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Submitted to the
U.S. Financial Services Committee
Subcommittee on Housing and Community Opportunity

Legislative Hearing on
"Federal Spending Requirements in Housing and Community Development Programs: Challenges in 2008 and Beyond"

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Testimony

Chairwoman Waters, Ranking Member Capito and Members of the Committee, it is my pleasure today to testify on the "Federal Spending Requirements in Housing and Community Development Programs: Challenges in 2008 and Beyond." The American Association of Homes and Services for the Aging and Volunteers of America would like to thank the Subcommittee for the opportunity to testify on the impact of federal spending requirements on HUD's supportive housing programs. The members of the American Association of Homes and Services for the Aging (www.aahsa.org) serve as many as two million people every day through mission-driven, not-for-profit organizations dedicated to providing the services people need, when they need them, in the place they call home. Our 5,700 members offer the continuum of aging services: adult day services, home health, community services, senior housing, assisted living residences, continuing care retirement communities, and nursing homes. AAHSA's commitment is to create the future of aging services through quality people can trust.

My name is Robin Keller and I am Vice President for Affordable Housing Development at Volunteers of America. I have been actively involved with 202 housing for 20 years and am also responsible for development of Section 811 funded housing on behalf of the organization. Prior to my employment with Volunteers of America, I was employed at HUD for seven years. Volunteers of America is a national, nonprofit, faith-based organization dedicated to helping those in need rebuild their lives and reach their full potential. Through thousands of human service programs, including housing and healthcare, Volunteers of America helps more than 2 million people in over 400 communities. Since 1896, our ministry of service has supported and empowered America's most vulnerable groups, including at-risk youth, the frail elderly, men and women returning from prison, homeless individuals and families, people with disabilities, and those recovering from addictions. Volunteers of America engages its professional staff and volunteers in designing and operating high quality human services that deal with today's most pressing social needs for abused and neglected children, youth at risk, the frail elderly, the disabled, homeless individuals and families, ex-offenders, substance abusers, and many others in need of assistance.

In addition, Volunteers of America is one of the nation's leading nonprofit providers of quality affordable housing for individuals and families in need, people with disabilities, and the elderly in over 220 communities across the United States, and is a growing provider of assisted living, skilled nursing and Alzheimer facilities for seniors with limited resources. We currently have 231 Section 202 and Section 811 facilities in operation and an additional 13 facilities in various stages of development. As a leading provider of housing and services for the elderly, Volunteers of America is an active member of the Leadership Council of Aging Organizations, the American Association of Homes and Services for the Aging, the National Council on the Aging, the Interfaith Coalition for Long Term Care, and the Elderly Housing Coalition.

The HUD Section 202 Supportive Housing for the Elderly Program provides capital development grants and rental assistance contracts to non-profit housing sponsors to develop, build and maintain supportive housing for seniors living on very-low incomes. Since the program's creation in 1959, it has developed nearly 6,000 projects serving more than 310,000 elderly households. The Section 202 program, like its companion, the Section 811 Supportive Housing for Disabled program, are outstanding examples of public-private partnerships that maximize efficiency and quality in federal housing programs.

We would like to take this opportunity to urge Congress to eliminate the 5 year limitation on the funds availability after obligation. While we believe few projects reach that deadline, if it does occur, typically factors far beyond the sponsors control would cause the delay in spending.

Background

In the past, the Section 202 program has come under increased scrutiny for "pipeline" delays. In its annual budget proposals, the Administration has recommended cuts to the program based, in part, on the argument that new projects take too long to move to construction and funds are not expended in a timely manner. HUD's guidelines propose that projects should move from fund reservation to initial closing within 18 months. In 2003, the Government Accountability Office (GAO) found that 73% of projects funded in fiscal years 1998 through 2000 did not meet HUD's 18-month guideline to move from award notification to initial closing.[1] A 2000 study by Arthur Andersen found that it takes an average of 25 months for projects to go from award to initial closing.[2] The reasons included departmental staffing levels and expertise, inexperienced sponsors and inadequate funding levels. GAO cited reasons similar reasons. When discussing the GAO study during a Senate Aging Committee hearing in 2003, former Assistant Secretary John

[1] United States General Accounting Office, *Elderly Housing: Project Funding and Other Factors Delay Assistance to Needy Households*, GAO-03-512, (Washington, DC: United States General Accounting Office, May 2003), 15.

[2] Arthur Anderson, *Section 202 Supportive Housing for the Elderly Funds Underutilization Study*, (Washington, DC: U.S. Department of Housing and Urban Development, 2000), 25.

Weicher noted that the backlog of old projects had been virtually eliminated by mid 2003. While it is true that HUD has made some significant improvements to the program in recent years, a large number of projects still take more that the recommended 18 months.

Section 202 PRAC Funding Allocation

In response to concerns about "pipeline" issues appropriators have imposed a five year limitation on the availability of funds. It is important for Congress to realize that the current Section 202 PRAC program includes both capital advance funding, as well as multiyear operational funding. The five year cancellation clock begins running at the obligation date and PRAC contract funds do not begin to flow until after the project is built and is operational. In 1990 Section 202 PRAC awards included contracts to fund the operational expenses of the project over that 5 year period. In 2006, to address the appropriation crisis, Congress reduced PRAC contracts to 3 year allocations. The cancellation of funds for these contracts may cripple many properties even if the funds are obligated and the project has gone to initial closing within the 3 years. If the PRAC amounts are not spent down, future renewals are at risk since often the PRAC funds from the initial contract are frequently applied to renewals of other projects, reducing the funding needed for renewals and limiting the reduction of the capital advance funding.

Delays in the Section 202 Program

The difficulties that sponsors have spending their awarded funds are based on two factors: time and money. The current Section 202 program does not provide full funding for a new development with HUD estimating that they cover 80% of the cost of new development on average. Sponsors are faced with the challenges of finding additional grants to meet a larger funding gaps. A construction cost study conducted by the National Association of Home Builders acknowledges that virtually every project requires additional funding or gap financing.

According to the 2000 study by Arthur Andersen, HUD's expected timeframe to move from the time funds are appropriated through the initial closing stage is 30 months. In practice, however, AAHSA has found that it actually takes approximately 37 months.

Section 202 Process Stages	**Expected Time Frame**	**Actual Time Frame**
Appropriation to NOFA	5 months	5.9 months
NOFA to Award	7 months	6.2 months
Award to Firm Commitment	17 months	22+ months
Firm Commitment to Initial Closing	1 month	3.1+ months
Total Time	*30+ months*	*37+ months*

If the capital advance funds are cancelled, the funds are not reallocated to the 202 program. The funds are permanently rescinded and the country has lost these units of affordable housing for our seniors. The loss of these units would be a tragedy given the increasing need for affordable housing for seniors.

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Development Cost Limits

In 2003, I testified on behalf of Volunteers of America before the Senate Aging Committee and noted that approximately 90% of the facilities that we develop require additional money due to insufficient funding allocated at the time of the award. Like most sponsors, we must search for additional funding sources to fill the gap created by an inadequate capital advance. This puts developers at the mercy of the application timelines and funding cycles of other agencies and organizations, adding to the delay. The chronic underfunding of this program means that increasing the development cost limits for new Section 202 projects will mean fewer and fewer projects built each year. It may be more realistic to make mixed-financing opportunities easier, thereby reducing delays.

Escalating Construction Costs

The regional cost differentials for development and escalating construction costs have not been reflected in HUD's funding limits. In the FY08 NOFA, the Department allocated $58,300 limit per unit for new projects and caps the overall costs at 260% of that amount for "high costs areas." The simple fact is that the actual development costs – including land acquisition - in many areas far exceed that amount. Developers must spend a great deal of time looking for additional funding and that means construction costs continue, resulting in still more gap financing needed. For perspective, the 2008 allocation of $58,300 per unit provides a maximum allowable amount to build a unit in Los Angeles of $151,580. From that amount, approximately 30% must be used for legal costs, soils investigation, furnishing purchase, audit costs, architectural design, land costs, consultant fees, etc. This leaves approximately $100,000 to build a new apartment unit three years from now.

Section 202 applicants are required to have site control when they submit their application. In some cases, developers negotiate an option to purchase the land when they receive the necessary funding, for which they pay a premium. Sponsors face unpredictable timing of notice of funding availability (NOFA) release, application deadlines, and award announcements. Timing of the NOFA release is largely out of HUD's control since it is contingent on passage of the federal budget, however, once the NOFA is released, there are no set parameters for application deadlines and selection announcements. Over the past six years, sponsors have had between 49 and 87 days to prepare applications. In turn, the review stage has ranged between 92 and 219 days. This year the NOFA was released on May 12th and applications are due tomorrow, on July 10th , a total of 59 days. If history is any guide, announcements will be made before the election. This all adds to the time that applicants must option land in the event they receive the award.

More problematic is the fact that HUD requires sponsors have a general contractor on board with a fixed price when submitting their application for firm commitment. The reality of the business is that contractors will only hold their prices for so long. The longer the review and processing of the grant takes, the greater the likelihood the construction costs will escalate. These problems add to the snowballing costs. I strongly encourage HUD to adopt reasonable cost limitations for new development, use independent cost analysts to review the reasonable project costs for a given area and fund the projects accordingly.

Delays Caused by Outside Factors

Many cost increases are caused by time delays that are out of the sponsor's control, such as local zoning and permitting approval delays or HUD's processing. According to its NOFA HUD recognizes this fact in their policy on applying for amendment funding, "amendment funds will only be provided in exceptional circumstances (e.g., to cover increased costs for construction delays due to litigation or unforeseen environmental issues resulting in a change of sites) that are clearly beyond your control." When this is the case applicants should not be penalized with a loss of funding for something that is beyond their control.

Partnering with Other Funders

Partnerships between HUD and other housing agencies has been a necessary part of the Section 202 program for as long as the program has been underfunded. Rather than a problem, it presents opportunities for HUD to improve and streamline its business relationships. Sponsors have had to seek grant funds under the CDBG and HOME programs, or grants or loans from the Affordable Housing Program of the Federal Home Loan Banks, or local foundation grants. In the current economic environment, the availability of outside funding is decreasing rapidly. More recently there have been opportunities to establish partnerships with state housing finance agencies and the Rural Housing Service of the Department of Agriculture. The lack of clarity in the Section 202 funding process makes it difficult to plan for and align with other funding source deadlines and other development process procedures. Since almost all Section 202 projects must secure additional sources of money, sponsors must be able to plan submittals for other funding sources. If sponsors miss a funding deadline due to a delay in award announcement, they must wait until the next application opportunity, further delaying a project.

If HUD wishes to increase the efficiency with which other financing sources can be blended with Section 202 dollars, they have to be willing to bend in some of their requirements. Although congressional budget passage is beyond HUD's control, HUD should set predictable dates for NOFA release, application deadlines, and award announcements. Each year HUD should release its NOFA within a specified number of days after the budget is passed, and set a firm deadline for awards.

AAHSA Efforts to Address Delay Problems

AAHSA as an organization has advocated frequently for changes to the processing of the Section 202 grants to speed up development and minimize delays. We also firmly believe that providers should not be penalized for HUD's inefficiencies and delays. In fact, last year we worked with Chairman Frank, Congressman Mahoney and Chairwoman Waters to introduce H.R. 2930, the Section 202 Supportive Housing Act of 2007. H.R. 2930 includes a number of provisions to speed up the processing of new Section 202 projects including the adoption of reasonable costs limitations, delegated processing to state agencies with mixed-financing expertise and a timeline for processing of the grants and a provision. In a hearing before this Subcommittee AAHSA members and others testified about the importance of the bills provisions and the impact that it would have on development delays.

Chairwoman Waters, we would like to thank you and former Ranking Member Biggert for your leadership and support of that legislation. We would also like to thank the members of this subcommittee for the bipartisan support of H.R. 2930. Unfortunately, we are still waiting for the Senate to act on the bill. Although the passage of this legislation would not avoid cancellation for every project in the pipeline, we know that it will have a tremendous impact on the new projects that are being funding.

Statutory Changes Needed

In addition to the passage of H.R. 2930, we encourage Congress to eliminate the “one size fits all” cost allocation. The business reality of multifamily housing development and supportive communities has to be recognized by Congress and HUD. Sponsors such as VOA must operate in the existing business environment. We do it as efficiently as possible, patching together various funding sources throughout the country. We would like to urge the Subcommittee to reject any blanket provision canceling funding awards for Section 202 projects.

Conclusion

In summary, I would like to offer the following recommendations to improve the 202 program.

1. HUD should adopt realistic funding levels for the construction of new units, use independent cost analysts to review the costs submitted to the agency by sponsors and fund the projects accordingly.
2. Remove any provisions that cancel funding awards for projects that are delayed by factors outside the sponsor’s control.

3. Remove any provisions that penalize sponsors when scoring future applications for delays when those delays are beyond the sponsor's control.

Chairwoman Waters, I would like to thank you once again for your leadership and support of affordable housing and this program in particular. I would also like to thank Ranking Member Capito, and the members of this committee for working together to address national issues in a responsible and proactive manner. Over the last year we have seen how important stable housing is to communities and for the most vulnerable members of our society. Our service to the elderly community is based on our expertise and excellent partnerships with federal, state and local governments. We look forward to a strong partnership with the United States Congress and this Subcommittee to provide solutions that benefits those in need. Thank you for this opportunity to testify today. I look forward to answering your questions.