



September 28, 2022

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Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW  
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**RE: Notice ID 86614622R00001: Draft Solicitation, Housing Assistance Payments (HAP) Contract Support Services (HAPSS)**

Thank you for the opportunity to provide feedback to the Office of Multifamily Housing Programs (MFH) on the draft solicitation for the Housing Assistance Payments (HAP) Contract Support Services (HAPSS), formerly known as the Performance-Based Contract Administrator (PBCA) program. It is vital that HUD improve the Draft Solicitation because of the enormous impact a final solicitation will have on project-based Section 8 residents and communities.

PBCAs are HUD's primary providers for day-to-day monitoring and oversight of most of HUD's approximately 17,000 project-based Section 8 contracts with property owners throughout the nation. Currently, PBCAs provide enhanced oversight and strong relationships between stakeholders – including housing organization sponsors, front-line operators, state-based contractors, and HUD asset management and oversight compliance staff.

LeadingAge remains a strong advocate for the value of the Contract Administration program; while the current PBCA contracting and financial payment structure needs improvement, we urge HUD to reconsider several proposed new approaches to contract administration as outlined in the agency's draft solicitation.

As the leading voice for aging, we value our ongoing partnership with HUD and with MFH to preserve and improve affordable, service-enriched housing options for older adults with low incomes. We look forward to working together to advance the Administration's goal of addressing housing unaffordability and allowing older adults with low incomes to better age in their communities.

**About LeadingAge**

LeadingAge represents more than 5,000 aging services providers, including non-profit owners and managers of federally-subsidized senior housing properties. Alongside our members and 38 state partners, we use applied research, advocacy, education, and community-building to make America a better place to grow old. Our membership encompasses the continuum of services for people as they age, including those with disabilities. We bring together the most inventive minds in the field to lead and innovate solutions that support older adults wherever they call home.

**General Comments – Draft Contract Administration Rebid**

Under HUD's project-based Section 8 program, the federal government provides monthly rental assistance payments to 1.2 million households through Housing Assistance Payment (HAP) contracts

with private property owners. To support these contracts, HUD procures services of contract administration, including conducting Management and Occupancy Reviews (MORs), renewing HAP Contracts, adjusting HAP Contract rents, investigating and addressing tenant concerns, processing monthly vouchers, and providing monthly, quarterly, and annual reports on an assigned portfolio of projects. Currently, HUD partners with PBCAs to conduct 90% of the day-to-day monitoring and oversight of the HAP contracts.

In addition to ensuring quality contract administration and robust oversight of housing provision throughout the HUD Multifamily Housing portfolio, LeadingAge's primary interest in the proposed new HAP contract services procurement effort is to **ensure a non-disruptive transition to improved, stabilized, and streamlined contract administration**. We urge HUD to build on current best practices, as well as leading industry practices recommended through a third-party report produced for HUD in 2016,<sup>1</sup> to streamline administration of the approximately 17,000 contracts within HUD's MF portfolio.

***Minimizing Disruptions in Transition:*** HUD has proposed a shift in procurement based on regional geography, which would reorganize the contract administrators along the five HUD MF regions, each with three subregions. This will take the current state-driven PBCA universe of more than 50 contractors down to 15, and significantly alter the eligible entities for the procurement, which currently consist to a large extent of public housing authorities and state housing finance agencies that represent state-wide (or territory-wide) jurisdictions.

A shift of this nature will have massive impacts on the administration of project-based Section 8 contracts held by affordable senior housing providers. Specifically, many thousands of housing communities throughout the country will be shifting to new contract administrators next year if HUD's solicitation becomes final, and many housing organizations will experience a split in their respective administrators throughout their portfolios, even within the same metro area, based on the subdivision along subregional lines. HUD should anticipate, and take steps to minimize, the expected loss of valuable state/local knowledge, long-standing relationships, and commitment to a common mission. HUD should prioritize steps that avoid issues related to data transfer to new contractors, disruptions of operational processing, communication breakdowns, and gaps in oversight that impact resident quality of life.

HUD can minimize disruptions by committing to provide timely information on the new contractors and subcontractors to owners/agents and other stakeholders. For example, a rebid of the solicitation for 2023 is an ambitious timeline that may not allow for enough time to incorporate stakeholder feedback and give the industry time to adjust to the new solicitation. We also urge HUD to set up consistent transition guidelines for owners/agents and contract administrators, as well as implementation support throughout any procurement adjustments

***Requiring Standardized Data Transfers:*** According to Deloitte's 2016 report on best practices for HUD's contract administration, there is currently a major gap in data transaction standards across the country's 53 PBCAs. The report reads: "Each PBCA currently collects and stores data based on their individual system requirements and work flow needs. This provides flexibility to the PBCA, but does not support the consolidation and analysis of data across the entire program. While HUD requires PBCAs to make entries into its Integrated Real Estate Management System (iREMS), useful PBCA task information and performance data is either reported only via the monthly invoice or not at all."<sup>2</sup>

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<sup>1</sup> HUD Section 8 PBRA FINAL Recommendation Report, June 20, 2016; Deloitte

<sup>2</sup> Deloitte Report, page 17

The report goes on to recommend that the agency utilize the PBCA rebid process as an opportunity to standardize data models for services provided through contract administration: “To the extent the data models are not standardized, the PBCA contract process provides a vehicle for requiring adoption. The benefits of improved communication, interoperability, and lowered barriers to entry for new suppliers (through lower IT adoption costs) could be expected to reduce PBCA costs overall.”<sup>3</sup>

HUD’s current draft solicitation to overhaul the contract administration procurement does not clarify how HUD intends to implement this recommendation and advance aggregate data oversight of HUD’s contracts and processes nationwide. For example, section 1.3 of the draft solicitation states that “the Contractor shall have a TRACS compliant system and obtain access” to certain HUD systems, including TRACS, iREMS, and the EIV system, but does not outline an intention to standardize other aggregate data processes by the contract administrator.<sup>4</sup> We urge HUD to use the rebid process as an opportunity to **strengthen data sharing, leveraging, and oversight** throughout the portfolio’s contract administration.

***Streamlining Contract Administration:*** HUD should also take the procurement opportunity to build on best practices in current contract administration, including to implement expedited processing while reducing repetitive or duplicative procedural steps. For example, HUD’s current draft solicitation alarmingly seems to indicate a recapture by HUD of authority presently granted solely to the contract administrators (CAs). This shift involves authority to approve several standard property transaction processing and appeals requests by owners, among other tasks. For example, Section 5.1.4 of the draft solicitation delegates authority to request a 100% file audit at a property to the contractor’s HUD point of contact (Contracting Officer’s Representative, or COR), instead of allowing CAs to fully “own” the process. Similarly, standard corrective action plans for property MOR follow-up would require COR approval and involvement as described in the draft solicitation, as would owner/agent appeals of MORs.<sup>5.1.7</sup> A similar process of HUD approval is described for Special Claims processing, which is a common and non-controversial process in HUD HAP contracts.<sup>5.2.6</sup>

Sustainability of assisted housing properties depends on timely renewals, adequate adjustments to reserves, and accurate rent setting. We strongly urge HUD against recapturing oversight authority that was previously in the sole purview of the contract administrator. Requiring HUD sign-off on Special Claims requests and other standard property operations will only add layers of delay and disruption to asset management. Instead, HUD should **continue to delegate authority where possible to streamline the contract administration process**, while retaining the authority to intervene as needed to promote property viability and resident wellbeing.

***Achieving Stability and Consistency:*** Overall, we are concerned about potential negative impacts to individual property stability and overall portfolio preservation related to changes in the procurement of contract administration. In HUD’s previous draft solicitation, issued in 2016 and never finalized, HUD proposed a bifurcated national and regional model for contract administration. Many stakeholders questioned the inclusion of a sole national contract for its single point of risk and for the proposal’s lack of clarity with regard to the division of contract administration tasks between the regional and national levels.

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<sup>3</sup> Deloitte Report, page 23

<sup>4</sup> Housing Assistance Payments (HAP) Contract Support Services (HAPSS), HUD Draft Solicitation, July 27, 2022

The current draft solicitation states that “upon expiration or termination of the existing 53 ACCs, HUD will become the contract administrator for all HAP Contracts in MFH’s portfolio. Thus, HUD is now seeking to obtain HAP Contract support services using competitive contracts processes to assist HUD in the administration of approximately 17,000 HAP Contracts.”<sup>1,2</sup>

We understand this paragraph in the draft solicitation to read that HUD is proposing to act in a national-level oversight capacity, while proposing a regional- (and sub-regional) contract approach to assist in the administration of the contracts. This is supported by the fact that HUD is proposing limits to the HAP contracts within an administrator’s purview, including no more than 5% of troubled properties and no more than 5% of DEC referrals per contractor portfolio.<sup>1,4</sup> Is HUD intending to take over contract administration for any HAP contracts removed or excluded from the region’s contractor, or to shift those contracts to another CA?

We seek clarity on HUD’s approach with regard to creating country-wide consistency and cohesion regarding contract administration, and through it, quality assurance over HUD MF’s affordable rental housing. For example, there are currently many inconsistencies and discrepancies among the HUD MF regions in administration of the Project Rental Assistance Contracts (PRACs), which are administered by HUD Account Executives that report to their respective regional HUD staff but lack oversight at the national level to ensure cohesion.

Further, Deloitte’s 2016 report on the contract administration of HUD’s MF portfolio recommended a phased approach that begins with a regional structure, followed in the future by the incorporation of a nationally-contracted oversight structure. The report reads: “Creating a national oversight layer would minimize the amount of time and effort HUD would need to use to oversee the PBCA services. This layer can focus on quality assurance, process analysis and improvement, troubleshooting, and contingency operations. Based on Deloitte’s research, as well as feedback from internal interviewees, a national oversight layer would address the limitation concerns HUD faces in terms of resources and administration as it was stated several times that HUD does not have the resources to provide extensive oversight to current PBCA services.”<sup>5</sup>

HUD in its current draft solicitation adopted many other recommendations in the Deloitte report, but does not fully explain how it intends to achieve national-level oversight of regional contractors in its newly proposed capacity; is it the agency’s intention to phase in a national level contract? If so, what will the stakeholder engagement process be, and how will HUD ensure consistency and cohesion, with limited agency capacity to conduct contractor oversight and quality assurance, in the meantime? The new structure, paired with HUD’s proposal to recapture certain authorities (as described above), necessitates an increase in HUD staffing capacity to meet demand. We urge HUD to **provide more information about its intended quality assurance and national cohesion plan for CA oversight.**

**Adjusting Payment Structures:** An additional point of concern related to stability hinges on the proposed contract payment structure. As stated above, sustainability of assisted housing properties depends on timely and accurate operational processing of the many components of HAP contracts. In its draft solicitation, HUD has proposed a single-award Indefinite Delivery/Indefinite Quantity (IDIQ) contract with a base and four option periods.<sup>B.1</sup> Each period is described in the draft solicitation as

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<sup>5</sup> Deloitte Report, page 23

having a twelve month period of performance, described in section 1.6 as one base period of 12 months and four 12-month option periods.

To enhance stability and consistency among contracts, we instead **recommend multi-year contracts with additional renewal options**, with the already included explicit ability for HUD to cancel contracts for non-performing contract administrators (described in section 1.4 as HUD's ability to "withdraw HAP contracts at any time at HUD's sole discretion").

The IDIQ structure is further described as being "secured through the issuance of task orders."<sup>B.1</sup> The task order approach is vulnerable to disruptions in work that exceeds the initially-projected scope, timing, or funding of a specifically contracted task. For example, section G.9(c) of the solicitation describes the process for assigning tasks through the contract, including a clear limitation: "The contractor shall not perform work and the COR will not authorize any work that causes the contractor to exceed the total obligated amount or the balance of funds remaining on the task order." We **urge HUD to clarify how time-sensitive tasks related to HAP contracts will be completed should they be disrupted through the task order approach to contract administration.**

Again, thank you for your review and consideration of these comments. Overall, we urge the agency to use this as an opportunity to improve the stability, cohesion, and efficiency of contract administration and quality assurance over the provision of affordable rental housing across the country.

We look forward to working together to advance quality affordable housing options for older adults. Please address any questions to Juliana Bilowich (jbilowich@leadingage.org).

Sincerely,

Juliana Bilowich  
Director, Housing Operations and Policy

*Attachment: worksheet*