



February 8, 2023

Ms. Dominique Blom
General Deputy Assistant Secretary
Office of Public and Indian Housing
U.S. Department of Housing & Urban Development
451 7th Street SW, Room #4100
Washington, DC 20410

Dear General Deputy Assistant Secretary Blom:

The Council of Large Public Housing Authorities (CLPHA), the National Association of Housing and Redevelopment Officials (NAHRO), the Moving to Work Collaborative (MTW Collaborative), and the Public Housing Authorities Directors Association (PHADA) wish to respond to your request for our review of the U.S. Department of Housing and Urban Development's (HUD's) draft public engagement process which you shared with us as the associations that represent local public housing agencies (PHAs) across the nation.

We appreciate that HUD has undertaken discussions with us in connection with proposed amendments to the public housing Annual Contributions Contract (ACC) between HUD and each local PHA. We also appreciate that HUD has shared a draft of its revised ACC as a basis for those discussions. That draft represents some steps towards updating the existing 1995 form of ACC, but it includes changes either explicitly or by reference that are unacceptable to PHAs. In particular, we object in the strongest possible terms to HUD's attempt to change the nature of the ACC, and therefore the existing relationship between HUD and each PHA, from a contract to a grant agreement lacking any mutual obligations.

During our discussions, the associations provided HUD with a reasonable counter proposal which includes most of HUD's updates, but which also retains the ACC as a contract. PHAs and the associations believe this is consistent with congressional intent and judicial precedent and is also critical to maintaining an effective legal partnership between HUD and local communities through their PHAs to operate the public housing program on behalf of low-income households.

It is well established that the ACC is a contract. The U.S. Housing Act of 1937 requires HUD to enter into a contract with each PHA known as the ACC, the ACC provides that it should be amended by mutual agreement of the parties, the ACC is defined as a contract in HUD's own regulations, and courts have ruled that the ACC is a contract.

Unfortunately, HUD has not yet responded to our proposal nor confirmed its intent to maintain the ACC as a contract, which we await. We also seek to continue the discussions we have been having between HUD and the associations, as representatives of the PHAs, who are parties to the contract. However, HUD has recently indicated that it will abandon those discussions and has instead proposed to undertake a novel and complex process of meetings and requests for comment from various third parties for moving forward with its changes to the ACC. As a result, we fear that HUD may be returning to the approach it used in 2018 when it first attempted to amend the terms of the ACC unilaterally in ways that would have harmed PHAs and public housing residents.

You will recall that Congress found HUD's process to be inappropriate and intervened to prohibit HUD from continuing that course of action.

Absent HUD returning to discussions with us, we believe that HUD must engage in a formal, recognized process of negotiations, such as negotiated rulemaking or consultations under the Federal Advisory Committee Act (FACA) to make mutually agreeable amendments to the ACC as the contract which governs the operation of public housing by PHAs in local communities.

We have attached to this letter for your consideration a further revision to our draft of the ACC consistent with your request at our most recent meeting with you. We respectfully request a response to it and to this letter at your earliest convenience. Thank you for your attention to these requests.

Sincerely,



Sunia Zaterman
Executive Director, Council of Large Public Housing Authorities



Tracey Scott
President, MTW Collaborative



Mark Thiele
CEO, National Association of Housing & Redevelopment Officials



Tim Kaiser
Executive Director, Public Housing Authorities Directors Association