January 27, 2017

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


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 for Comment (FR-5976-N-02) entitled “Housing Opportunity Through Modernization Act of 2016: Solicitation of Comments on Implementation of Public Housing Income Limit,” published in the Federal Register on November 29, 2016. Formed in 1933, NAHRO represents over 20,000 individual and agency members. 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 Housing Choice Vouchers. Many of NAHRO’s members are also involved in the administration of federal funding through Community Planning and Development programs. NAHRO works to support policies that allow housing authorities to efficiently and effectively meet the needs of their communities.

A provision limiting incomes for public housing residents was included within the Housing Opportunity Through Modernization Act of 2016 (HOTMA). HOTMA places the threshold for over-income families as those with incomes over 120 percent of area median income (AMI) for the most recent two consecutive years. If a family meets this threshold, public housing authorities (PHAs) have the option of either charging the higher of the fair market rent for the unit or the monthly subsidy (operating and capital fund), or terminating the tenancy within 6 months. Language in HOTMA also provides the Secretary the discretion to establish different

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income limitations based on local construction costs or unusually high or low incomes, vacancy rates, or rents.

HUD is soliciting comments on its proposal to use its calculation of very low-income (VLI) to determine income limits. VLIs are preliminarily calculated as 50 percent of the estimated area median family income. VLI limits include several adjustments to align the income limits with program requirements including: high housing cost adjustments, low housing cost adjustments, state and non-metro median family income adjustments, and ceiling and floors for changes. HUD is proposing to use the VLI as the basis for the 120 percent income limit by multiplying the VLI limit by a factor of 2.4. Areas without a VLI adjustment would result in an income limit of 120 percent of AMI. Areas with an adjustment would be higher or lower than 120 percent AMI, depending upon the adjustments made.

Overall, NAHRO is in support of HUD’s proposal to use its VLI calculation to determine income limits as opposed to creating a new methodology. Certain markets, especially larger cities, have insufficient stock of appropriate and affordable housing in the private market. Although a tenant may be over-income, they still may not be able to find affordable housing within their community. Housing stability is critical for families, elderly individuals, and individuals with disabilities. A move across a large urban area like New York City or Los Angeles has the potential to uproot individuals and families. Using the VLI calculation takes many of these concerns into account as the calculation incorporates adjustments for high housing cost adjustments, low housing cost adjustments, state and non-metro median family income adjustments, and ceiling and floors for changes.

Although NAHRO is in support of using the VLI threshold to determine over-income limits in public housing, we recommend using a floor of 120 percent regardless of whether or not adjustments lower the VLI threshold within a community. In many communities, especially where there are high rental vacancy rates, families earning less than 120 percent of AMI that are still considered over-income based upon the VLI adjustments of their community may opt to move to a private rental unit that costs less than the fair market rent. This has the potential to create decreased tenant stability for these PHAs.

Stable tenancies reduce the costs of identifying and certifying new households as well as the costs of preparing the new units for new occupants. Lower costs associated with continuing to house higher-income households allow PHAs to focus additional resources on lower-income tenants. Higher rent paying tenants can help offset the costs of housing lower-income families and reduce the cost to operate public housing. As one of our members noted, it is very difficult to evict a family paying $1,000 in order to admit a family paying $50 or have a unit sit empty. PHAs are struggling to find creative ways to account for the fact they are only receiving 84 cents for every dollar they are owed for operating public housing. Any additional income, from higher tenant rents or otherwise, is critical for PHAs in this time of drastically limited funding. Reducing rental income will cause a significant need for HUD to provide additional subsidy that is currently not available. As such, we recommend implementing a floor of 120 percent of AMI regardless of adjustments to the very low-income threshold.
NAHRO also recommends including exemptions from being considered “over-income” for vulnerable populations, including seniors and disabled individuals, as well as those that face specific financial constraints. Over-income senior and disabled households may face challenges in finding suitable, affordable housing that other populations do not due to their specific needs. NAHRO recommends providing waivers, or other exemptions, to seniors and disabled individuals to ensure they maintain access to safe, affordable housing regardless of changes to their incomes. Furthermore, large families may also face greater challenges finding affordable and appropriate housing than other over-income households. Consideration should be provided in these instances to ensure large families that become over-income are able to secure appropriate housing.

Although NAHRO would like to reiterate our support of using HUD’s established methodology for calculating the very low-income threshold to determine the over-income calculation, we would also like to raise of our concerns regarding HUD’s calculation of Fair Market Rents (FMRs) that are used within HUD’s calculation of VLI adjustments. NAHRO does not believe that the FMRs represent accurate on-the-ground rental market prices. The accuracy of FMRs is a function of the underlying data set and the methodology used to convert the data set to the FMRs. The source of the data remains outdated. The methodology for calculating FMRs also remains the same from the final FMRs published in FY 2016, although HUD was right to adopt a “forward trending” methodology between the proposed FY 2016 FMRs and the final FY 2016 FMRs, which made the final FY 2016 FMRs more accurate. While a step in the right direction, this change was not drastic enough to create fully accurate FMRs—especially in those instances where a place may have a tight rental market.

Another concern regarding FMRs is their year-to-year volatility, although this concern has been partially alleviated through a provision in HOTMA. The new Small Area FMR rule also has a provision that limits decreases in FMRs (and Small Area FMRs) to no more than 10 percent a year, which is also helpful in reducing volatility. While these provisions are welcome, it does not completely solve the problems associated with volatility. Reforming the FMR methodology to ensure smaller year-to-year shifts in FMRs is still required. HUD has previously indicated that it takes FMR volatility seriously, and it should continue to think about ways that it can reduce volatility.

There are myriad reasons why over-income tenants remain in public housing. The vast majority of these families earn just over the income eligibility limit and are still progressing toward economic stability. Further, housing stability plays a critical role for families. Although these tenant’s incomes have increased, many would not be able to remain in the same neighborhood or part of town if they were evicted from their housing, especially in larger cities. This has implications for school attendance, job availability and access, which can be especially challenging for individuals without transportation, and displacement from close-knit support systems like friends and family who may provide child care or other critical assistance. Again, NAHRO supports HUD’s responsible proposal, with certain recommendations for improvement.

As always, NAHRO is appreciative of the opportunity to comment on this important Notice of Comment. We are also appreciative of the Department’s efforts to include the perspectives and
feedback of NAHRO and our members on HUD’s proposed method of determining income limit for public housing tenants. We would also like to take this opportunity to thank HUD and its staff in their efforts to implement the provisions included in HOTMA, including many common-sense changes to our federal housing programs. We look forward to continuing our work together on HOTMA implementation.

Sincerely,

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