

U.S. House of Representatives
Rep. Sharice Davids
Kansas Third District

September 13, 2022

Marcia L. Fudge
Secretary
Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

Ethan D. Handelman
Deputy Assistant Secretary
Office of Multifamily Housing
451 7th Street SW
Washington, D.C. 20410

Dear Secretary Fudge and Deputy Assistant Secretary Handelman;

As you know, the U.S. Department of Housing and Urban Development (HUD) published in July a solicitation proposal for selecting Section 8 Performance Based Contract Administrators (PBCAs) moving forward. The 53 PBCAs currently working with HUD – of which the majority (33) are individual state housing finance agencies (HFAs) – provide support services for project-based rental assistance contracts.¹ The contracting of administration services by HUD dates back to 1999 when the agency held its first procurement competition, beginning the precedent that one PBCA be contracted for each state (except two for California) plus Washington, D.C., the U.S. Virgin Islands, and Puerto Rico.² The work of PBCAs includes management and occupancy reviews, contract renewals, management of tenant concerns, and other day-to-day oversight of 90 percent of HUD's Section 8 contracts.³

For years, existing PBCA relationships have worked successfully to ensure robust affordable housing access nationwide. In Kansas, the PBCA – the Kansas Housing Resources Corporation (KHRC) – expertly manages 10,963 project-based rental assistance units at 228 developments across the state. Over 4,500 of those units are at properties supported by other federal investments via KHRC like Low Income Housing Tax Credits, the HOME Program, and the Housing Trust Fund. Unfortunately, HUD's solicitation proposal includes several concerning provisions that would hinder the work of PBCAs as detailed below:

¹ "HUD Publishes Draft Housing Assistance Payment Support Services Procurement Solicitation for Public Feedback." HUD.gov/ U.S. Department of Housing and Urban Development (HUD), July 27, 2022. https://www.hud.gov/press/press_releases_media_advisories/HUD_No_22_137; "State Housing Finance Agencies (Hfas) Serving as Performance... - NCSHA," February 25, 2021. <https://www.ncsha.org/wp-content/uploads/PBCA-List-by-State-HFA-and-History.pdf>

² Office, U.S. Government Accountability. "Assisted Housing Services Corporation; North Tampa Housing Development Corporation; the Jefferson County Assisted Housing Corporation; National Housing Compliance; Southwest Housing Compliance Corporation; CMS Contract Management Services and the Housing Authority of the City of Bremerton; Massachusetts Housing Finance Agency." U.S. GAO, August 15, 2012. <https://www.gao.gov/products/b-406738%2Cb-406738.2%2Cb-406738.3%2Cb-406738.4%2Cb-406738.5%2Cb-406738.6%2Cb-406738.7%2Cb-406738.8>

³ "Housing Assistance Payments (HAP) Contract Support Services (HAPSS)." Sam.gov, July 27, 2022. <https://sam.gov/opp/a15dafca809d4efe9619bf09ffd4e52b/view>.

1. This proposal would regionalize contract administration, downsizing the number of awards to fifteen across five regions.⁴ A regional approach would harm affordable housing efforts by fragmenting support services across state lines, allowing oversight of project-based rental assistance units in Kansas to be hypothetically conducted by an entity in Arkansas or New Mexico or vice versa. This plan ignores the expertise of current PBCAs, especially many state HFAs, and their strong working relationships with local residents and housing development owners. Additionally, this approach is unlikely to decrease costs for HUD. Regional entities would be required to transport staff into other states to conduct on-site reviews and management or sub-contract with local HFAs or public housing agencies (PHAs) – defeating the purpose of regionalization.
2. This proposal notes that any potential contractor that provides financing for any Section 8 project would have a conflict of interest for contract administration services, rendering state HFAs ineligible. In addition to losing local expertise and relationships, this ignores the fact that state HFAs’ support of Section 8 projects, combined with their familiarity in administering other HUD programs, is an asset to best meeting the affordable housing needs of local communities. HUD’s own contract regulations require any excess funds and interest earned on funds paid to PBCAs to be remitted to the agency or invested in accordance with HUD requirements.⁵ This allows PBCAs like KHRC to transfer excess funds to the State Housing Trust Fund (SHTF), which are then used for initiatives like weatherization assistance, gap financing for multifamily housing developments, accessibility modifications, emergency repairs, funding for Habitat for Humanity affiliates, and more. Allowing contracts to go to out-of-state entities not governed by individual states would harm PBCAs’ ability to reinvest funds fairly to meet unique affordable housing needs in our communities.

Over the past decade, HUD’s directive to ensure full and open competition in this procurement process has been reinforced by the U.S. Government Accountability Office (GAO) in 2012, the U.S. Court of Appeals for the Federal Circuit in 2014, the Senate Appropriations Committee in 2014, and the House Appropriations Committee in 2022. Unfortunately, this proposal does not ensure full and open competition. Barring state HFAs from competing for these contracts due to an arbitrary and alleged conflict of interest diminishes HUD’s ability to secure the most cost-efficient and best award in each state. Furthermore, ignoring state HFAs’ local expertise, on-the-ground relationships, and ability to manage multiple affordable housing programs would be extremely harmful to local residents and housing owners. The Senate Appropriations Committee recently reinforced this directive, stating that, “The Committee remains concerned that proposals to reduce the scope of work performed by PBCAs, diminish the applicability of Federal law, or

⁴ “Housing Assistance Payments (HAP) Contract Support Services (HAPSS).” Sam.gov, July 27, 2022. <https://sam.gov/opp/a15dafca809d4efe9619bf09ffd4e52b/view>.

⁵ Office, U.S. Government Accountability. “Assisted Housing Services Corporation; North Tampa Housing Development Corporation; the Jefferson County Assisted Housing Corporation; National Housing Compliance; Southwest Housing Compliance Corporation; CMS Contract Management Services and the Housing Authority of the City of Bremerton; Massachusetts Housing Finance Agency.” U.S. GAO, August 15, 2012. <https://www.gao.gov/products/b-406738%2Cb-406738.2%2Cb-406738.3%2Cb-406738.4%2Cb-406738.5%2Cb-406738.6%2Cb-406738.7%2Cb-406738.8>

consolidate PBCAs into regional awards versus State-by-State will have a detrimental effect on the oversight of these HUD-assisted properties and the individuals and families that rely on this critical source of affordable housing.”⁶ The Committee then directed HUD to, “ensure that the solicitation does not impede HFAs from bidding on State-based contracts.”⁷

For over 80 years, federal housing policy has authorized HUD’s relationship with PHAs and HFAs when it comes to rental assistance administration. These state and local partnerships have been vital to ensuring safe and affordable homes for millions of Americans, including the 2.1 million people who rely on Section 8 project-based rental assistance.⁸ As the agency reviews public input on this solicitation, I strongly urge you to amend the proposed parameters of conflicts of interest for PBCA contracts so as not to exclude state HFAs and reconsider the plan to award regional contracts, which could be extremely damaging to affordable housing investments and management nationwide.

I stand ready to work with you to resolve these issues. Please contact Eric Dunay (eric.dunay@mail.house.gov) in the Office of Representative Sharice L. Davids with any questions or concerns.

Sincerely,



Representative Sharice L. Davids
Member of Congress

⁶ “Transportation, and Housing and Urban Development, and Related...” Senate Appropriations Committee, July 28, 2022. <https://www.appropriations.senate.gov/imo/media/doc/THUDFY23RPT.pdf>

⁷ “Transportation, and Housing and Urban Development, and Related...” Senate Appropriations Committee, July 28, 2022. <https://www.appropriations.senate.gov/imo/media/doc/THUDFY23RPT.pdf>

⁸ “Policy Basics: Section 8 Project-Based Rental Assistance.” Center on Budget and Policy Priorities, January 10, 2022. <https://www.cbpp.org/research/housing/section-8-project-based-rental-assistance>.