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Regulations Division
Office of the General Counsel
Rules Docket Clerk
U.S. Department of Housing & Urban Development
451 Seventh Street SW. Room 10276
Washington, DC 20410-0500

**RE: Comments on Proposed HUD Rule on Streamlining Public Housing Programs;
24 CFR Parts 903, 941, 945 and 966**
Docket No. FR-4990-P-01; RIN 2577-AC59
Published 8/5/2008; 73 Fed. Reg. 45368

The Saint Paul Public Housing Agency (PHA) submits the comments set forth below regarding the Department's Proposed Rule on "Streamlining Public Housing Programs." We also join in the comments from the Public Housing Authorities Directors Association (PHADA).

The Saint Paul Public Housing Agency is an independent governmental agency that owns and manages over 4,200 public housing dwelling units and administers over 4000 Section 8 Housing Choice Vouchers in the City of Saint Paul, Minnesota. The PHA has been rated a "High Performer" agency every year under PHAS and PHMAP and for seven years under SEMAP.

We strongly support the Department's current proposals and we encourage HUD to make further efforts to clarify and streamline rules and processes, and to remove non-statutory requirements from regulations. Since Saint Paul PHA staff participated in HUD's Administrative Reform Initiative in 2007, we are pleased to see that some of that group's recommendations are reflected in HUD's current proposals. In many situations HUD can use notices, guidance and handbooks to instruct or guide housing agencies, rather than writing non-statutory requirements into regulations. The fact that the current proposal removes some outdated provisions from regulations demonstrates that that regulatory process can be too rigid and cumbersome to keep pace with program changes.

We offer the following specific comments:

1. Deconcentration of Poverty and Income Mixing (24 CFR Part 903, Subpart A).
 - a. We strongly support HUD's proposal to eliminate most of the procedural requirements in Sec. 903.2 (implementation steps, etc.). HUD could reissue some of the same provisions as non-binding guidance, while leaving more discretion to PHA's to decide how to comply with the statutory requirements (42 U.S.C. Sec. 1437n).

- b. PHA's should be permitted to comply with the statutory requirements for deconcentration in ways that reflect local variations in housing types and conditions. The PHA should be able to select both the method of assessing concentrations and the ways of addressing undue concentrations, if any are found. In Saint Paul's case, our analysis consistently shows relatively equal incomes across family housing developments, when unit sizes or household sizes are taken into account. Our data show that incomes vary directly with average household size and unit size. (We also have taken issue in the past with HUD's required method of analyzing concentrations of poverty, which is based on an outmoded cost-based allocation method for taking unit sizes into account. Even using that method, there are no significant disparities in average incomes among the Saint Paul PHA's family housing developments.)
 - c. Now that HUD has required PHA's to shift to an operational model based on Asset Management Projects (AMP's), each PHA's deconcentration analysis may change. The statute simply says that, in complying with the income targeting requirements for new admissions to public housing, "A PHA may not ... concentrate very low-income families (or other families with relatively low incomes) in certain public housing projects or certain buildings within projects." Again, local housing agencies are in the best position to assess whether undue concentrations exist. HUD may provide guidance but it should allow local flexibility, and that is what the proposed rule does.
 - d. We also support the proposal to eliminate most of Sec. 903.2(d), which sets out extensive fair housing requirements. The initial paragraph, which is preserved in the proposed rule, adequately states the requirement that PHA's must comply with Fair Housing Act requirements and with other regulations on "affirmatively furthering fair housing."
 - e. We recommend that HUD further simplify the regulation on deconcentration as set forth below. If this language is not retained in regulations, it should be reissued in other form(s) such as guidance, notices or handbook provisions.
 - i. Revise Sec. 903.2(b)(2)(ii) to exempt "public housing developments operated by a PHA who house ~~only~~ primarily elderly persons or persons with disabilities, or both."
 - ii. Revise Sec. 903.2(b)(2)(vi) to exempt "Scattered site or small developments, or other developments whose size, location, and/or configuration promote income deconcentration." This language is in Sec. 903.2(c)(4)(iv)(C) which would be deleted under the current proposal.
2. Annual Plan Requirements (24 CFR Part 903, Subpart B – PHA Plans)
- a. We strongly support HUD's proposal to simplify the Annual Plan requirements. We have found the process of reviewing and updating the Annual Plan with a Resident Advisory Board (RAB) to be useful and we intend to continue it in substantially the same way if the proposed rules are adopted. However, we concur that the regulation is not the appropriate place for most of the procedural requirements in the current rules. Again, HUD could reissue some of the same

provisions as non-binding guidance, while leaving more discretion to PHA's to decide how to comply with the statutory requirements.

- b. We note that some tenant advocacy organizations have expressed concerns that the proposed rule could enable a PHA to cut off resources to the RAB and withhold essential information, depriving the RAB of a meaningful role. However, we believe that the role of the RAB is sufficiently established and valued at most PHA's that the proposed regulation would sustain it. In the rare case where a PHA might appear to neglect or bypass the RAB process, residents and their advocates have other tools to remedy the situation, such as appealing to the residents on the PHA Board, rallying community support, contacting HUD field offices, etc. Those methods probably would be more effective and timely than a legal challenge based on the current regulatory language.
- c. We support the proposed regulation that still requires a statement of housing needs, while reducing the specific requirements in the current regulation (Sec. 903.7(a)). In fact, we believe the current regulation makes demands on a housing agency that are beyond the capabilities of most PHA's, unless the agencies were to divert scarce (and dwindling) resources from their central mission of providing housing. PHA's are not research organizations; we have limited time and ability to locate or create and analyze all of the demographic data suggested in the current regulation. In Saint Paul the PHA has been able to use some data from the City's Consolidated Plan to show housing needs, but for data not provided in the City's Plan we have had to enter "data not available" in the Agency Plan template.

Several years of underfunding have stressed PHA's to the breaking point. Many housing agencies are in a survival mode (or worse). Granted, an understanding of a community's housing needs is relevant to downsizing public housing portfolios. However, it is economic imperatives, more than detailed demographic data, that are driving most PHA decisions about when and how to reduce inventory, cut costs and generate revenues (in Saint Paul's case, by selling scattered site public housing homes).

3. Public Housing Development (24 CFR Part 941). We support the proposed regulations. As PHADA commented, the proposal appears to provide needed flexibility in selecting the general contractor, while still requiring adequate protections to serve the public interest.
4. Designated Housing (24 CFR Part 945). We support the proposal to delete an obsolete description of the process for designating housing for elderly persons or for persons with disabilities. As noted above, the fact that these outdated provisions are still "on the books" demonstrates the limitations of using regulations to establish non-statutory procedures. Guidance, notices and handbooks are sufficient in many circumstances, and they can be revised more easily as conditions change.
5. Grievance Procedures (24 CFR Part 966). We support this proposal to streamline the regulations on grievance procedures. The proposed regulations adequately protect a

resident's right to contest an adverse decision by a housing agency. Contrary to the assertion of one tenant advocacy organization, the current regulation does not give an individual resident/grievant the right to appear before a hearing panel instead of a single hearing officer. Therefore the proposal to elimination references to a hearing panel does not take away a current resident "right". In fact, the proposed language appears to leave the door open for a PHA, at its option, to use a hearing panel. (Sec. 966.53(e): Hearing officer shall mean an impartial person or persons designated by the PHA....")

Inadequate HUD and PHA resources: At the present time and in the foreseeable future, HUD and individual housing agencies will not have sufficient resources to do everything we would like to do, or everything that needs to be done to carry out our mission. Among other challenges, the shift to the operational model based on Asset Management Projects will continue to consume inordinate amounts of staff time and agency resources for both HUD and PHA's. Therefore it is all the more important for HUD to finalize this round of "streamlining" of regulations, and to pursue other opportunities in the same vein. HUD and PHA's will benefit from a reduction in the complexity and specificity of regulations, and eliminating regulatory requirements that are not based on statutory language.

Thank you for the opportunity to submit these comments.

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