October 8, 2015

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW
Room 10276
Washington, DC 20410-0001

Re: [Docket No. FR-5885-N-01] Proposed Fair Market Rents for the Housing Choice Voucher, Moderate Rehabilitation Single Room Occupancy Program and Other Programs; Fiscal Year 2016

To Whom It May Concern:

On behalf of the National Association of Housing and Redevelopment Officials (“NAHRO”), I am pleased to offer the following comments to the Department of Housing and Urban Development (“HUD” or “the Department”) in response to the request for comments (FR-5885-N-01) entitled “Proposed Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program and Other Programs; Fiscal Year 2016,” published in the Federal Register on September 8, 2015. Formed in 1933, NAHRO represents over 20,000 individual and agency members. Collectively, our membership administers approximately 1.7 million vouchers, and, as a result, we are dedicated to making sure that Fair Market Rents (“FMRs”) come as close as possible to representing current rental market conditions.

This comment letter is divided into three primary sections. The first section details NAHRO’s concerns with the proposed FY 2016 FMRs. In particular, the letter discusses two main issues with the proposed FMRs—accuracy and excessive volatility over a time horizon of multiple years. The second section of the letter discusses the potential negative programmatic impacts, particularly as they relate to the Housing Choice Voucher Program, of inaccurate and excessively volatile FMRs. The third major section of this comment letter presents NAHRO’s recommendations for improving the process by which HUD calculates its proposed FMRs. While many of these recommendations have been submitted in the past, we believe that given HUD’s current methodology, the recommendations are still valid and merit attention. At the same time, we have tweaked the recommendations to reflect our careful consideration of HUD’s prior responses and changes to methodology.
I. HUD’s Proposed FMRs Are Inaccurate and Excessively Volatile

HUD’s proposed FY 2016 FMRs display the same two problems that they have in past years. First, the FMRs do not accurately represent the on-the-ground rental market conditions for their respective areas. Second, the FMRs are highly volatile with shifts in both direction (i.e., the FMRs may increase or decrease) and magnitude (i.e., the change in FMRs may be large from the year before—e.g., ten percent).

1. Proposed FY 2016 FMRs Do Not Represent On-the-Ground Rental Market Conditions

The FMRs do not represent accurate on-the-ground rental market conditions. Many NAHRO members have reached out to us to express their concern that the FMRs do not accurately capture on-the-ground conditions. Several comments have already been submitted illustrating how the proposed FMRs do not accurately represent local rental markets.

An illustrative example—taken from an already submitted comment—that shows how inaccurate some of the proposed FMRs are is from the Santa Maria-Santa Barbara Metropolitan Statistical Area (“MSA”), where HUD forecasts a decrease in FMRs. According to the comment submitted by the Housing Authority of the City of Santa Barbara, currently available data from other sources suggest the opposite. Average rental prices have increased by over 8.2 percent over the last year in the Santa Barbara (South Coast) area. Additionally, there has been a 27.7 percent increase in the same area since 2012.¹ This is but one example of a refrain we have heard repeated from a range of communities across the country.

Over the years, there has been a consistent trend of comments arguing that FMRs do not accurately reflect local markets. Although anecdotal in nature, this evidence comes from people who are experienced with both HUD’s FMRs and are familiar with their local markets and should not be disregarded. These organizations’ views, when taken together, suggest that, in the aggregate, FMRs consistently underrepresent the actual rental prices in many areas. Later in this letter, NAHRO recommends that HUD compare and publicly release its FMRs with actual American Community Survey (“ACS”) data to see how accurate the FMRs actually are.

2. Proposed FY 2016 FMRs Continue a Pattern of High Volatility Established by Prior Years of HUD Published FMRs

The proposed FY 2016 FMRs continue to be highly volatile from year to year. In NAHRO’s comments in prior years, we have used the example of the Autauga County two-bedroom FMR in the Montgomery, Alabama MSA to illustrate this volatility over a time horizon of several years. For the sake of continuity, we will continue to use this example. The Autauga County FMR remained the same between FY 2010 and FY 2011. It then decreased by two percent from FY 2011 to FY 2012. It

¹ See Comment for Proposed Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program and Other Programs; Fiscal Year 2016, Housing Authority of the City of Santa Barbara, (October 8, 2015 11:54 AM), http://www.regulations.gov/contentStreamer?documentId=HUD-2015-0072-0020&attachmentNumber=1&disposition=attachment&contentType=pdf.
then increased by nine percent from FY 2012 to FY 2013. This was followed by a decrease the next year by ten percent from FY 2013 to FY 2014. Then again, there was an increase by eleven percent from FY 2014 to FY 2015. Finally, there was a one percent decrease from the FY 2015 to the proposed FY 2016 FMRs.

The Autauga County two-bedroom FMR illustrates the problems with the past few years of HUD published FMRs. The change between FMRs switched directions between every comparison year in the time period between FY 2010 and the proposed FY 2016 FMRs. First the FMR stayed the same, then it decreased, then increased, then decreased again, then increased again, until finally this year, the FMR increased twice in a row for the first time this decade. This constant change between years, which is not reflected in the local rental market, brings uncertainty to program managers about where their payment standards will be every year.

The large magnitude of many of the changes also creates serious operational challenges for program managers. Again, using the Autauga County FMR as an instructive example, the FMR went from a two percent change to a nine percent change and then a ten percent change followed by an eleven percent change, before a final one percent change. This variability makes it difficult for program managers to effectively manage their resources and maximize the number of households they can serve.

II. Inaccurate FMRs and Excess Volatility Have Negative Programmatic Impacts

FMRs that are inaccurate and excessively volatile have strong negative impacts on Public Housing Authorities’ (“PHAs”) ability to serve HCV participants. Low-income families that rely on the Housing Choice Voucher Program will feel the greatest impact in areas where the published FMRs are too low relative to actual costs. These low FMRs cause cost burdens for voucher-assisted households to increase, sometimes to the point of forcing low-income families to seek housing in areas with greater concentrations of poverty and lower quality housing stock. In areas where the published FMRs are too high relative to actual market costs, PHAs’ per voucher HAP costs will increase, resulting in fewer households being served.

Volatile and inaccurate FMRs can lead to additional programmatic costs. Federal regulations require that PHAs conduct a rent reasonableness study when the published FMR decreases by at least five percent. Given the frequency of such changes, it is imprudent for HUD to impose such an expensive and time-consuming requirement on PHAs that are already experiencing financial difficulty, particularly in light of years of insufficient administrative fee funding. In instances where a PHA believes that their FMRs are inaccurate, they are faced with the additional burden of having to apply for waivers from HUD for exception payment standards, though there is no guarantee that HUD will approve them. Given these costs, NAHRO is concerned about PHAs’ future ability to avail themselves of higher payment standards to support voucher operations.

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III. NAHRO’s Recommendations

1. HUD Should Use More Timely Data When Calculating FMRs

HUD should use more timely data when calculating FMRs. While NAHRO appreciates the ease with which HUD can use the ACS standard tabulations of FY 2013 5-year data to update HUD’s base year rents, this data is not timely enough to support accurate FMR calculations in the present. NAHRO understands that HUD applies a recent mover factor based on 2013 1-year ACS data, where the 1-year data meets a certain reliability threshold. This produces an “as of” 2013 recent mover two-bedroom base gross rent. HUD then updates the “as of” 2013 rent through the end of 2014 using the annual change in the Consumer Price Index (CPI) and other data from inflationary indices from 2013 to 2014. Finally, HUD “trends the estimate” from 2014 to middle of 2016. HUD calculates the trend factor as the annualized change in median gross rent across 5 years, when looking at the most recent five 1-year ACS data.3 While these additional steps increase the accuracy of HUD’s forecasts, they are not sufficient to produce consistently accurate FMRs.

The underlying older data remains a problem in the FY 2016 proposed FMRs. The base data is either from 2013, or if that data is not reliable enough, from a 5-year data set that incorporates data from as far back as 2009. In the best case scenario, this methodology requires HUD to update and adjust data that is three years old. Even if HUD were employing a sophisticated forecasting model, this would never completely accurately capture the state of current rental markets, as markets can change significantly in the course of three years. In the short term, NAHRO recommends that HUD use the ACS standard tabulations of FY 2014 5-year data, if no newer sources of data are available.

HUD should work to develop a method to incorporate more recent data into its published FMRs rather than continue to rely on PHA-funded studies to correct inaccuracies in FMRs. While PHAs may appeal proposed FMRs by conducting FMR surveys and submitting the results to HUD, this is not an appropriate long-term solution for two reasons. First, the expense of conducting these surveys makes them prohibitively expensive for most PHAs. As a result, PHAs facing tight budgetary constraints have no recourse and are forced to accept FMRs that do not provide an accurate representation of their current rental market. Second, PHAs’ comparative advantage lies in activities involving and related to providing affordable housing and administering voucher programs. They are not well suited to conducting surveys and compiling sophisticated statistical analyses. This is a function that would be better suited for HUD’s Office of Policy Development and Research (“PD&R”). According to PD&R’s website, PD&R is “responsible for maintaining current information on housing needs, market conditions, and existing programs, as well as conducting research on priority housing . . . issues.”4

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2. HUD Should Employ a More Sophisticated Forecasting Method than the Currently Used “Trending Forward” Method

HUD should use a more sophisticated forecasting method. Absent finding a source of more up-to-date data, some trending will be required. NAHRO does not believe that the current method of trending accurately forecasts current market conditions. HUD currently uses a multi-step process to try to calculate FMRs. For the FY 2016 proposed FMRs, towards the end of the process, HUD trended the estimate from 2014 to the middle of FY 2016. HUD calculated the trend factor as the annualized change in median gross rents as measured across the most recent 5 years of available 1-year ACS data. The annual trend factor was then applied from the middle of 2014 (the mid-point of the annual 2014 CPI update) to the middle of FY 2016, or for a period of seven quarters.

NAHRO does not believe that HUD’s trending forward method accurately forecasts FMRs. There is no reason to believe that the “annualized change in median gross rents as measured across the most recent 5 years of available 1 year ACS data” will accurately represent where rental markets are in FY 2016. Trending forward in this way uses the overly simplistic assumption that whatever the trend was in the years FY 2009 through FY 2013 will continue to be the trend in the years afterward. Current rental market prices are not solely a function of past rental market prices, but are dependent on other variables. Forecasting in this way is analogous to taking stock prices in FY 2013 and trending them forward to FY 2016 based on the past performance of the stock. In the same way that trending forward on the assumption that the level and direction of change will remain constant will not produce accurate results for stock prices, neither will it produce accurate FMRs.

NAHRO is cautiously optimistic that HUD is considering using a “forward-looking forecast” for the proposed FY 2017 FMRs. While it is unclear from the two-sentence description in the proposed FY

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5 First, HUD calculates base-year rents by looking to the two-bedroom standard quality 5-year gross rent estimate from the 2009-2013 5-year ACS data. HUD then applies a recent mover factor. To calculate the recent mover factor, HUD uses 1-year ACS-based two-bedroom recent mover gross rent estimate from the smallest geographic area encompassing the FMR area for which the estimate is statistically reliable. HUD may use larger geographic areas to obtain statistically reliable estimates. HUD calculates the recent mover factor as the percentage change between the 5-year 2009-2013 standard quality two-bedroom gross rent and the 1 year 2013 recent mover two-bedroom gross rent for the recent mover factor area. HUD does not allow the recent mover factors to lower the standard quality base rent. If the 1-year recent mover rent is lower, HUD sets the recent mover factor to 1. Applying the recent mover factor produces an “as of” 2013 recent mover two-bedroom base gross rent for the FMR area. HUD updates the “as of” 2013 rent through the end of 2014 using the annual change in CPI from 2013 to 2014 as well as other local CPI data depending on the scenario. HUD then applies its trending process.

After HUD calculates the primary FMR estimates for two-bedroom units, HUD calculates rent relationships between two-bedroom units and other unit bedroom counts and uses them to set FMRs for other units. The bedroom ratios HUD used for the proposed FY 2016 FMRs use data from three five-year data series—including 2007-2011, 2008-2012, and 2009-2013. HUD established interval ranges for all areas with large enough samples to permit accurate bedroom ratio determinations and adjusts ranges to ensure that they are consistent with normally seen patterns (e.g., two-bedrooms are more expensive than single-bedroom units).

2016 FMR notice what this new model entails, NAHRO is excited about the prospect of a methodological change that will increase the accuracy of FMRs.

3. **HUD Should Allow Separate Public Comment on the Utility Component of FMRs**

As mentioned in previous comments, NAHRO believes that HUD should allow interested stakeholders to comment on the utility component of FMRs. We recommend that HUD provide PHAs with the utility data it gathers from the annual FMR calculations so that PHAs may evaluate the percentage change in the utility component from year to year. NAHRO also encourages greater transparency in the methodology of how utility costs within gross rents are determined. Given the magnitude of utility costs nationwide and their significant impact on affordability, HUD’s stakeholders should have the opportunity to comment on this process separately from FMRs.

4. **HUD Should Validate Prior Year FMRs with 1-Year ACS Data for Each Prior Year**

In the interests of transparency and good governance, HUD should validate prior year FMRs against 1-Year ACS data for each prior year. Starting with FY 2006 data and then repeating for each subsequent year, the Department should use updated 1-year ACS data to determine what values would have been and compare them with the final FMR values published for each area using the Department’s FMR estimating methodologies. NAHRO has continuously recommended this step since 2007 as a means of providing public accountability for how accurate the current methodology for determining FMRs is.

Undertaking this exercise retroactively would provide a validation mechanism to assess which aspects of the discretionary estimating methodologies are less accurate in estimating actual FMR values and would provide a “report card” for the current FMR calculation methodology. In addition, the responsibility of reporting the findings from this validation process publicly would incentivize PD&R to improve its methodologies for FY 2017 and beyond, while still adhering to the statutory provisions governing HUD’s formulation of FMRs.

5. **HUD Should Institute a Five Percent Cap and Floor on FMRs**

As NAHRO has recommended since FY 2006, HUD should implement a cap and floor for those FMRs in areas that would otherwise exceed a five percent change from the previous year, with the exception of areas that experience a natural disaster, major economic change, or a significant change in the supply and demand of rental housing. On average, across all metropolitan and non-metropolitan areas, two-bedroom FMRs increased by 1.43 percent between FY 2015 and the proposed FY 2016 FMRs. While this may not seem like a large amount, this average masks large swings in both directions by individual towns and counties. There were 348 counties or towns that had increases of ten percent or more between FY 2015 and the proposed FY 2016 FMRs. Additionally, there were 142 counties or towns that experienced decreases of 10 percent of more between FY 2015 and the proposed FY 2016 FMRs.

NAHRO understands that HUD’s counsel has concluded that the Department is prohibited from instituting a five percent cap and floor on FMRs because this would “violate the portion of the statute
that directs HUD to use the most current data available. \footnote{79 Fed. Reg. 59,790, (October 3, 2014).} NAHRO recommends that HUD include a provision in its next budget request to amend the governing statute to give the Department authority to implement these caps and floors. If the only reason that HUD has not implemented this recommendation is a statutory restriction, then amending the appropriate statute will allow HUD to implement this common sense step.

6. **HUD Should Publish Proposed FMRs at Least Thirty Days Before They Become Effective**

HUD should publish proposed FMRs in a timely fashion. NAHRO believes that it is critical that HUD publish proposed FMRs at least 30 days before they become effective. The proposed FY 2016 FMRs were published on September 8, 2015, only 23 days before they become effective. While we understand that incorporating ten-year major metropolitan area definition changes produced a greater workload, we also hope that in the future, instances where greater work is necessary can be anticipated and compensated for accordingly, so that the Department produces data according to statutorily defined times.

NAHRO greatly appreciates the opportunity to comment on these proposed FY 2016 FMRs. We look forward to working with HUD in the future to further refine the Department’s methodology to ensure the greatest accuracy in calculating FMRs.

Sincerely,

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