metropolitan areas with large numbers of HAs, this lack of guidance is problematic. In assessing progress overcoming fair housing issues, what will HUD consider to be reasonable responses? What levels of effort will HUD consider sufficient to support the claim that no reliable local data or knowledge exists on which to base analyses in the AFH. Neither the rule nor the tool appear to address these questions. HUD must consider establishing certain safe harbor standards concerning submissions, for HAs' assessment of local knowledge, and for addressing fair housing issues. ■

AFH Submission Timetable

- The earliest AFH submissions will be due not less than nine months after publication of the final applicable AFH tool. So far, HUD has only published a final AFH tool for use by CDBG and HOME entitlement communities. The final AFH tool for use by states and HAs has not yet been published.
- HAs must submit their first AFH 270 days (approximately nine months) before the beginning of the first program year covered by their next scheduled 5 Year Plan Submission.
- HAs choosing to collaborate with a CDBG or HOME entitlement community or their state must submit an agreement for that collaboration to HUD before the deadline for their first AFH submission (270 days before their next 5 Year Plan submission deadline). The state or the entitlement community will become the lead agency for the AFH submission
- HAs choosing to participate in a regional consortium must submit an agreement to participate in the consortium to HUD before the deadline for their first AFH submission. HAs in a consortium must select a lead agency for the consortium.
- If an HA elects to collaborate or participate in a consortium, the AFH submission deadline for the lead agency in the collaboration or consortium will apply to AFH submissions of the collaboration or consortium.
- Until an HA must submit an AFH under the new AFFH regulations, the agency must continue to comply with existing Analysis of Impediments (AI) preparation and submission requirements.

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...“UPCS-V Comments”

Continued from page 1

Public comments to the Federal Register Notice are due no later than July 5, 2016 and should be submitted to: www.regulations.gov.

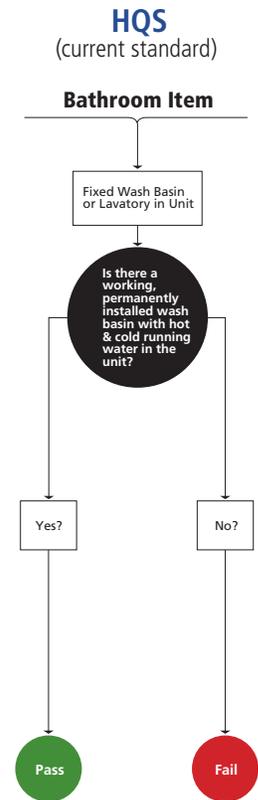
Note: the comments below will be utilized as the foundation for a comprehensive submission to the Federal Register Notice by PHADA. Agencies are highly encouraged to utilize the information below to formulate agency-specific comments and to provide examples to support those arguments. When utilizing the details below in the drafting of agency comments, please remove reference to PHADA (if applicable) and insert the individual agency name.

PHADA General Comments & Concerns Related to Demonstration

- **Increased costs** – while HUD recently stated that the UPCS-V demonstration would be “budget neutral,” it is highly unlikely that the implementation and administration of a demonstration of a wholly new and distinctive inspection protocol will come at no cost to HAs, landlords and/or HCV participants. The demonstration requires that participating agencies provide an internet connected, internet operating system or Android based electronic handheld device for each HA staff inspector participating with the capability to download the required HUD-provided inspection software. Further, agencies will be required to educate all participants and participating landlords of the new standard and inspection protocol. These education and outreach efforts affect all agency staff, not just inspectors, which will ultimately increase workloads and administrative burdens, as well. Any presumed increase in cost could result in increased rent requests from landlords and potentially increased rents for tenants as a result.
- **Increased administrative and regulatory burdens** – agencies that choose to participate in the demonstration will see significantly increased administrative and regulatory burdens. Additional burdens include, but are not limited to: the training of staff, education of participants and landlords, technical assistance provided by the Department, concurrent HQS/UPCS-V inspections with HUD, the transition from HQS to UPCS-V, extensive field tests, IT transitional testing and processes, overcoming general demonstration barriers, potential setbacks and delays, quality assurance inspections by the Department, the potential for increased inspection time duration due to new standards, required participation in focus groups, conference calls and training sessions on policies and procedures. Further, applicants selected must participate in the demonstration throughout the duration of the testing period for a minimum of one calendar year, with the possibility of an extension, as determined by HUD, **for a maximum total of three years**. This demonstration is an enormously onerous commitment that comes with no financial assistance from the Department. Due to all of these additional burdens, one questions the likelihood that the Department will obtain the goal of 250 participating agencies.
- **Timing** – considering the current budgetary environment of historically low federal funding, combined with significant increases in administrative and regulatory burdens as a result

FIGURE 1. UPCS-V Standard Excessive and Impractical

The proposed standard, as currently designed, is excessive and impractical. Figure 1 conveys just one example of how burdensome the proposed standard could be compared to HQS. The HQS graphic depicts the complete HQS standard as it exists today related to the item “fixed wash basin or lavatory in unit.” Adjacent to the HQS graphic is just one example of how UPCS-V addresses the inspectable item “bathroom sink.” The UPCS-V graphic depicts an inspector’s judgment that “there is a leak.” Other examples in the HUD provided decision trees related to bathroom sink deficiencies include such decisions as: problem with drainage, missing or loose sink, cracks or discoloration in the basin, missing or not functioning hardware, etc.



of new rules, regulations and guidance issued by the Department, the voucher program is in turmoil. Consequently, one questions the prudence and feasibility of such a massive undertaking. Further, a new administrative fee formula for the HCV program is currently being considered. PHADA and its members have expressed and continue to have numerous concerns about the possibility of implementing a new Administrative Fee formula. Potentially instituting yet another significant modification to the voucher program in such an uncertain period is ill-advised and could have considerable negative impacts on the program, as well as the participants that it serves.

- **Potential loss of landlords** – as mentioned above, the implementation of the UPCS-V demonstration will require education and outreach efforts to both landlords and participants. Any presumed increase in costs related to a new inspection standard, whether actual or not, could result in the loss of landlords in the HCV program. Any loss of landlords could result in decreased housing choice for residents and reduce the availability of units in areas of high opportunity.
- **Participation by key stakeholders** – the Department is emphatically urged to continue ongoing and comprehensive participation by key stakeholders throughout the demonstration, including: HAs, HCV participants, industry groups, landlords, advocacy groups, contract inspectors, etc. Allowing all stakeholders, not just participating agencies, to provide feedback throughout the demonstration will better ensure that HUD’s objective of a more reasonable, reliable and replicable standard is achieved. Further, the Department is encouraged

UPCS-V
(proposed standard)

Bathroom Item

Bathroom Sink

There is a leak

There is a leak or drip when the control(s) is in the off position and it is contained by the sink basin

There is a leak or drip when the control(s) is in the on position and it is contained by the sink basin

There is a steady leak that cannot be contained by the sink basin

Slow Drip

Steady Leak

Pass

Fail

Pass

Can control the flow or containment of the water supply

Unable to control the flow or containment of the water supply

There is another functional sink in the unit (kitchen or bathroom)

There is not another functional sink in the unit (kitchen or bathroom)

Fail

Fail

Fail

to organize additional UPCS-V industry feedback sessions at appropriate times as the evaluation proceeds.

- **Continual transparency** – constructive dialogue and feedback between the industry and the Department is only possible if all stakeholders have access to all revisions made to the current draft UPCS-V standard as provided to the industry in February/ March 2016. In addition, HUD should provide regular updates to the industry related to specific demonstration details. For example, the industry should have: the opportunity to comment on all iterations of the UPCS-V standard throughout the demonstration; knowledge of which agencies have been chosen to participate; access to findings, outcomes, impacts, etc. of the entire evaluation itself; detailed knowledge of HUD Real Estate Assessment Center's (REAC) methodological approach to both the selection of a representative sample of agencies and the implementation and administration of the demonstration as a whole.
- **Congressional direction** – there is a general understanding that Congress directed the Department to implement a single inspection standard across rental housing assistance programs. It appears that the Department has instead, created a third inspection protocol. Considering the Department has utilized Congressional direction as the primary impetus for the development of UPCS-V, it is perplexing that UPCS-V is so dissimilar to UPCS.
- **Evaluation design and methodology** – Does HUD-REAC intend to work with the HUD Office of Policy Development and Research (PD&R) to ensure that all appropriate precise impacts and outcomes are evaluated? Further, will HUD PD&R be involved in the administration and implementation of the

demonstration to ensure proper methodology and sampling is utilized that will result in a scientifically valid approach. It is imperative that the Department study and evaluate key impacts, outcomes and unintended consequences (e.g. voucher success rates, landlord retention, number of families served, cost, administrative burden, etc.). Of highest importance is the prerequisite that HUD assemble a diverse set of agencies that is a representative sample of the types of HAs, properties and participants found nationwide.

- **IT capacity** – one questions the Department's capacity to effectively implement and administer such a complex and large-scale electronic inspection model. Other implemented HUD IT systems have not been reliable, or even in some cases workable (e.g. SPEARS, VMS, PIC, etc.). Has the Department incorporated input from public housing software vendors to determine the feasibility of HUD's anticipated methods for the upload and transferring of physical inspection information, data and photographs?
- **Connection to new Administrative Fee formula** – the Administrative Fee formula currently under development by the Department does not take into consideration a UPCS-V inspection standard. While HUD determined that HQS inspection-related activities were not statistically significant, and as a result were not included in the fee formula (as proposed), PHADA recommended that HUD review and re-test these activities to see how they contribute to agencies' administrative costs due to the potential that they may have been undervalued in the development of the new formula. In connection to evaluation design and methodology detailed above, it is imperative that the changes in cost, duration of inspection, etc. as a result of the likely transition to UPCS-V be evaluated thoroughly in correlation to the new Administrative Fee formula in order to effectively capture the real cost of administering the HCV program.

PHADA General Comments & Concerns Related to UPCS-V Standard

Please note that the information related to the UPCS-V standard provided by the Department (i.e. decision trees and a dictionary of deficiency definitions) is in draft form only. PHADA has completed a preliminary analysis of the standard, and received comments from agency members. The comments below are a direct result of these analyses. However, it is vital that HUD continue keep the industry apprised of any and all changes to the draft standard previously provided so that the public has the opportunity to comment on all iterations of the draft standard in order to offer helpful feedback. This will better ensure that the final standard is as effective, objective and consistent as possible.

- **UPCS-V is inconsistently more rigorous than HQS** – in a number of instances, UPCS-V is more rigorous than HQS in ways that are inconsistent with the Department's stated goal of ensuring safe, habitable voucher-assisted rental housing. For example, it appears that the draft standard could be less stringent than HQS as it relates to the interior of the unit and more stringent related to exterior surfaces and site conditions of the unit (e.g. parking lots, penetrating vegetation, ponding, etc.).

- Inspectable items have been significantly expanded – not accounting for local codes and standards that agencies have instituted supplementary to HQS, UPCS-V includes significantly expanded opportunities for a unit to fail an inspection when compared to HQS. For example, the current HQS Inspection Checklist, for HUD-52580-A, includes approximately seven pages of pass/fail inspectable items based on the following thirteen (13) performance requirements: sanitary facilities, food preparation and refuse disposal, space and security, thermal environment, illumination and electricity, structure and materials, interior air quality, water supply, lead-based paint, access, site and neighborhood, sanitary condition and smoke detectors. HUD’s decision trees, which will shape the structure of the proposed electronic inspection software for UPCS-V, specifies 38 pages of potential inspectable pass/fail items (see Figure 1 on pages 12–13).

While PHADA supports updates to the voucher inspection standard to include the latest science on health and safety threats in the home, such a significant increase in inspectable items clearly goes beyond solely health and safety updates. This increase is excessive and is counter to the Department’s statements that UPCS-V will be “budget neutral” and that is not appreciably more burdensome and/or costly than HQS. Such a significantly more stringent and complex standard could likely result in a restriction of the number of units available to participants in the program, for a number of reasons. The following is a list of some of the new inspectable items included in UPCS-V that are not part of HQS:

- Arc fault circuit interrupters, garage doors, fire rated doors, call-in aide systems, sprinkler systems, fire alarm testing records, garbage chutes, graffiti, dishwasher/garbage disposal, screens, exit signs, pools, ponding of water in paved areas, mail boxes, litter, exterior lighting, storm drainage, playground equipment, parking lot condition, and others.
- UPCS is a flawed platform – utilizing UPCS as a “proven platform,” per the Department could have damaging effects on the new standard. PHADA has consistently criticized UPCS for its inherent flaws and that REAC inspections routinely fail at quality, consistency and objectivity. Further, there have been a number of changes, through notice, compilation bulletin, etc., made to the UPCS standard without proper vetting by the industry and experts. The Association is alarmed that these same concerns, which were never addressed by HUD (to PHADA’s knowledge), will be retained in UPCS-V.
- UPCS-V continues to be highly inconsistent and subjective – there are a number of instances within the UPCS-V standard in which standards and/or definitions are both inconsistent and subjective. Due to this, PHADA has trepidations that many, if not all, of these issues will be addressed and improved upon in the final UPCS-V standard. Consequently, it is imperative that the Department assemble and convene an ongoing panel of industry experts and HUD staff to review, revise and improve upon the decision trees and dictionary of deficiency definitions. For example:
 - Inconsistency – the decision trees provided by HUD include

approximately six pages (out of 38) of inspectable items related to doors alone. Whereas, there appear to be important home safety standards missing from UPCS-V. In the HQS inspection program, two working outlets are required in rooms without a permanent light. Yet, this requirement is omitted in the UPCS-V as a fail standard. Instead, the UPCS-V receptacle fails when there is one inoperable receptacle in the entire apartment, not just one room, regardless of how many are working. The National Electrical Code requires an outlet approximately every 6 feet. Ignoring this common electrical hazard is inconsistent with the stringent interior and exterior door requirements, and is also contrary to the Department’s goal of incorporating current home safety standards into UPCS-V.

- Subjectivity – Health and safety concerns form the foundation for the development of UPCS-V. HUD-REAC maintains that subjectivity will be drastically reduced by the institution of the new inspection standard. While subjectivity for fail items has been reduced by over 50 percent overall, subjectivity appears much higher (at 87 percent in the area of health and safety. Examples of subjective judgments regarding health and safety in UPCS-V include, but are not limited to:
 - Openings in electrical panels
 - Flammable materials improperly stored
 - Flammable materials stored near an exposed flame, heat or electrical source
 - Mold poses a risk to health
 - Gas odor poses an explosion/fire risk or health risk if inhaled
 - Other harmful pollutants that threatens the occupants health
 - Sewer odor poses a risk to health
 - Other hazardous electrical condition creates a life threatening condition
 - Water leaking, puddling, or ponding on or near electrical apparatus
 - Blocked emergency/fire exits
 - Gasoline, propane, or kerosene improperly stored
 - Garbage gathered in area not sanctioned for storing garbage
 - Structurally unsafe or unsound that partial or complete collapse possible
 - Infestation of Insects (excluding roaches)
 - Other - poses a risk of bodily injury

HUD Solicited Comments

In addition to the questions and concerns detailed above, HUD has included a number of specific questions in the Federal Register Notice, as well, which are listed below. PHADA will respond to the four questions below and continue to expand on the points detailed above, among others, in the final comments to be submitted at a later date.

1. HUD is considering selecting for participation only PHAs that do not utilize contract inspectors. Are there any instances where an exception to this criterion might be useful?

FAHRO's Appeal to Provide Safe Water to Flint Housing Commission



In May, the Florida Association of Housing and Redevelopment Officials (FAHRO) contacted PHADA to help raise awareness of its initiative to mitigate the water situation in Flint, MI. FAHRO seeks to provide assistance with water delivery to the Flint Housing Commission, and has stated that “the unfortunate circumstance that has beset Flint in the wake of the man-made water crisis is one that cannot go unnoticed. As is usually the case, the most adversely

affected are those who face challenging economic conditions on a daily basis.”

As part of its efforts, a relief fund has been established to provide water to the residents of the Flint Housing Commission. PHADA members who wish to make a contribution may do so at: <https://fahro.site-ym.com/donations/donate.asp?id=14165> ■

2. Will utilizing commercial, off-the-shelf hardware, such as internet connected tablets or smart phones, reduce the barriers to participation for PHAs as opposed to having PHAs use more specific devices such as those required for other HUD UPCS inspections?
3. Are there other PHA characteristics that HUD should consider in selecting PHAs to participate in the demonstration?
4. Are there other revisions outside of the UPCS criteria that HUD should consider when moving toward a single inspection protocol?

Conclusion

It is clear that there continue to be a number of unanswered questions and significant concerns with both the UPCS-V standard and the administration of a demonstration. PHADA will continue to urge the Department to move ahead cautiously and with substantial industry input, and to allow ongoing participation by key stakeholders prior to and throughout the demonstration. This will help to ensure a scientifically sound evaluation and ultimately a meaningful, reliable and workable UPCS-V standard. PHADA will continue to keep members apprised as the demonstration progresses. A full list of PHADA's comments to the federal register notice will be available online shortly after they have been submitted to regulations.gov.

For additional information related to the notice and more specific information concerning the demonstration itself, please visit: www.phada.org/advocate/article.php?storyid=2486.

Please utilize any or all of the information provided in this article as the foundation for your own agency specific comments. Comments due no later than July 5, 2016, and can be submitted to: www.regulations.gov/#!documentDetail;D=HUD-2016-0044-0001 ■

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PHADA Calendar 2016-2017

September 11-13, 2016 Legislative Forum Washington Court Hotel Washington, DC <i>EDEP courses to be held</i> September 9-10	January 8-11, 2017 Commissioners' Conference Hilton Orlando, Lake Buena Vista Orlando, Florida <i>EDEP courses to be held</i> January 6-7	April 30 - May 3, 2017 Annual Convention & Exhibition Hilton Chicago Chicago, Illinois <i>EDEP courses to be held</i> April 28-29	September 10-12, 2017 Legislative Forum Washington Court Hotel Washington, DC <i>EDEP courses to be held</i> September 8-9
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