May 10, 2019

VIA FEDERAL EXPRESS

Hon. David E. Price
Chairman
House Transportation, Housing and Urban
Development and Related Agencies
Appropriations Subcommittee
Suite 2108
Rayburn House Office Building
Independence Ave. and S. Capitol St., S.W.
Washington, D.C. 20515

Hon. Mario Diaz-Balart
Ranking Member
House Transportation, Housing and Urban
Development and Related Agencies
Appropriations Subcommittee
Suite 440
Cannon House Office Building
1st St. and Independence Ave., S.E.
Washington, D.C. 20515

Re: Proposed Fiscal Year 2020 HUD Manufactured Housing Program Appropriation

Dear Chairman Price and Ranking Member Diaz-Balart:

The Manufactured Housing Association for Regulatory Reform (MHARR) is a Washington, D.C.-based national trade association representing the views and interests of producers of manufactured housing regulated by the U.S. Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000. MHARR's members are primarily smaller, independent manufactured housing producers from all regions of the United States.

While uniform, preemptive, performance-based federal regulation of the manufactured housing industry by HUD, based on reasonable, cost-effective standards and uniform enforcement has helped to ensure the fundamental affordability of HUD Code manufactured homes since the advent of federal regulation in 1976, one discrete element of the federal manufactured housing program has evolved in such a way that it operates to the extreme detriment of both the industry and consumers of affordable housing. That specific element of the federal program is the program "monitoring" contract – a contract that: has disproportionately grown in size, scope and cost, even as manufactured home production, over the past decade-plus, has sharply declined; has been held by the same contractor continuously for more than 40-years without legitimate full and fair competition; includes pseudo-governmental functions which violate applicable federal law; and drives continually-increasing, yet unnecessary regulatory compliance costs which disproportionately harm smaller industry businesses while producing few, if any, corresponding benefits for consumers. Accordingly, MHARR asks that Congress specifically review this matter and reduce funding for this particular component of HUD's Fiscal Year 2020 appropriations request for the federal manufactured housing program and to use that funding instead to provide much needed additional revenues for State Administrative Agencies which function as HUD's partners in ensuring proper consumer protection under the law.

Federally-regulated manufactured housing, as demonstrated by U.S. Census Bureau data is – and long has been – the nation's most affordable type of housing. Without the need for costly taxpayer-funded subsidies or grants, manufactured homes are inherently affordable for Americans at every rung of the economic ladder and should be a vital component of the nation's strategy to address the critical shortage of affordable housing which exists today.

Indeed, the manufactured housing industry, which produced nearly 400,000 homes a year as recently as 1998, but in 2018 sold just 96,555 homes, has the ability and the capacity to more than meet the needs of the affordable housing market, but instead has been hamstrung and diminished by a needless, needlessly-costly, excessive and expanding web of unnecessary pseudo-regulation, paperwork and related red-tape that functions as de facto corporate welfare for the entrenched program "monitoring" contractor – a function which Congress sought to define and limit in the Manufactured Housing Improvement Act of 2000, but, instead, has continued to grow and expand without any effective oversight.

Funding for that "monitoring" contractor, in successive HUD appropriations requests – as detailed in program Congressional Budget Justifications from 2005 to 2020 – has either remained constant or has increased disproportionately every year, even though industry production fell to an all-time low in 2009 (i.e., 49,683 homes) and has recovered at only a modest pace since.[1] Indeed, total industry production in 2018 was 34.2% lower than total industry production in 2005, when the authorized annual appropriation for the monitoring contractor was $3.14 million, significantly less than the $8.4 million being sought by HUD for FY 2020.[2] Thus, despite a nearly one-third production decline since FY 2005 (from 146,881 to 96,555 homes), annualized HUD payments to the monitoring contractor would increase by more than 167 %, while per capita HUD payments to the monitoring contractor would increase by 307%. [3] Such cost increases, moreover, are occurring at a time when the industry is producing its best, highest quality homes, as established by the de minimus number of referrals to the HUD manufactured home dispute resolution system, which, between 2008 and 2014 registered just 24 referrals out of total placements of 123,174 manufactured homes in federally-administered states (i.e., a referral rate of just .019%).

[1] Budgeted program contractor funding in 2005, when 146,881 manufactured homes were produced, was $3,140,000. By 2013, when production had fallen to 60,228 homes, budgeted contractor funding had *increased* to $5,000,000. And in FY 2020, as requested by HUD, contractor funding would *increase again*, to $8.4 million, with 2019 production at 96,555 homes – still well below its 2005 level and historical averages.

[2] Although HUD, in its FY 2020 Congressional Budget Justification – unlike most prior years – does not state a specific discrete funding amount for the program monitoring contract, instead lumping that amount together with other contracts for dispute resolution and installation inspection services, recent budget authorization requests specifically for the monitoring contract have been in excess of $5,000,000 (e.g., FY 2018, when HUD sought $5,300,000 specifically for the monitoring contract).

[3] See, note 2, supra.

As these figures indicate, the HUD program, flush with cash from its unprecedented 156% increase in the program certification label fee paid by manufacturers – and ultimately already hard-pressed consumers – in 2014, rather than seeking ways to economize and control regulatory compliance costs and burdens commensurate with the proven quality and safety track record of modern (i.e., post-2000 reform law) manufactured housing, is instead spending that revenue on superfluous make-work contractor activity that is detached from the real needs of program stakeholders and the public at large.

Instead of devoting additional funding to unnecessary, make-work contractor activity, HUD should instead use an increased proportion of its FY 2020 appropriation to provide additional funding for its state-partner State Administrative Agencies (SAAs). Unlike the program monitoring contractor which monitors only a new home under construction, SAAs constitute the first line of protection for a growing number of consumers residing in an ever-expanding number of both new and existing manufactured homes. Yet, HUD funding for its state-partner SAAs since 2005 has either declined or has remained static.[4]

With a substantial number of states facing critical difficulties providing funding for SAA operations, it is essential that additional HUD funding for these vital state partners be provided. Consequently, in conjunction with a restructuring of the program monitoring contract to tailor its functions and costs to fully comply with the 2000 reform law and current – and expected – production levels, program funding should be shifted away from the bloated monitoring contract and instead provided to the SAAs to ensure proper continuing consumer protection.

Accordingly, we ask that the Subcommittee, either through specific statutory or report language, provide that funding for state SAAs be increased by $2 million in FY 2020 and that funding for the program monitoring contract be reduced by a corresponding amount. Such a revision would be consistent with current industry production and the consumer protection needs of the states and the HUD program.

We thank you both for your continued commitment to safe and affordable manufactured housing and a properly functioning manufactured housing program which acts in full compliance with applicable law. We shall follow-up by scheduling a meeting with the subcommittee to further address this matter

Sincerely,

Mark Weiss
President and CEO

[4] In direct contrast with contractor funding levels, which have increased even as production levels have declined, SAA have significantly *declined.* Thus, budgeted SAA funding in 2005 was $6,600,000 for an annual production of 146, 881 homes. By 2013, that amount had *decreased* to $3,800,000 for an annual production of 60,228 homes, and for FY 2020, HUD seeks $3,600,000 in budget authority, following a production level of 96,555 homes in 2019.

cc: Hon. Ben Carson
Hon. Brian Montgomery
MHARR Members