February 19, 2015

Regulations Division, Office of General Counsel
451 7th Street SW., Room 10276
Department of Housing and Urban Development (HUD)
Washington, DC 20410-7000

Re: Docket No. FR5173N03 - Affirmatively Furthering Fair Housing: Re-Opening Public Comment Period on Subject of Later First AFH Submission Date for Certain Entities

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 in response to the notice of proposed information collection (FR5173N03) entitled Affirmatively Furthering Fair Housing: Re-Opening Public Comment Period on Subject of Later First AFH Submission Date for Certain Entities published in the Federal Register on January 16, 2015. Formed in 1933, NAHRO represents more than 3,100 agencies and over 20,000 individual members and associates. Collectively, our membership manages over 970,000 public housing units, or approximately 83 percent of the entire public housing inventory, as well as 1.7 million vouchers. A good portion of our members are also involved in the administration of entitlement funding through Community Planning and Development programs. Undoubtedly, NAHRO members are deeply vested in any effort to retool regulations governing local housing and community development agency planning operations.

NAHRO appreciates HUDs acknowledgement of the hardships that States and Insular Areas, qualified Public Housing Authorities (PHAs), and Community Development Block Grant (CDBG) Entitlements receiving small grants will experience when fulfilling the Assessment of Fair Housing (AFH). Program participants will undoubtedly experience significant administrative burden due to the highly procedural and directive requirements of the Affirmatively Furthering Fair Housing (AFFH) regulations. Without HUD providing the complete resources for program participants to complete the AFH, many participants will not have sufficient staff, knowledge, time, and/or financial resources to successfully submit their AFH to HUD.

NAHRO whole heartedly agrees with HUDs estimation that extra time is necessary for certain
program participants. However, NAHRO believes that simply delaying the requirements instead of seeking a more pragmatic alternative to the proposed requirements is insufficient. Given the Departments acknowledgement of the difficulties faced by these grantees, NAHRO believes the Department should reassess the necessity and effectiveness of the AFH Tool in addition to delaying its enactment. A delay would only serve to shift the administrative burden to a later time, not actually address the fundamental burden.

In structuring a staggered submission schedule and allowing additional time for grantees, HUD should seek to develop a schedule that provides all grantees with meaningful opportunities to work with partners. For example, the Proposed Rule would allow PHAs to choose from a number of submission options, either as individual agencies, in collaboration with other PHAs, or with ConPlan jurisdictions. The submission schedule should be flexible enough to actually allow for each of these options. Furthermore, NAHRO reiterates its objection to the punitive proposal that would require annual submissions from PHAs that opt to submit their AFH individually. A requirement to submit more frequently than every five years have no purpose but to dissuade PHAs to exercise their right to submit their own AFH.

Furthermore, as reflected in previously submitted comments, NAHRO believes that the AFH tool is premature for several reasons: 1) it implements a deeply-flawed AFFH proposed rule that has not yet been finalized; 2) development of the tool itself is not yet complete with the public only being provided one version of the tool despite the understanding that different types of grantees will be provided with different versions of the tool. It is problematic when HUD solicits comments from the public on the effectiveness of delaying the first submission date, and to request alternative CDBG thresholds, when the public has yet to even see the final versions of the tools and is unable to measure the tool requirements against the capacity of program participants; and 3) outstanding legal challenges that are being heard by the Supreme Court this year may dramatically change the policy landscape surrounding the tool. Moving forward with finalizing either the Proposed AFFH Rule or the proposed information collection will increase uncertainty and confusion and decreased program participants ability to comply with requirements.

As always, NAHRO is appreciative of the opportunity to comment on this important notice. We look forward to continuing our work together to find a reasonable, appropriate mechanism for furthering the goals of the Fair Housing Act. Please do not hesitate to contact us if we can provide additional information or clarification.

Sincerely,

Tamar Greenspan
Director, Policy and Program Development