

**TO:** Members of the Wisconsin Congressional Delegation  
**FROM:** Wisconsin Housing and Economic Development Authority  
**DATE:** May 2024  
**RE:** WHEDA Recommendations for HUD FY2025 Proposed Budget Language on Project-Based Contract Administrators (PBCAs)

## **SUBJECT**

This memo outlines WHEDA's recommendations regarding HUD's proposed FY2025 budget language on Project-Based Contract Administrators (PBCAs). WHEDA emphasizes the importance of cooperative agreements over traditional procurement processes for selecting state housing finance authorities (HFAs) as PBCAs. This approach ensures efficient, effective, and locally tailored administration of the Project-Based Rental Assistance (PBRA) program, which is crucial for providing affordable housing to Wisconsin's most vulnerable residents.

## **BACKGROUND**

For decades, WHEDA and other state HFAs and PHAs have successfully administered the PBRA program, which supports stable, affordable housing for low-income individuals, including seniors, people with disabilities, and families with children (HUD, 2023). In Wisconsin, WHEDA oversees 33,844 rental units across 68 counties, significantly contributing to housing stability and affordability.

Despite the success, the future of PBCA contracts has faced uncertainty since 2012 due to litigation and shifting HUD policies. The situation led to HUD withdrawing a problematic solicitation in 2022, following bipartisan feedback and Congressional directives to preserve the role of state HFAs and PHAs in PBRA administration. HUD has now proposed budget language that aligns with HFA recommendations and that WHEDA is supportive of.

## **RECOMMENDATIONS**

### **1. Authorize cooperative agreements.**

WHEDA believes that cooperative agreements will ensure the efficiency and effectiveness of the program. We are deeply concerned with the administrative burdens, functional limitations, and costly compliance hurdles for both HUD and PBCAs that a traditional procurement process would introduce. These concerns may cause unnecessary and harmful disruptions to residents. Instead, cooperative agreements would support the two main benefits of the PBCA program: flexibility and leveraging of in-state partnerships.

### **2. Award one cooperative agreement per state.**

As a full-service organization, WHEDA has developed and honed efficient processes for administering all PBCA tasks under our organization. Dividing PBRA tasks under numerous contracts in a state would lead to inefficiencies, faulty communication, unnecessary delays in service, and reduced access to resources. Administering the PBRA program under one state-wide umbrella would create both a localized and centralized administration of the program, which would ultimately be more cost-effective, simplified, and efficient.

### 3. Prioritize in-state experience and ability to leverage resources.

Local HFAs like WHEDA possess deep knowledge of state laws, relationships, and resources, ensuring better program outcomes. Prioritizing in-state experience ensures that PBCA contracts are awarded to entities best positioned to serve local communities. To this end, we encourage HUD to provide the right of first refusal to a qualified state authority and award contracts through a notice of funding opportunity (NOFO). The right of first refusal would comply with state laws that authorize specific entities to operate the program statewide. Awarding cooperative agreements through a NOFO would continue the compensation methodology outlined in the Annual Contributions Contract (ACC) and provide incentives for high performance.

## CONCLUSION

Adopting these recommendations will enhance the PBRA program's effectiveness, leveraging the strengths of state HFAs to meet the housing needs of vulnerable populations. WHEDA looks forward to collaborating with HUD and Congress to ensure the continued success of the PBRA program.

### Appendix 1: HUD's FY 2025 Proposed Budget Language Modifications on PBCAs

#### [HUD Fiscal Year 2025 General Provisions](#)

*"SEC. 232.—Notwithstanding sections 3(b) and 8 of the United States Housing Act of 1937 (the Act) and chapter 63 of title 31, United States Code, amounts made available to the Secretary in this or any prior Act under the headings "Project-Based Rental Assistance" or "Housing Certificate Fund" for performance-based contract administrators to carry out section 8 of the Act (42 U.S.C. 1437f), as implemented by the Secretary in chapter VIII of title 24, Code of Federal Regulations, may be awarded through a Notice of Funding Opportunity not subject to procurement laws or regulations: Provided, That such awards shall be deemed for all purposes to be cooperative agreements: Provided further, That for purposes of such Notice, eligible applicants are public housing agencies as defined by section 3(b)(6)(A) of the Act and nonprofits of such agencies when operating outside of the State or territory in which such agency is established: Provided further, That the Secretary shall award one cooperative agreement for each State or territory, except that the Secretary may award more than one cooperative agreement for a State or territory if the population of such State or territory exceeds 25,000,000: Provided further, That the Secretary may select the best qualified applicant regardless of whether it operates within the jurisdiction of the State or territory served: Provided further, That if the Secretary does not select a qualified applicant under such Notice, the Secretary may utilize a procurement contract subject to all procurement laws and regulations to assist in carrying out such section 8.*

Explanation of this Section – PBCA Modifications: This proposal would allow HUD to award cooperative agreements for Performance-Based Contract Administrators (PBCAs) through a Notice of Funding Opportunity (NOFO) rather than a FAR procurement. While the text included here is identical to the General Provision proposed in the President's FY 2024 Budget Request, HUD will work with Congress to continue clarifying and refining this proposal throughout the FY 2025 appropriations process."

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