



National Association of Housing and Redevelopment Officials
630 Eye Street NW, Washington DC 20001-3736

June 26, 2013

HUD Desk Officer
Office of Management and Budget
New Executive Office Building
Washington, DC 20503

Re: OMB Approval No. 2577-0272: Notice of Submission of Proposed Information Collection to OMB; Public Housing Authority Executive Compensation Information

To Whom It May Concern:

I am writing to provide additional comments from NAHRO regarding the proposed information collection as well as to provide our reaction to certain elements of HUD's response to NAHRO's March 14, 2013 comment letter.

Breaking out Section 8(o) and Section 9 Funds

In NAHRO's original comment letter, we argued against HUD's proposal to require PHAs to break out the amounts of PHAs compensation that come from Section 8(o) and Section 9 funds, respectively, since this new requirement would essentially unravel asset management by forcing PHAs to devise radically new accounting new practices to trace funds flowing through Central Office Cost Centers. In its response, the Department wrote:

"HUD agrees that the breakout of Section 8 and Section 9 funds is a new requirement that introduces an additional burden. Based on this and similar comments received from others, HUD will increase the estimate of burden hours to better reflect the time it will take to complete the form. To minimize burden, the Department is only requiring Executives whose base salary exceeds HUD established salary limitations to break out the source of compensation originating from Section 8 and Section 9 sources. HUD recognizes that some agencies will have a greater burden than others. Information that PHAs have assembled to ensure compliance with the salary restriction notice should assist them in completing the source of funds section on the revised form."

Betsey Martens, President; **Preston Prince**, CME, Senior Vice President; **Chris Lamberty**, PHM, Vice President-Housing; **Mary E. Paumen**, Vice President-International; **Paul Purcell**, Vice President-Community Revitalization and Development; **Alan D. Styles**, Vice President-Commissioners; **Pamala G. Thompson**, PHM, Vice President-Member Services; **Deborah E. Wilson**, Vice President-Professional Development; **Saul N. Ramirez, Jr.**, Chief Executive Officer

NAHRO does not consider HUD's arbitrary doubling of its estimate of burden hours to be a satisfactory response to this particular concern. The issue is not whether the imposition of this new requirement will take longer; of course it will. The issue is instead why – and whether – it is necessary. In our opinion, there is simply no good public policy argument in favor of requiring PHAs to break out compensation amounts derived from Section 8 and Section 9 sources, respectively. Neither the salary restrictions previously imposed by the Congress nor the proposed limitations included in the Administration's FY 2014 budget are structured in such a way that would require PHAs to account separately for Section 8(o) and Section 9 funding in order to demonstrate current or future compliance.

HUD has failed to offer an argument – compelling or otherwise – for imposing this additional requirement beyond the generic statement that the revised information collection is intended to “obtain information that will help HUD determine PHA compliance with this and future legislation.” Until such time as the Congress imposes a limitation that draws a clear distinction between the use of Section 8(o) and Section 9 funds for the purpose of compensation or explicitly requires that each funding source's contribution to PHA executive compensation be reported separately, the new requirement the Department seeks to impose is superfluous.

Forcing PHAs to adopt an entirely new accounting practice (and in doing so significantly increasing the information collection burden) simply because the Congress may someday adopt a new or different limitation is irresponsible and unjustified. In our view, the imposition of burden through a new or revised information collection in this case can only be justified by the need to comply with existing statutory or regulatory requirements. If OMB approves this particular aspect of the revised form without first requiring HUD to provide a valid justification, then it will have established a misguided and dangerous precedent: namely that the Department may impose, at its discretion, reporting burdens in service of compliance with future, largely hypothetical public policies that may never come to pass. OMB should refuse HUD's request rather than serve as a rubber stamp. To do otherwise would risk delegitimizing the information collection review process.

Compliance versus Transparency

In our earlier comments, we wrote:

“In this time of draconian budget cuts and ever-increasing uncertainty, NAHRO is particularly disappointed that the Department continues to prioritize efforts such as this that have little or no value over focusing its resources on pursuing meaningful regulatory reform that will streamline the delivery of housing and services to low-income Americans. Despite repeated promises from all levels of the Administration to address and reduce unnecessary and overly burdensome regulatory and administrative requirements, this proposed information collection further increases the reporting burdens borne by PHAs and

destabilizes the operating environments in which PHAs function. NAHRO recommends that the Department reevaluate the essential utility of this reporting requirement that bears no connection to necessary monitoring or oversight, and respectfully requests that use of the HUD-52725 form be discontinued immediately.”

In its response, HUD asserts that it *“has an obligation to implement the intent of the salary restrictions included in the FY 2012 Appropriations Act” and that “[t]o comply with this intent, funding used for salaries that exceed any applicable cap must be tracked.”* However, the Department itself appears to admit that HUD-52725 is not absolutely essential to monitoring compliance with current or future salary limitations. In its response to comments submitted by the Public Housing Authorities Directors Association (PHADA), the Department concedes that while alternative *“monitoring and compliance ideas”* outlined by PHADA (such as self-certification, the use of third party data, annual audits, etc.) are *“reasonable for the purpose of assessing compliance,”* the Department’s *“transparency goal requires the collection of compensation data from all agencies.”* Similarly, in its response to NAHRO, HUD argues that *“public disclosure helps deter excessive salaries,”* that *“compensation data can provide more revealing insights about PHA compensation,”* and that *“the utility of this type of information is also reflected in the public’s demand for compensation data.”*

The Department’s invocation of a so-called “transparency goal” is disingenuous in this context. Despite earlier claims, HUD has not used the information collection to advance transparency. To the contrary, the Department has effectively broken its promises to OMB and withheld information from the public. When the Department first submitted the proposed information collection to OMB for approval in 2011, it claimed that *“it is very important that HUD collect, review, and make compensation information publicly available.”* HUD claimed that the collected *“information will be used to promote transparency”* and that the Department *“intends to publish on its website the job title and total compensation paid to the five highest compensated employees of each PHA, just as such information is available for tax-exempt organizations, federal employees, and many private corporations.”* The justification went to argue that *“this will further enhance HUD’s efforts to promote transparency concerning the use of federal funds,”* and it claimed that the collected *“information will thus be available to the public across the country.”*

Beyond a high-level summary released in June 2012, HUD has never made the collected information available to the public in any form, belying the Department’s stated commitment to promoting transparency. Because the Department did not follow through on its commitment to make the data available, NAHRO submitted a Freedom of Information Act request for all information collected through the original form. Rather than acting in a transparent fashion, the Department failed to provide NAHRO with the requested data for over a year. Only after informing the Department that we would request a formal investigation by the Office of the Inspector General did the Department relent and transmit the requested information to NAHRO.

We reiterate our contention that the proposed revisions to HUD-52725 – and indeed the form itself - are not necessary for the proper performance of the functions of either HUD or local agencies and will have no practical utility. OMB should deny HUD's request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeff Falcusan', with a long horizontal stroke extending to the right.

Jeff Falcusan

Director of Policy and Program Development