October 7, 2014

The Honorable Barbara Mikulski
Chair
Committee on Appropriations
U.S. Senate
Washington, DC 20510

The Honorable Richard Shelby
Vice Chair
Committee on Appropriations
U.S. Senate
Washington, DC 20510

The Honorable Mark Pryor
Chair
Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration
U.S. Senate
Washington, DC 20510

The Honorable Roy Blunt
Ranking Member
Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration
U.S. Senate
Washington, DC 20510

The Honorable Tim Johnson
Chair
Senate Banking Committee
U.S. Senate
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
Senate Banking Committee
U.S. Senate
Washington, DC 20510

Dear Chairman Mikulski, Vice Chairman Shelby, Chairman Pryor, Ranking Member Blunt, Chairman Johnson, and Ranking Member Crapo,

Members of the Preservation Working Group (PWG) have reviewed the draft Fiscal Year (FY) 2015 Agriculture Appropriations bills that have cleared the House and Senate Appropriations Committees and greatly appreciate that only one of the Administration's requests to "stabilize" the funding for the Rural Housing Services' (RHS) Rental Assistance (RA) program were accepted. For the reasons outlined below, we respectfully urge you to reconsider the remaining Administration request which will prohibit the renewal of RA contracts during the term of an existing agreement. We make this request with a clear understanding and appreciation of the strain on departmental funding that the RA program represents and USDA's desire to control costs. We do not believe, however, that this proposal will achieve the intended results or that it is necessary in light of changes that the RHS is undertaking in its administration of the RA.

PWG is a coalition of housing providers, developers, lenders, state housing finance agencies, and housing advocates who utilize and support RHS's multifamily rental programs to provide stable, safe and affordable rental apartments to low-income households in rural areas across the country. The public-private partnership that these programs have created over the years has helped us produce and maintain affordable rural housing for hundreds of thousands of low-income and vulnerable households.

Having experienced, along with USDA, the FY 2013 RA funding shortage created by sequestration, we recognize the need for new mechanisms and policies to deal with such shortages, but we believe there are much better approaches than prohibiting the renewal of RA contracts during their 12-month terms. The USDA proposal ignores the fact that increases in RA during a contract term are triggered by only two components, neither of which is under the control of owners: increases in tenant subsidy due to reductions in household income and increases in project operating costs. It also ignores the fact that fluctuations in

RA spending are not caused by a lack of owner financial discipline, but rather by the agency's imprecise methodology for determining the amount of RA needed by a development during a 12-month term.

Under current statutory and regulatory requirements, owners of RHS rental housing must give priority, both in admission and assignment of RA, to the lowest income households. Thus, when a household receiving RA moves from a development and another household is admitted, or is assigned the RA, and that household has a greater need for RA than the departing household, the owner has no control over the amount of required RA. If the proposed restriction goes into effect, owners will be incentivized to admit higher income households, reject lower income households, and violate existing statutory and regulatory provisions. We do not believe that such a policy is either desirable or wise in light of the fact that RHS can control RA costs in other ways.

Moreover, under existing RA contracts, property owners are obligated to adjust the amount of RA extended to a household based on annual recertifications, which do not necessarily occur at the same time that RA contracts are renewed, and at other times when household income decreases by more than $50 due to job loss, illness or the departure of a household member. These events are out of the owner's control and will increase the amount of rental subsidy that a development needs. If an owner refuses to modify a household's rent, the owner will be in violation of the RA statute which establishes household rent at 30 percent of the household income.

Increased operating and utility costs also amplify the cost of RA. This is due to the fact that operating and utility cost increases can only be recovered prospectively once a year at the time that an owner seeks a rent increase or a utility cost modification. Both of these requests must be approved by RHS after they are found to be reasonable. If operating costs increase during the year, they are absorbed within existing rents until the next RHS rent increase approval. So any increase to RA on the operating side of the equation is due to an increase in rent or utility allowance approved by the agency, not because of unnecessary owner spending. If RHS believes irresponsible spending is causing RA costs to increase unnecessarily, a better approach would be to improve the rent increase approval decision process.

RHS claims that it needs the limitations on RA contract renewal to stabilize its RA expenditures and projections. RHS' inability to accurately predict RA expenditures is based on its flawed approach to determining individual property RA contract levels, which are based on three-year statewide RA contract averages and not on individual project performance or needs. According to RHS statements, RA obligation balances in the past have fallen short roughly three to five percent of the time. This means that 95 to 97 percent of obligation balances are at or above 12 months of funding. If an owner's operating costs are higher than a statewide average, many times it is because they worked with RHS, private equity investors, and funding partners to secure additional debt service to preserve their properties and have higher rents than owners who have not taken that step. The attached examples illustrate how the current policy not to renew RA will impact two property owners who have recapitalized their properties. We anticipate that this policy will unfairly target these owners, who will not be able to reduce rents as they have additional preservation related expenses that must be met, such as non-RHS debt. More significantly, we fear that limiting the agency's capacity to renew RA contracts when funds expire will cause borrowers to default on third party obligations and jeopardize the availability of future third party funding to preserve RHS rental housing. This impact would mean the loss of valuable affordable housing units in rural areas.

The current system, which assumes that all developments have residents with similar incomes and that projects have similar operating costs, simply cannot adequately predict the need for RA. RHS has acknowledged as much when it recently announced, in the attached letter to the Council on Affordable and Rural Housing, of its intent to abandon the state-wide average approach and instead adopt RA

projections and renewals based on individual project RA usage. We believe that this new approach will better predict the need for RA and eliminate the gross discrepancies that the agency has experienced.

In light of this upcoming change, we do not believe that RHS needs the authority to limit RA contract renewals. Accordingly, we urge you to take the necessary steps to remove the restrictive language from the Agriculture Appropriations bills.

We appreciate your consideration of our suggestion and thank you again for rejecting RHS' other proposed modifications, which included the selective renewal of RA contracts and the imposition of minimum rents. We have previously expressed our opposition to these suggestions and hope that they will not be reinserted in the FY 2015 appropriations or any future continued funding resolutions.

In closing, we ask that you help us to encourage USDA to reaffirm its commitment to multifamily rental housing development and preservation. The need for this housing in rural communities is more critical than ever as rental housing options become scarcer. The Section 515 program serves over 400,000 households, of which 63 percent are elderly or persons with disabilities. While RA helps many of its residents, 70,000 households in Section 515 housing are still rent-burdened, paying more than 30 percent of their income towards housing. Continuous underfunding of RA has led USDA to implement policies that take RA out of circulation, reduce the number of low-income households that can utilize the subsidy, and diminish the quality of the housing provided.

We strongly urge you to encourage USDA to share information, engage in a spirited dialogue with stakeholders on RA stabilization policy proposals, and provide adequate funding to its multifamily rental housing programs to ensure the long-term sustainability of the 515 stock and maintain RA for low-income tenants.

Sincerely,

The Caleb Group

California Housing Partnership

CEI Maine

Coalition on Homelessness and Housing in Ohio

Community Housing Partners

Enterprise Community Partners

Local Initiatives Support Corporation

Mercy Housing

National Council of State Housing Agencies

National Housing Conference

National Housing Law Project

National Housing Trust

National Low Income Housing Coalition

Network for Oregon Affordable Housing

Rural Housing Preservation Associates

Stewards for Affordable Housing for the Future

Tenants and Neighbors