



December 30, 2020

The Honorable Ben Carson
Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

RE: Notice of a Federal Advisory Committee Meeting: Manufactured Housing Consensus Committee [Docket No. FR-6237-N-03]

Dear Secretary Carson,

The Manufactured Housing Institute (MHI) is pleased to provide feedback to the U.S. Department of Housing and Urban Development (HUD) and the Manufactured Housing Consensus Committee (MHCC) in response to the request for public comments in preparation for the MHCC's upcoming teleconference on January 7, 2021.

MHI is the only national trade association that represents every segment of the factory-built housing industry. Our members include home builders, suppliers, retail sellers, lenders, installers, community owners, community operators, and others who serve the industry, as well as 49 affiliated state organizations. In 2019, our industry produced nearly 95,000 homes, accounting for approximately 10 percent of new single-family home starts. These homes are produced by 32 U.S. corporations in 129 plants located across the country. MHI's members are responsible for close to 85 percent of the manufactured homes produced each year.

According to the Advanced Notice of Proposed Rulemaking (ANPR) published on November 12, 2020, HUD is considering changes to payments to State Administrative Agencies (SAAs). MHI is concerned that such changes could result in significant reductions in funding for certain states, which seems counter to the ANPR's stated objective of seeking to incentivize more states to act as SAAs. MHI supports HUD's goal of incentivizing states to partner on all program elements and encouraging new state partnerships. To this end, there are important considerations that must be made to ensure any changes achieve HUD's stated objectives.

MHI is pleased that before any proposed rule is published in the Federal Register on this matter, HUD has sought consultation from the MHCC, as required by statute, as well as from the public. As was the case with the final rule that accompanied the ANPR, obtaining input from the MHCC and the public yielded a better result. In that case, the originally proposed funding formula (proposed in 2015) was rejected by the MHCC because it would have imposed substantial funding cuts on a significant number of SAAs, threatening their continued participation in the program. The final rule reflects the formula and distribution method ultimately approved by the MHCC. MHI commends HUD for finalizing the minimum payments to SAAs rule. The ANPR that accompanied the final rule seeks "to achieve more equitable payments that more appropriately reflect state responsibilities and to incentivize continued and new state partnerships."

SAAAs are responsible for handling consumer complaints and issues relating to defects, serious defects or imminent safety hazards as set forth in the Manufactured Home Procedural and Enforcement Regulations (24 CFR Part 3282 Subpart I). Funding for these agencies come from HUD-assessed label fees that are charged to manufacturers on a per floor basis. In 2014, when HUD raised the label fee from \$39.00 per floor to \$100.00 per floor, it received numerous comments from SAAs arguing that payments should be raised to reflect the true costs of carrying out their responsibilities under the Act. MHI, in its comments on the 2014 proposed rule to increase the label fee, and through its participation in Manufactured Housing Consensus Committee (MHCC) meetings, commented that the fees paid each year to SAAs should be based on the actual production and shipment thereby ensuring adequate funding to meet their Subpart I responsibilities. MHI noted that the current formula was flawed in that it was developed using year 2000 production levels, when shipments of manufactured homes were almost three times what they are today. The final rule addressed the concern raised by MHI and this ANPR seeks to further improve such payments.

MHI Recommendations

As prescribed in statute, HUD is to “facilitate the availability of affordable manufactured homes to increase homeownership for all Americans.” (42 U.S.C. 5401(b)(2)). The use of the word “all” in this statutory responsibility should not be overlooked. HUD must avoid causing irreparable harm to the manufactured housing programs in approved states as this result would run counter to the statutory obligation of HUD to facilitate the availability of manufactured homes across the country. We recognize that HUD is not seeking for any SAAs to drop out of the program because of what is proposed, but it is important that the real possibility of such a result is a paramount consideration as HUD proceeds.

COVID-19 has exacted a major financial toll on states, resulting in sharp cuts to revenues and increased spending needs, and the just adopted \$900 billion relief package did not include significant funds to states and localities which many states were counting on. In this environment, any reductions raise the possibility of a state having to use resources to cover the shortfall – an extremely difficult expectation in the current budget environment. Individual state participation in joint activities is voluntary; in fact, only 33 states currently do so. MHI has concerns that funding reductions to states will result in their electing to end participation as an SAA. In several states, the reduction in payment could represent the difference between maintaining a SAA for manufactured housing or relinquishing the program to the federal government. This would not be in the best interest of HUD or the states.

Such a result would stymie industry growth at a time when affordable housing is desperately needed across the country. Rather than take program funds away from states, HUD should be seeking ways to support industry growth across the country. In adhering to its statutory responsibility to manufactured housing, HUD’s focus must be on what the industry needs in order to be able to grow and thrive across the country. HUD must continue to fund the state programs at a level that supports continued participation, and it should seek ways to elicit additional participation. We believe that current label fees provide HUD with ample funding to achieve this outcome. As the industry grows, the funding through label fees will continue to grow. As such, there is no need for a fee increase – the Manufactured Housing Trust Fund is healthy.

Therefore, we recommend the following as HUD and the MHCC consider changes to state funding:

- (1) Reductions in minimum payments to individual states should be avoided.

- (2) HUD should study the likelihood of individual states ending their participation as SAAs and adjust funding accordingly, perhaps even increasing support. The results of the study, including data relied upon, should be made publicly available.
- (3) HUD should monitor the impact of funding changes and make appropriate adjustments to avoid states terminating their role as an SAA and to incentivize more states to participate.
- (4) HUD should use funds in the substantial Manufactured Housing Trust Fund account surplus to facilitate the availability of manufactured housing across the country and avoid reductions to individual states.

While MHI will be submitting more detailed recommendations to HUD prior to the public comment period closes, we strongly encourage the MHCC to consider these comments in their discussions about the ANPR. As with the previous proposed rule by HUD to revise minimum payments to SAAs, the MHCC was instrumental in ensuring funding to states was not significantly cut and ensuring continued state participation in the program. It is important that the MHCC take similar actions again to safeguard those states currently in the program and encourage other states to join.

Sincerely,

A handwritten signature in black ink that reads "Lesli Gooch". The signature is written in a cursive, flowing style.

Lesli Gooch, Ph.D.
Chief Executive Officer