



April 27, 2023

Office of the General Counsel
Regulations Division
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410

RE: Docket No. FR-6086-N-04, Request for Comments: National Standards for the Physical Inspection of Real Estate and Associated Protocols, Proposed Scoring Notice

To Whom It May Concern:

Thank you for the continued opportunity to provide additional comments on a new scoring methodology proposed under the National Standards for the Physical Inspection of Real Estate (NSPIRE). As the leading voice for aging in America, we support the agency's thoughtful approach to comprehensively overhauling oversight of the HUD-assisted senior housing portfolio's physical condition; we commend HUD for striving for the highest quality of life for households with low incomes, including for older adults aging independently in HUD-assisted senior housing.

On behalf of our nationwide membership of affordable senior housing providers and the many older adults they serve, we urge the agency to consider the following recommendations to achieve a robust, yet feasible new approach to scoring housing safety inspections.

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.

Streamlined Scoring Weight, Inspection Areas, and Risk-Based Inspection Schedules

Under NSPIRE, HUD has proposed to adjust the inspectable areas, reducing the inspection focus to three areas instead of the previous five. In addition, HUD has proposed a simplified approach to scoring weights that hinges on two factors: the location and severity of a deficiency. Consistent with the current risk-based approach, HUD intends to continue using the zero to 100-point scale for the frequency of inspections, as well as for HUD enforcement actions, HUD risk assessments, and more. Overall, LeadingAge supports HUD's streamlined approach to scoring and looks forward to HUD building in additional feasibility measures outlined below.

In-Unit Emphasis

HUD has shifted REAC's inspection scoring to prioritize conditions that are most likely to impact residents in the places where they spend the most time: the units. The "livability" of in-unit conditions has a greater impact on resident wellbeing because residents spend most of their time in their units vs. in the common areas or outside the building. LeadingAge supports a greater emphasis on the in-unit conditions during housing inspections, and a corresponding decrease in emphasis on the exterior of the building or the "curb-appeal" of a property.

In the Proposed Scoring Notice, HUD proposed to achieve the greater emphasis on in-unit habitability in two ways: first, by assigning a higher point loss to deficiencies located in the unit, and secondly, by establishing a maximum point loss threshold for in-unit deficiencies. The second approach in particular prevents a pattern that HUD has occasionally observed, where a property can pass the overall inspection while "failing" the in-unit portion of a housing safety inspection.

While LeadingAge supports HUD's proposed new inspection emphasis on in-unit conditions as it has the greatest impact on resident health, safety, and quality of life, several changes are needed to make the new emphasis, and especially the new maximum point loss threshold, feasible for implementation. Under HUD's previous inspection protocol (UPCS), HUD established a "point loss cap," which limits the points a property could lose on any one type of deficiency repeated throughout the property or within a single unit (for example, when a property installs GFCIs that are out of compliance repeatedly within units and throughout the property, the property can only lose a certain number of points rather than points lost for every single occurrence).

These point caps are removed under the proposed NSPIRE scoring, which leaves the potential for high point loss due to a single type of deficiency repeated throughout the property. This is especially alarming given that in-unit conditions are the part of the housing inspection that the property staff have the least control over; for example, residents often choose to block or tie up the pull cords for their emergency notification systems, which could result in major point losses throughout the property based on a single standard category.

The combined impact of higher unit deficiency score weights, the in-unit point loss threshold, and the removal of point caps could lead to a drastic increase in point loss due to in-unit conditions out of the control of the housing provider. Instead of effectively improving resident safety, health, and quality of life, these policy changes could lead to well-performing and overall safe properties failing inspections.

In an effort to help HUD establish a scoring methodology that more accurately – not less accurately – reflects the true status of the housing portfolio, we urge HUD to implement the following approaches to in-unit scoring:

- 1. Expand Non-Scored Deficiency Designations:** Without point caps, the inspection process has lost key guardrails. In order to establish realistic reflections of property safety through inspection scores, we urge HUD to expand the categories of non-scored. These are deficiency categories that are designated on inspection reports and have (often urgent) required remediation timeframes, but do not result in a point loss or other scoring impact. Current and proposed examples of non-scored deficiencies including smoke detectors and, newly, carbon monoxide detectors. We strongly urge HUD to expand the list to include pull cords (and other emergency notification/call for aid system components), any new water safety requirements that are largely out of the control of the housing provider, the expected new minimum in-unit temperature requirements, and deficiencies involving

tenant-owned or -supplied furnishings. This includes tenant-owned appliances or other features where the standard is likely to be out of control of the property owner and should not result in a point loss.

- 2. Consider Stakeholder Input to List of Life-Threatening Deficiencies:** Given the new emphasis on location and severity of deficiencies revealed in the proposed scoring notice, we urge HUD to carefully review, in consultation with stakeholders, the list of life-threatening deficiencies expected to be issued under a separate Notice by HUD. Because of the new emphasis on in-unit condition, LT deficiencies, if located in-unit, will have a drastic impact on scoring and should be reserved for immediate threats to health and safety.
- 3. Make Resources Available for Housing Providers and Residents:** To help ease the transition to NSPIRE, including new standards and new in-unit emphasis, we request that HUD make certain resources available for property staff and residents. Resources should include a unit-inspection checklist that providers can utilize to conduct their own, regular unit inspections, as well as in-unit NSPIRE inspection training videos.

Scoring and Impact of Standard Enhancements

While LeadingAge and our membership have done our best to view HUD's proposed scoring objectively, it is critical that housing stakeholders are given the full context for the new standards as scored during an inspection. HUD has yet to release the final standards under NSPIRE. Without knowing the impact of new standards based on its scored value at the property, housing providers will not be able to fully evaluate the effectiveness of new scoring approaches, or to fully prepared for NSPIRE.

We therefore urge HUD to make both the scoring and final set of NSPIRE standards comprehensively available to stakeholders as quickly as possible. In addition, we request the following actions from HUD to help housing providers adjust to NSPIRE:

- 1. Extend Proposed 12-Month Phase-in for New Affirmatives:** Rather than implementing the proposed 12-month phase-in for new affirmative safety standards, REAC should strongly consider implementing a non-scored phase-in policy for each property's first official NSPIRE inspection. This will give all properties, whether their risk-based inspection schedule falls in the first, second, or third year, the same opportunity to adjust to the new requirements. Non-scored deficiencies would still be required to be remediated on the same timeframes, and would still be designated on inspection reports.
- 2. Provide Targeted Training for Property Staff and Inspectors:** Adjusting from the long-standing approaches under the UPCS to NSPIRE is a significant change for housing stakeholders. As the industry transitions to NSPIRE, we ask that HUD emphasize consistency and preparedness by making targeted trainings available for property staff and inspectors prior to NSPIRE implementation, including training on the new standards and scoring together. Offering trainings for property staff and inspectors together will help aid in the consistent application and understanding of the new oversight protocol.
- 3. Ongoing Stakeholder Processes:** In addition to targeted training for property maintenance teams and housing inspectors, the successful transition to NSPIRE will require a close collaboration between housing stakeholders and HUD's Real Estate Assessment Center (REAC). We urge HUD to

establish opportunities for ongoing stakeholder feedback processes with REAC to feasibly and effectively improve safety conditions at HUD-assisted properties.

Again, thank you for your review and consideration of these comments, and thank you for your ongoing partnership with affordable housing stakeholders in implementing robust physical property oversight. Preserving the affordable housing stock is critical to the Administration's goal of addressing housing access across the country, and it is critical to allowing older adults to age in their communities.

Robust physical property oversight is also important because we must have measurable ways to show Congress that public tax dollars are being used to provide high-quality homes. As we work to expand the supply of affordable housing, being able to describe the quality of current HUD-assisted homes is critical.

In addition to our above comments, we point HUD to comments previously submitted to the agency on the NSPIRE proposed rule in March, 2021 and on the proposed standards in August, 2022. These comments emphasize additional avenues to ensure robust but feasible oversight of safe living conditions throughout the HUD-assisted portfolio.

We welcome the chance to participate in ongoing stakeholder feedback processes with REAC to feasibly and effectively improve safety conditions at HUD-assisted properties. Please address any questions to Juliana Bilowich (jbilowich@leadingage.org).

Sincerely,

Juliana Bilowich
Director, Housing Operations and Policy