May 29, 2012

Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW., Room 10276
Washington, DC 20410–0500

Re: Public Housing and Section 8 Programs: Housing Choice Voucher Program:

To Whom It May Concern:

We welcome the opportunity to comment on HUD’s proposed portability rule. Attached, please find NAHRO’s July 27, 2010 memorandum regarding our portability reform recommendations to HUD officials who conducted the meeting with PHAs and PHA Industry groups on March 2 and 3, 2010, regarding portability and the Section Eight Management Assessment Program (SEMAP). Also attached, please find our additional recommendations and comments that relate directly to HUD’s March 28, 2011 proposed rule.

NAHRO represents more than 3,100 agencies and over 20,000 individual members and associates, and is the oldest and largest association serving housing and community development agencies for the provision of adequate and affordable housing and strong, viable communities for all Americans—particularly those with low- and moderate-incomes. Our members administer HUD programs such as Public Housing, Section 8 Housing Choice Vouchers, CDBG and HOME.

With several modifications as described in the attachments, NAHRO supports the following portability regulatory changes which would:

- Require a PHA that: (1) is utilizing less than 95 percent of its available budget authority, and (2) has a leasing rate of less than 95 percent, to absorb incoming portability families until the percentage of available budget authority used or the leasing rate is at least 95 percent; in order to help ensure that a PHA utilizes available budget authority to the maximum extent possible, and to reduce the number of portability billing arrangements between agencies. The available budget authority includes the available Housing Assistance Payment (HAP) Net Restrict Assets, or NRA;
- Mandate suspension for all vouchers issued, and the suspension would last from the date the family submits the request for tenancy approval until the PHA approves or denies such request;

- Require that the communication by both PHAs be by email or other confirmed delivery method that expedites the processing of the families’ request;

- If a receiving PHA decides to absorb the family, bar the receiving PHA from reversing its decision at a later date without consent of the initial PHA. This requirement will provide PHAs with stable, consistent information necessary to plan financially and to better serve families;

- Clarify the language to state that a receiving PHA cannot refuse to assist incoming portable families as is currently required by § 982.355(a);

- Add an additional 30 days to the term of the voucher for portability moves to accommodate the additional time that the portability process requires, such as attending a briefing session at the receiving PHA; and

- Set the maximum amount the initial PHA is required to pay at 100 percent of the receiving PHA’s administrative fee rate to prevent a receiving PHA with a lower administrative fee from profiting from an initial PHA with a higher administrative fee.

Thank you for your consideration of our recommendations. Please do not hesitate to contact us if you require additional information.

Sincerely,

Jonathan B. Zimmerman
Senior Policy Advisor – Housing Assistance Programs

Enclosures

- NAHRO’s Portability Reform Recommendations to HUD (July 27, 2010)
- NAHRO’s Supplementary Portability Reform Recommendations to HUD (May 29, 2012)
- HUD’s Portability Survey to PHAs in January 2010
- NAHRO’s Comment Letter Regarding HUD’s Proposed FY 2012 FMRs
- NAHRO’s Comment Letter Regarding HUD’s Proposed FY 2007 FMRs
MEMORANDUM

From: Jonathan Zimmerman, NAHRO

To: Office of Housing Voucher Programs, HUD

Date: July 27, 2010

Re: Portability Reform Recommendations

On March 2 and 3, 2010, HUD convened sessions on the Section Eight Management Assessment Program (SEMAP) and portability reform. NAHRO appreciated the opportunity to participate in HUD’s sessions. Listed below is NAHRO’s position as it relates to portability reform. NAHRO’s members, made up of small, medium and large PHAs serving rural, suburban and urban communities developed these positions over a five-year period. In that process, our PHA members’ representative on our national Housing Committee and Board of Governors agreed to positions that required some measure of compromise from each of them. While there are other issues relating to portability reform, in the interest of time we offer the following recommendations to you.

We offer our position on portability reform as a follow-up to the convening sessions HUD held on March 2 – 3, 2010, and welcome the opportunity to correspond or discuss them further with you. Please feel free to contact me at: jzimmerman@nahro.org or 202-580-7213. Thank you for your time and consideration.

Improve the Regulatory and Administrative Framework of Voucher Portability (24 CFR § 982.353)

Years ago, HUD adopted the Inspector General’s (IG) report recommendations by implementing a portability system with greater standardization in the billing and payment procedures. HUD implemented the IG’s recommendations to help bring about reasonable enforcement mechanisms to enhance the existing portability system and reduce PHAs’ administrative problems. Regrettably, the Department has not fully enforced the provisions in PIH Notice 2004-12 (HA) and subsequent notices, particularly on late billings and late payments. We believe that additional measures should be taken to improve the portability feature of the HCV program.

NAHRO views portability as an essential element of the voucher program. However, present administrative requirements relating to portability are overly burdensome, in particular with respect to inter-agency billing. NAHRO suggests that appropriate regulatory action be taken that would preserve the right to port for participating families, eliminate inter-agency billing over time, preserve the ability of agencies with high rates of in-porting vouchers to serve their waiting lists and for initial agencies to re-issue their voucher with the necessary budget authority to lease a family from their waiting lists. PHAs are also seeking a solution that reduces to the extent possible the impact of widely differing HAP costs. PHAs experiencing a net out-porting of vouchers may also have high affordable housing needs and voucher utilization rates. An
appropriate portability mechanism should maintain the level of authorized vouchers to those agencies. Finally, we believe that a successful reform will enable agencies to earn 100 percent of their local administrative fee rates. We suggest that this will require better use of HUD’s existing IT systems.

NAHRO suggests that the competing considerations can be reasonably balanced by the following mechanism for portability.

1) The agency shall absorb each family into its voucher program if at the time the agency receives notification of the family’s moving into its jurisdiction, the agency is utilizing during the current calendar year (year-to-date average), less than 95 percent of the current year annual budget authority or the agency’s voucher program waiting list contains no eligible families.

2) If the agency is utilizing during the current calendar year (year-to-date average) 95 – 100 percent or more of the current year budget authority, and the agency’s voucher program waiting list contains one or more eligible families, the receiving agency shall absorb into its voucher program a minimum of one of each four families exercising their right of portability to relocate to the agency’s jurisdiction. (The receiving agency’s absorption obligation, would apply both to ported vouchers being billed to HUD through HUD’s Voucher Management System for turnover vouchers within their allocation as well as incoming ported vouchers for a total of one in four vouchers.)

3) From amounts designated in appropriations or set aside by the HUD annually for such purposes the Department would provide funds to the receiving agency for housing assistance payments and administrative fees sufficient to pay the cost of each voucher not absorbed in the agency’s voucher program for the balance of the calendar year in which the relocating family resides in the receiving agency’s jurisdiction.

4) Vouchers that are not absorbed by the receiving agency during the calendar year of the family’s relocation shall be absorbed into the agency’s program of voucher assistance at the commencement of the next calendar year, and HUD would increase the receiving agency’s baseline renewal funding for such vouchers for the year in which such absorption occurs and for subsequent years.

5) HUD would reduce the baseline voucher allocation of the sending agency for each voucher ported to a receiving agency’s jurisdiction, if the voucher is not absorbed using the receiving agency’s own voucher allocation and budget authority.

6) For each voucher that is not absorbed by a receiving agency during the calendar year of the family’s relocation but which is absorbed into the agency’s program of voucher assistance at the commencement of the next calendar year (as described above), the transferring agency, if it is utilizing at least 97 percent of its budget authority, would receive restoration of the voucher through reallocations of unused prior year budget authority under a preference established for such purpose. The agency would also be permitted to lease up to 100 percent of its baseline plus three percent or its net ports out, whichever is higher. Implementation of these funding provisions and NAHRO’s support of them, are predicated of enactment of the funding
mechanisms under SEVRA (HR 3045). Specifically, from amounts appropriated for each year HUD would be required under SEVRA to provide renewal funding for each PHA based on leasing and cost data from the preceding calendar year and by making any adjustments necessary for full year funding of vouchers moved into and out of the jurisdiction of the public housing agency in the prior calendar year pursuant to portability procedures under subsection (r)(2).

NAHRO also recommends that the Department facilitate absorption by adequately funded receiving agencies of portability billings of the sending/initial PHA’s vouchers, particularly where interagency billings have continued for a year or longer. This would free up budget authority necessary to maintain current leasing levels at the sending/initial agencies. Where ports have occurred to areas with higher per voucher costs, absorption will have a multiplier effect at the sending/initial agency.

Some agencies currently have significant numbers and percentages of vouchers billed to other agencies. Where this exists and the receiving agency is at or near 100 percent voucher leasing, it is totally understandable. NAHRO believes that an absorption and transition policy should extend to a reasonable period to account for each PHAs’ turnover rates, provided that agencies should be permitted to absorb these vouchers at a faster rate at their discretion. HUD could develop a plan under which all vouchers subject to inter-agency billings would be absorbed and the billing process terminated.

The obligation to absorb ported vouchers where required to be funded by HUD, should be contingent on the availability of the funding required. Any voucher not absorbed would be funded under current billing procedures.

**HUD Budget and Congressional Appropriations for Portability Costs**

Out of 2.1 million voucher-assisted household, approximately 2.5 – 3.0 percent of assisted-families port each year resulting in an inter-agency billing. The amount of appropriated funds needed to accommodate portability nationally is a figure which should be budgeted by HUD and funded by Congress.

In addition to NAHRO's existing position on portability reform enumerated above, NAHRO supports a separate line item in HUD’s budget requests and appropriations from Congress to support the national costs associated with the portability feature of the Housing Choice Voucher program. Once Housing Assistance Payments and administrative fees are appropriated by Congress as a central pool to HUD, the Department would use its existing information systems such as VMS to facilitate monthly reimbursement to PHAs. The extent of annual portability would be governed by the extent of annual appropriations for this purpose.

Instituting a financial process with greater transparency, would be part of a broader approach to assist the Department and Congress understand the amount of funding needed to address a number of national Housing Choice Voucher (HCV) program needs such as PHAs' budget utilization rates vs. lease-up rates under the program's budget-based renewal funding formula, voucher-assisted households' income to rent burdens relative to the existing “affordability
standards” (no more than 40 percent of PHAs' voucher-assisted households can pay more than 30 percent of their income towards rent), and portability.

After the Department completes its reevaluation of PHAs’ Net Restricted HAP Assets (NRA) as of December 31, 2008 for all PHAs as well as addresses the funding for PHAs’ with greater offsets of their NRA in 2009 than should have occurred, there may be NRA funds above six percent of some PHAs’ annual budget authority where those PHAs are serving or could serve 100 percent of their adjusted baseline vouchers with the funding available to them. Because HUD’s FY 2011 budget request, House and Senate FY 2011 THUD Appropriation Subcommittee bills, and the “Section Eight Voucher Reform Act of 2009” (HR 3045) all contain an offset of NRA above six percent of PHAs’ annual budget authority, NAHRO supports use of funds exceeding this level as a funding source to facilitate the mandatory absorption recommendations outlined above. In addition to this funding source to help facilitate portability absorptions, we have listed a few more funding sources immediately below.

In FY 2011 the $150 million HAP set-aside fund, PHAs only received pro-ration of 69.34 percent from the $150 million set-aside fund in FY 2010. The combination of sufficient funding for a 100 percent HAP pro-ration and a change to a calendar year funding formula in FY 2011, would likely improve the pro-ration of $150 million set-aside funds for eligible PHAs. If this is the case, and a 100 percent pro-ration of renewal funding and set-aside HAP funding can be satisfied for eligible PHAs, expansion of the five eligible categories within the $150 million set-aside fund proposed for FY 2011 to include residual funds for portability absorption would be beneficial for all affected PHAs.

Previously PHAs that had more HAP funding than could serve 100 percent of their authorized vouchers, worked with under-funded PHAs in their surrounding communities (within the same metropolitan area, non-metropolitan county, or state) to voluntarily transfer a portion of their HAP budget authority and vouchers (PIH Notice 2002-14). This process which required PHAs’ notification to HUD, enabled greater number of low-income families to be served and also facilitated a prompt method for some communities dealing with a tight housing market to receive the necessary funding to deal with temporary spikes in their HAP costs. HUD’s previous notice enabled PHAs to transfer the same amount of HAP budget authority back to the original PHAs such that all agencies retained their total number of authorized vouchers. However, in March 7, 2007, HUD issued a notice (PIH 2007-6) rescinding PHAs authority for partial transfer of HAP budget authority and instead only allowed PHAs divest their entire voucher program to another PHA or no HAP funding at all. Under HUD’s 2007 notice, all such voluntary voucher program divestitures are permanent, which for all intents and purposes, precluded PHAs helping their under-funded neighboring agencies and the families they serve. NAHRO recommends reinstatement of PIH Notice 2002-14 either through reinstating authority to PHAs or providing similar authority to HUD Field and/or Regional Offices.

Under current regulations (24 CFR 982.102) the Department has the authority to recapture and reallocate funding from under-utilizing agencies. NAHRO recommends HUD conduct mandatory recaptures and reallocations of available unutilized funds under existing regulations. If the Department needs to modify the existing regulation from recapture to offset/rescission to
facilitate moving forward with this measure for this purpose, NAHRO would support such a change.

**Use VMS Voucher Leasing and Cost Data for Portability Reimbursement**

NAHRO recommends HUD use VMS data for voucher leasing and costs associated with portability rather than PIC data. NAHRO reviewed HUD’s explanation of how the Department arrived at the set of PHAs with known net portability HAP deficit expenses in its preliminary calculations. NAHRO is concerned about HUD’s method as it relates to the use of PIC data – as opposed to VMS data - to determine the reimbursement amount for PHAs with net HAP deficit expenses attributable to portability.

The “Consolidated Appropriations Act, 2010” (P.L. 111-117) states: “... Provided, That notwithstanding any other provision of law, from amounts provided under this paragraph and any carryover, the Secretary for the calendar year 2010 funding cycle shall provide renewal funding for each public housing agency based on voucher management system (VMS) leasing and cost data for the most recent Federal fiscal year...”(emphasis added)

To implement the FY 2010 appropriations law, HUD has to date used VMS voucher leasing and cost data for PHAs’ base renewal HAP funding. To implement the same appropriations law HUD has indicated through PIH Notice 2010-5 and through information posted on its website that the Department will use PIC data for voucher leasing and cost data in order to implement funding adjustments for portability (as opposed to using VMS data for this purpose).

All PHAs report through the Voucher Management System’s existing fields on portable vouchers paid: port-out. This information on portability voucher leasing and costs in VMS, provides HUD with the data it needs to determine each agency’s net portability HAP expenses under section 8(r) of the Act. PIC was not designed as a financial information system, whereas VMS was created at the direction of Congress for that very purpose.

HUD officials have expressed the Department’s desire to incentivize portability and remove barriers to portability. Properly reimbursing PHAs for their actual net HAP deficit expenses relating to portability billing in a timely manner through the use of VMS data directly relates to HUD’s larger public policy objective in facilitating portability. Currently PHAs are reimbursed a year to a year and a half after their portability billing expense at only a fraction of their actual portability HAP expense. The Department’s use of PIC rather than VMS and a pro-ration of 69.34 percent from the $150 million set-aside fund in FY 2010, is a barrier to facilitating portability. Use of VMS data to facilitate monthly reimbursement to PHAs, would be a major improvement.

Attached, please find correspondence between NAHRO and HUD on this topic. Regrettably, PIC not VMS was used as the data source for portability reimbursement in FY 2010. Without improvement to VMS with the $100 million provided by Congress in FY 2010, FY 2011 will feature continued underfunding of PHAs’ portability reimbursements using PIC not VMS data. Improvement in this area is essential to the success of portability reform.
Consolidate and Reduce Duplicative Reporting Requirements to HUD (24 CFR § 943)

HUD was compelled under the consortium statute (Section 13(a)(2)(B) of the U.S. Housing Act) within the Quality Housing and Work Responsibility Act of 1998 authorized local agencies to form consortia, to facilitate cooperative arrangements, and to consolidate all HUD reporting requirements for agencies engaged in consortium. Unfortunately, HUD has not implemented the consolidated reporting necessary to facilitate the formation of consortia. As a result, the consortia process has not been as widely used as many PHAs would like. Operating in consortia could afford the benefits of scale and allow PHAs to administer a multitude of programs through this vehicle, while preserving the advantages of local knowledge and involvement in affordable housing efforts. NAHRO supports actions by HUD to facilitate the use of consortia, as well as cooperative agreements in all instances where operational efficiencies may be achieved through doing so.

Correct Timing Mismatch between SEMAP Performance Assessment and Budget Accounting Systems [24 CFR § 985.3 (n)]

Under current systems, many PHAs face a mismatch between the 12-month periods used to evaluate the number of vouchers under lease for purposes of 1) program performance and 2) accounting. Since the number of voucher families naturally fluctuates, PHAs need a consistent period of time over which to aim for 100 percent utilization – without going over or under. The existing mismatch results in inefficient use of funds and unfair penalties assessed to PHAs. The HUD-controlled evaluation systems should be synchronized to provide PHAs consistent goals that allow efficient budgeting of resources.

For over five years, HUD has not followed through with synchronizing the calendar year voucher program funding cycle with annual settlement calculations for PHAs, which continue to be based on each PHA’s fiscal year (i.e. 3/31, 6/30, 9/30, 12/31). The department declared its intention to do this in Section 9A of PIH Notice 2005-1 which stated: “HUD will issue further guidance relating to the Year-End Settlement Statements which, subsequent to the last quarter in calendar year 2005, will be based on calendar years rather than a PHA’s fiscal year end.”

Voucher program renewals are funded on a calendar year, yet the Department has not issued the guidance contemplated in the 2005 notice, and PHAs continue to report that their HUD Field Offices are holding them to leasing and budget utilization unit months available (UMA) at their respective PHA fiscal years. This has resulted in unnecessary complexity for PHAs administering the voucher program and has been a contributing factor in producing programmatic inefficiency resulting in a significant drop in lease-up rates of authorized vouchers and budget utilization rates in past years and inhibiting greater numbers of families from being served in the HCV program in more recent years. These asynchronous time frames also results in significant portability absorption and billing practices at PHAs’ fiscal year end dates (i.e. 3/31, 6/30, 9/30, 12/31) with little to no advance notice to other PHAs.

This problem seems technical, but it has real consequences. PHAs that have sought to increase or decrease their lease-up rates in order to meet their targets for the fiscal year, may place themselves in an untenable position for the balance of the calendar year remaining after fiscal
year end. Note in this regard that SEMAP scores continue to be generated based on the PHA’s fiscal year, so that HUD’s system introduces incentives to PHAs to make adjustments in the run-up to fiscal year end that they would not necessarily make if year-end settlements were synchronized with the funding cycle. Agencies that approach this situation conservatively will serve fewer very low-income households than could have otherwise been served. We believe tens of thousands of households were not leased, in significant part, due to this problem. Unfortunately, this is occurring at a time when “worst-case” housing needs are significantly increasing and the need for efficient use of voucher funds is always important.

The Housing Choice Voucher program’s Housing Assistance Payment funding offsets are also executed on calendar year basis not by PHAs’ respective fiscal years. The asynchronous administration of SEMAP leasing and budget-utilization scores and the calendar year funding cycle has also prejudiced the SEMAP scores of some PHAs. Further, this has had adverse consequences for these PHAs’ ability to apply for and receive all types of incremental vouchers over the last several years. Further details are contained in NAHRO’s letters to HUD on these issues at: http://www.nahro.org/members/news/2005/FY05_HCV_ltr.pdf (12/05) and at: www.nahro.org/members/news/2007/fy_con.pdf (12/07).

For purposes of HUD’s Section Eight Management Assessment Program (SEMAP) voucher lease-up and budget utilization scores (indicator 13) for PHAs, NAHRO believes that HUD should revise its existing regulations to include in its SEMAP calculations for both voucher lease-up and budget utilization rates; all of days a voucher-assisted household is under an assisted dwelling lease and HAP contract, not just the days starting on the first day of each month. This method would provide a more accurate representation of PHAs’ voucher lease-up and budget utilization rates, as well as their average per voucher HAP costs.

Establish a More Equitable Fee Rate for PHAs Administering Portability Billings (24 CFR § 982.152)

Currently, ongoing administrative fees for portable vouchers are based on 80 percent of the “Column B” rate for the receiving PHA, and 20 percent of the “Column B” rate for initial PHA, prior to the national pro-ration percent being applied. “Column B” fee rates provide less financial compensation to PHAs than “Column A.” The “Column B” fee rate is 7.0 of the base two-bedroom FMR from 1993/1994, and the “Column A” rate is 7.5 percent of the base two-bedroom FMR from 1993/1994. As a result, both initial and receiving PHAs of all types (i.e. city, county, multi-county and state) administering vouchers through portability billings, experience higher administrative costs than usual but receive substantially less fees. For PHAs with portability billings, NAHRO recommends HUD use an 80% vs. 20% split of the “Column A” administrative fee rate to more adequately compensate these agencies as an interim step. Once a transition is made to a portability absorption system as described above, PHAs should be able to earn 100 percent administrative fees corresponding with the FMRs in their service areas rather than of the initial PHA.

Using HUD IT Systems to Provide Important Portability Information and Trainings

It would be helpful to provide PHAs with the contact information of the person and/or people at each PHA handling portability through HUD’s PIC system. To help provide uniform information relevant
to portability moves for voucher holders around the country, the Department should also upload into its website for each PHA, the information on each agency’s application of their discretionary authority (i.e. occupancy standards, payment standards, criminal background checks, etc.) as well as important operational details associated with leasing in their community (i.e. inspection procedures, utility allowances, etc.).
MEMORANDUM

From: Jonathan Zimmerman, Senior Policy Advisor / NAHRO

To: Regulations Division, Office of General Counsel

Date: May 29, 2012

Re: NAHRO’s Supplementary Portability Reform Recommendations

Listed below, please find our comments regarding specific issues listed for comment in the Department’s proposed portability rule. This memo is intended to supplement NAHRO’s comments and recommendations detailed in our July 27, 2010 portability reform memo submitted to pertinent HUD PIH officials following the Department’s meetings in March 2010. Per HUD’s request in the preamble of its proposed portability reform rule, we have also included our comments and recommendations regarding other portability-related issues with no attendant recommendations by the Department in its proposed rule. Please know, that crossing all of our comments and recommendations, is a request for HUD to seriously consider dramatically lower ongoing administrative fees and budget-based Housing Assistance Payment funding with which PHAs are operating.

Similarly, NAHRO has shared a host of written recommended regulatory and administrative reforms for HUD to implement in a timely fashion. Some of NAHRO’s comments on portability problems relating to HUD’s IT systems (i.e. PIC and VMS), as well as other unrealized voucher program reforms including but not limited to SEMAP and consortia, when compared with HUD’s proposed portability rule, illustrates the compartmentalization of HUD’s Departments and offices. While we are pleased after many years of relative inertia on regulatory and administrative reform by the Department, failure for HUD to accomplish broader, deeper and more timely regulatory and administrative reforms that are inter-related, will result in several of the Department’s proposed portability reforms, to result in a net increase in PHAs’ administrative burdens. NAHRO would regard this outcome as a failed attempt to accomplish in any meaningful way what senior HUD officials have been talking about for over a decade, by delivering to PHAs and the communities they serve.

Setting aside for the moment, our concern about the hundreds of millions of dollars that have been redirected from housing and community development programs over the last several years to provide HUD with funds for multiple years of developing its Next Generation Management System (NGMS) and other Transformation Initiative projects, during a time of historic downward pro-rations to program funding, we support the need for reform in HUD’s portability regulations and administrative guidance.

Understanding the Nature of Structural Regulatory and Administrative Impediments to Portability

First, we would like to commend the Department for acknowledging an important distinction in identifying problems with the Department’s existing portability regulations and administrative
guidance. The preamble to HUD’s proposed rule states, “Situations have arisen during the time these regulations have been in place that have caused HUD to identify several issues with the potential to delay or impede the ability of families to relocate while retaining their voucher.” While we go into considerably greater detail about the underlying regulatory and administrative problems to fix to facilitate both portability and mobility moves, we agree with HUD’s above statement about important areas for improvement as well as many of the proposed solutions to the existing portability regulations and administrative guidance to PHAs. In the past, some national organizations have proposed regionalizing the HCV program or consolidating the administrative functions of local PHAs involuntarily, using the need to improve portability moves for voucher-assisted households as one of the main justifications for regionalizing administration of the program. We are appreciative to HUD for its proposed portability rule, by not making the unfortunate mistake that other national organizations have made when they improperly conflate the underlying and structural problems with HUD’s existing regulatory and administrative framework for portability (we would include mobility moves) along with other structural funding problems, with a flawed and unsubstantiated diagnosis of the solution to existing portability problems being “regionalization” of the voucher program that for all intents and purposes would force PHAs into involuntary consolidation of their voucher programs. We will elaborate on this point later in this document, but believe this is so important that we wanted to emphasize it at the beginning of our memo.

However, throughout this process HUD has not presented any data defining what portability success for voucher-assisted households (and we would add mobility) would look like. More specifically, through the use of American Community Survey (ACS) data, we believe it would be beneficial for program stakeholders to learn from HUD about the percentage of unassisted and assisted renter households at each income quintile move as well as how often the move: 1) within their existing city, 2) within their existing county, 3) outside of their county, and 4) outside of their state. Obviously, for unassisted households at each income quintile, the terms mobility and portability do not apply. However, if HUD were to do an overlay of the ACS data for unassisted renter households described above, with assisted renter households by PHA service areas, the Department and program stakeholders would be able to make comparable mobility and portability comparisons between both unassisted and assisted renter households. By doing so, policy makers and program stakeholders could make informed judgments and decisions about the basis for and merit of, various portability and mobility reform proposals. For example, one of the things HUD may find through this analysis, is that the vast majority of all moves that take place, and the frequency of such moves, both by voucher-assisted low-income households and by unassisted households, occurs within a county-based PHA’s service area. Depending on how HUD defines “neighborhoods of opportunity” or deconcentrated neighborhoods, some portion of the example described above would be considered beneficial mobility moves, and the majority of remaining relocations classified by HUD as moves. In this example, there may be no portability moves at all and as such no portability moves to “neighborhoods of opportunity” or deconcentrated neighborhoods. Nevertheless, if HUD undertakes such an analysis and shares it with the public, we may learn that significant percentages of “mobility moves” result in voucher-assisted households relocating to “neighborhoods of opportunity” or deconcentrated neighborhoods. We may also learn the extent to which voucher-assisted households’ of each income quintile group compares favorable or unfavorable to unassisted households of varying income quintiles living in “neighborhoods of opportunity” or deconcentrated neighborhoods, and
perhaps better understand the underlying reasons for any differences. If HUD already has this information it was not presented to us during HUD’s portability and SEMAP forums in March 2010 nor in the Department’s proposed rule. Having and using such information in policy formation, would help all of us establish important baselines for understanding past and future portability and mobility interventions.

**Property Listings by Owners and Managers Interested in Renting to Voucher Participants**

HUD’s proposed rule asked program stakeholders to comment on, “[c]urrent regulations require a PHA to provide families with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family or help the family find a unit. HUD is interested in learning if the list of landlords and other parties is helpful for families, or if HUD should remove this requirement in the revised rule.”

We believe that this existing requirement should remain in place, but to update the information resources that are available to voucher holders. As you may know, there are several organizations that capture and provide vacant and leased rental unit listings including information on the accessibility of the units to public transportation, handicap accessibility, compliance with lead-based paint laws, etc. and make them available to PHAs who subscribe to their service both for voucher holders, waiting list applicants and for rent-reasonableness purposes. Just to name a few, www.Socialserve.com and www.GoSection8.com perform this service. Many of our PHA members subscribe to these and other related services. In some cases the service is free and in other cases, PHAs pay for these type of services. With the lowest pro-rataion of administrative fees in the 37 year history of the voucher program, these and other types of services for which PHAs pay have and likely continue to be cut.

**Tradeoffs for Families**

HUD’s proposed rule asked program stakeholders to comment on, “[w]hether PHAs’ briefings should be revised to highlight the factors and trade-offs that a family should consider in terms of where they wish to lease a unit with voucher assistance. These factors include but are not limited to: employment opportunities; safety, health and environmental amenities; public transportation; the quality of schools; access to social services; the quality of housing; and proximity to family and friends. HUD seeks comment on the content and emphases of the briefings…” We agree that information regarding potential trade-offs that voucher holders should consider in locating and leasing a unit under the voucher program. We believe that much of this information can be gathered by HUD’s final MTO report as well as other research relating to the MTO demonstration and this topic.

**Tradeoffs for Families and PHAs**

Remarkably, nothing was mentioned in HUD’s proposed rule about the tradeoffs that PHAs face when implementing a number of programmatic requirements and services in their communities. Among other things, any increased program requirements and administrative procedures resulting from this proposed rule should be incorporated in HUD’s voucher administrative fee study.
We recommend that HUD's program performance assessments and regulatory regimen are consistent with the level of resources provided. The fiscal realities of HAP and administrative fee funding constraints within PHAs’ HCV programs, results in a number of a SEMAP performance indicators competing with one another for all practical purposes. Currently, SEMAP ratings do not account for the “tradeoffs” associated with competing performance indicators in the current funding environment. NAHRO believes that it is essential to help analyze “tradeoffs” created in large measure due to the existing SEMAP system, including the deconcentration bonus.

In the past, HUD's voucher program regulatory requirements and administrative guidance studies have largely examined one aspect of the HCV program such as voucher success rates, HQS compliance rates, income to rent burdens, mobility, and portability, serving unassisted waiting list families, etc. However, since FY 2003 PHAs have had “budget-based” funding, resulting in PHAs having to balance all of these goals of the HCV program within the HAP and administrative fee funding provided. NAHRO believes that before HUD implements changes in portability requirements, it is important that HUD consider the tradeoffs PHAs face while attempting to balance accomplishing program goals within their “budget-based” HAP funding allocations and administrative fee budgets. PHAs that raise their voucher payment standards to facilitate greater mobility moves will likely expend more per voucher HAP funds as a result, leading to fewer families served and less administrative fee revenues to be able to staff their program leasing and services. Some PHAs with insufficient HAP and NRA funding levels to lease their ACC baseline number of vouchers, may need to capture more household income increases between annual recertifications and adopt an administrative policy to accomplish that but at the same time they end up spending more in administrative costs to do so. Other PHAs that are at or near 100 percent leasing and/or have sufficient HAP and NRA funding to lease to their ACC baseline number of units. In other words, if a PHA adopts a policy within its discretionary authority on interim recertifications when households’ income increases between annual recertifications, there is a resulting interplay between HAP, NRA and administrative fee expenses in order to try to lease to ACC baseline and other PHAs do not. This one PHA example stems from insufficient HAP and NRA funding under a series of changing budget-based renewal funding formulas and beyond its control from FY 2004 - FY 2007, HUD’s mistakes on NRA offsets in FY 2009 and FY 2011.

SEMAP was developed and initially implemented during a different HAP funding formula and administrative fee pro-rations, but has not been substantially reformed to the funding realities PHAs have faced since FY 2003 and beyond. NAHRO believes the kind of discretionary authority provided under QHWRA as well as the MtW demonstration, provides much needed opportunities for localities to balance competing program goals and to do so in an efficient manner. Within that context, we believe that HUD's reformed portability policies could take into account the HCV programs' current conditions relative to these goals, as well as learn from PHA examples where the balance is being struck and the methods agencies' used within their budgets to achieve balanced portability and mobility move outcomes.

We think that the GAO captured the issue of programmatic “tradeoffs” well, and take them into consideration when weighing portability reform options and program stakeholders’
recommendations in this area. On May 30, 2006, the Government Accountability Office (GAO) released a report, Policy Decisions and Market Factors Explain Changes in the Costs of the Section 8 Programs’ (GAO-06-405), that clearly illustrates the tradeoffs in funding policies considered by Congress. The report states “The cost of providing rental assistance has been a long-standing issue for policymakers and has led Congress, on different occasions, to reform various housing programs… To the extent that policymakers wish to stem the rising cost of the voucher program, our analysis suggests that future increases could be mitigated by reducing the number of assisted households, lowering payment standards, requiring households to pay a larger share of their incomes toward rent, subsidizing households with higher incomes, or a combination thereof. However, these actions require making difficult trade-offs between limiting program costs and achieving long-standing policy objectives, such as serving more needy households, having assisted households pay a relatively small share of their incomes in rents, making it easier for voucher holders to find housing (especially in tight rental markets), reducing the concentration of poverty, and giving PHAs the flexibility to respond to local rental market conditions.”

The report goes on to note that, while both “Congress and HUD have already responded to the increasing cost of vouchers by changing the way the program is funded. Specifically, HUD no longer provides funding to PHAs based on the number of authorized vouchers, but rather based on the prior year's level of voucher expenditures, adjusted by an inflation factor. While this approach allows HUD to limit the annual rate of increase in the program's cost, [but] it does not directly address the policy decisions and market factors that we identified as contributing to the increase in program costs. Instead, it will be up to PHAs to exercise their flexibilities and make decisions regarding how to use the voucher funding that they receive from HUD.” It then goes on to provide examples of ways that PHAs can limit the growth in voucher costs, “For example, some PHAs may choose to reduce their local payment standard, a course that, as our analysis suggests, would likely limit growth in voucher costs. The decisions that PHAs make will eventually influence trends in outlays, per household subsidies, and unit rents, and these trends will become more apparent in the years following the period covered by our analysis.”

**Changing the Administrative Fee Calculation for Portability Billings**

HUD’s proposed rule asked program stakeholders to comment on, “[s]et the maximum amount the initial PHA is required to pay at 100 percent of the receiving PHA’s administrative fee rate to prevent a receiving PHA with a lower administrative fee from profiting from an initial PHA with a higher administrative fee.” As we stated in our comment letter we agree with this position. Except in the circumstance described by HUD above, we conveyed our belief that HUD should establish Column A administrative fee rates not Column B fee rates as the basis for inter-agency portability billing amounts, as described in our recommendations as part of our July 27, 2010 memo to HUD on portability. There are so many de facto financial penalties initial PHAs experience under the current portability regulations and notices, that HUD should use the higher of the two rates for purposes of administrative fee splits on an 80% vs. 20% basis.
Requiring PHAs to Provide Their HUD Field Office When Denying Moves

HUD’s proposed rule asked program stakeholders to comment on, “[r]equire a PHA to provide written notification to the local HUD Field Office when the PHA determines it is necessary to deny moves based on a determination of insufficient funding.” To the Department’s credit, over the years HUD has provided clearer and more detailed instructions and examples of the step by step procedures PHAs must go through before reaching a determination that they may deny a portability-out request as well as requests for mobility moves within their service areas. That stated, the Department has done an inadequate job of publishing its spreadsheet tool, designed to assist PHAs in this financial analysis, each and every time HUD published an updated PIH Notice on the topic.

HUD’s existing portability guidance results in PHAs promptly notifying a family once there is sufficient funding to process their request, and PHAs must not house any household off of their waiting list, before going back to the port family who was previously denied. In our view, enhanced or improved resources such as HUD’s suggested portability spreadsheet tool coupled with HUD’s use of independent public auditors’ review of PHAs’ program operations among other information resources, would provide the Department with a reasonable monitoring and oversight balance between enforcing this portability program requirement but not requiring administrative burdensome processes on PHAs on a household-by-household basis.

PHA Briefings Regarding the Potential Benefits of Deconcentration

HUD’s proposed rule states, “Currently, § 982.301(b)(3) requires that the briefing to families living in high-poverty census tracts include an explanation of the advantages of moving to an area that does not have a high concentration of poor families. HUD is seeking comment on whether this information should be provided to all families selected to participate in the HCV program, and not just those families living in high-poverty census tracts.” Notwithstanding NAHRO’s previous comments regarding HUD’s historic and continued increases in voucher program requirements rather than regulatory and administrative relief to PHAs during historically low ongoing administrative fee pro-rations, and virtual elimination of special fees, NAHRO believes that all voucher holders should receive the same level of information during their briefings. Our position is based on the principle that all voucher holders receive the same access to information and services, but that leasing outcomes for voucher holders result in factors that are beyond the PHA’s control. This principle is important to us, both from a voucher administration perspective, as well as to facilitate ongoing understanding among research and policy makers to the causal relationships that account for voucher holders’ leasing activities. That stated, NAHRO also believes that it is important for HUD to provide PHAs with easy to use information to provide voucher holders regarding pertinent information on affordable housing units, transportation, schools, employment information, access to health facilities, etc. In addition, NAHRO believes it is important for HUD and program stakeholders to agree on objective information and facts resulting from HUD’s empirical studies regarding “the advantages of moving to an area that does not have a high concentration of poor families,” before instituting regulatory or administrative reform procedures.
As you know, HUD’s final report titled, “The MTO study entitled Moving to Opportunity for Fair Housing Demonstration Program – Final Impacts Evaluation” (http://www.huduser.org/portal/publications/pubasst/MTOFHD.html). HUD’s final MTO study report based on a rigorous experimental design, suggests that housing mobility programs improve the quality of housing and living conditions, as well as neighborhood satisfaction and improved safety for participants as well as modest health and risky behavior outcomes, from a cost vs. benefit standpoint. However, HUD’s report found that compared to those in the control group, there were not statistically significant beneficial effects for experimental voucher-assisted households in educational, employment or outcomes in household income, by virtue of living in a poverty deconcentrated neighborhood of 10 percent or less. According to the final MTO evaluation, while housing mobility programs move families to lower income neighborhoods, the programs cannot address the multiple challenges facing low income families on their own. Further research is needed to discover how to address barriers to employment and improve educational outcomes, according to the report’s authors. It is worth noting that HUD’s final MTO report did not include information on the total Housing Assistance Payment and administrative cost differences associated with poverty deconcentrated moves versus the control group, many of which were mobility moves within a PHA’s service area rather than portability moves, which often result in significantly greater HAP and administrative costs than mobility moves. In our view, omitting this information from HUD’s final MTO study report, which originally had a cost vs. benefit component to the research design was a glaring shortcoming of HUD’s MTO report. We call upon HUD to publish this cost information in a proper context of the MTO demonstration and to have the cost vs. benefit findings help inform HUD’s future policy making through regulations, administrative guidance.

In addition to the MTO final study report a lot of other research relating to deconcentrated neighborhoods has been performed and published, not least of which is “Are Census Variables Highly Correlated With Housing Choice Voucher Holders’ Perception of the Quality of Their Neighborhoods?” (http://www.huduser.org/periodicals/cityscape/vol10num1/ch6.pdf) by Larry Buron and Satyendra Patrabansh of Abt Associates Inc. and published in HUD’s Cityscape periodical in 2008. The article presented the results of a study examining voucher holders’ ratings of their neighborhoods on the Housing Choice Voucher Program Customer Satisfaction Survey. Specifically, the study examines whether these ratings were internally consistent and whether they were highly correlated with any census neighborhood variables often used as measures of neighborhood quality. Researchers found that the voucher holders’ neighborhood ratings were consistent with their answers to more specific survey questions about the attributes of their neighborhoods but only weakly correlated with census-based measures of neighborhood quality. Internal consistency was demonstrated by the strong correlation between neighborhood ratings and voucher holders’ perceptions of crime problems and physical disorder in their neighborhoods. The comparison with census-based measures of the neighborhood showed that, although a very systematic correlation exists between the neighborhood rating and census measures of the neighborhood, the correlation was not very strong for any of the census variables tested. The variable with the strongest correlation (percentage of female-headed households with children) explained less than 5 percent of the variation in the neighborhood rating. Furthermore, combining multiple census variables into a neighborhood quality indicator increased the explanatory power by only a small amount.” When NAHRO mentioned the findings of this study to panel of researchers assembled by HUD in March 2010 to talk about portability reform,
the only answer we received was a patronizing and dismissive reply about how sometimes low-income voucher holders do not know what is best for them in their own self-interest. The findings in this study report along with several others, demonstrate to us that in developing and implementing information for PHAs to provide to voucher holders regarding the potential benefits and costs of moving to a deconcentrated neighborhood, that the results from these studies be used in the formulation of such policies.

**Voucher Holders Choosing Which PHA to Administer Their Voucher After Porting-Out**

HUD’s proposed rule states, “when a family requests to port and there is more than one PHA in the family’s desired location, the current regulations require the initial PHA to select the receiving PHA. HUD is instead considering allowing the family to select the receiving PHA based on the PHA that best meets its needs.” This is an interesting concept that has potential benefits as well as drawbacks from a public policy point of view. We will attempt to scratch the surface of what some of these issues might be, but ultimately believe that this is such an important matter that we believe it deserves proper examination and separate rulemaking. Unfortunately, other than throwing out the concept for comment by program stakeholders, HUD has provided no information to help the public make informed decisions about such a policy.

Attached, please find an enclosure containing “HUD’s Portability Survey to PHAs” from December 2009. HUD sent out an e-mail at that time, regarding portability to PHAs that administer voucher programs. HUD’s e-mail stated, “as you know, the current portability process can provide significant challenges to both the initial and receiving PHAs. Challenges include billing arrangements (including the payment of administrative fees), approving moves to higher cost areas, and the impact of absorption on a PHA’s waiting list…HUD is currently looking to revise the portability guidelines in accordance with the goals of promoting family mobility and reducing billing between PHAs, without adversely impacting existing waiting lists. To do this, we need your assistance. We are seeking suggestions from PHAs to increase efficiency and streamline the portability process. We have prepared a portability evaluation with questions aimed at identifying potential problems with the current procedures and gathering ideas on how to improve. While your response to the evaluation questions is entirely voluntary, we encourage you to respond because your answers to the questions will be taken into account in the revision of the portability regulations and guidance.”

NAHRO is interested in learning about the results to HUD’s e-mail survey, and the extent to which it helped inform HUD’s proposed portability rule, including but not limited to the receiving PHA option resting with voucher holders rather than initial PHAs. The option described above is so important, that we believe program stakeholders and HUD deserve to know a lot more about voucher holder and PHAs’ (initial and receiving) portability experiences to date. Doing so, would help inform the factors HUD would propose voucher holders or initial PHAs should consider in weighing this decision.

For example, if HUD is considering PHAs’ SEMAP scores as currently constituted, to help voucher holders determine which receiving PHA they would like to administer their port voucher, it would result in an unfair playing field for small PHAs. For years, NAHRO has called for HUD to reform its point rating system for small PHAs, which HUD’s studies have
demonstrated unfairly skew overall ratings for small PHAs. Small agencies are assessed under the Section Eight Management Assessment Program (SEMAP) on only seven of the 13 indicators available. As a result, the total number of possible points in the denominator of their overall score is less than medium and large-sized agencies. Therefore, deductions in points for any of the seven indicators in the numerator of their overall score, has a greater disproportionate impact on their SEMAP score than medium or large-sized agencies. A copy of HUD’s SEMAP report to Congress regarding its adverse impact on small PHAs is accessible at: HUDSEMAPREPORTTOCONGRESSVER4ATTACHME.pdf. To fix this problem, NAHRO has long recommended that the weighting of points in SEMAP for PHAs scored under seven indicators is the same as all other PHAs scored on 13 indicators.

From a public policy standpoint, we do not believe it is in the public’s interest if in the future voucher holders are endowed the authority to choose which PHA to port to when there is more than one, based on one PHA’s administrative plan involves their running criminal background checks for newly admitted voucher holders as part of their port-in eligibility procedures. In some instances where an initial PHA’s administrative plan did not include such a requirement upon their initial determination of voucher program eligibility and/or they could not afford to pay for that expense during periods of such low administrative fee funding pro-rations, some receiving PHAs run the criminal background check upon port-in and may deny the request if the results proved that the applicant household lied about their prior drug-related and violent criminal offenses.

Given the scarce allocation of vouchers as well as existing statutory and regulatory program requirements, some unassisted households undertake waiting list “shopping” of multiple PHAs to find the one(s) that have the shortest waiting list and portability transfer policies. Similarly, under HUD’s discussion topic above, we would anticipate some voucher holders to choose to transfer to receiving PHAs, when there is more than one agency in a service area, to the PHA that had the most beneficial housing assistance subsidy levels by family composition, bedroom size and neighborhood. Currently, whether it is legal or illegal, we have heard that some property owners/managers operating in an area that is served both by a county and city, make similar financial decisions in their best self-interest, about which voucher holder to lease to depending on the PHA administering the voucher. One could make the argument that both property owners/managers and low-income voucher holders should be able to make such decisions about which PHA to administer their voucher out of their own self-interest. However, there would still be outstanding issues of equity and fairness to taxpayers who fund the voucher program as well as to PHAs. Some PHAs undertook and are undertaking austerity measures both in terms of their HAP and administrative fee revenue, through no fault of their own. Elsewhere in our letter we elaborate on the specifics relating to this issue. PHAs often undertook these austerity measures, in order to serve the greatest number of low-income households at the lowest reasonable cost possible. Some PHAs’ payment standard setting and rent reasonableness may be very sophisticated and therefore is paying out judicious and reasonable housing assistance payments. These may be the very same PHAs that voucher holders choose not to port to, because a neighboring PHA is a totally different position with its HAP and HAP reserves where no such austerity measures were needed to date. There are a myriad of factors that we would want the benefit of more information about from HUD, and think that this would be the responsible thing for HUD to do before moving forward with rulemaking in this area.
As you know, limitations of the HAP budget-based renewal funding formula that has been in place in one form or another since FY 2003 as well as other factors contributed to a number of problems at numerous PHAs that were beyond their control, that have not been redressed, and that continue to adversely affect PHAs’ performance. These problems include:

- From FY 2004 - FY 2006 there was a three month “snapshot” HAP renewal formula which underpaid 50 percent of PHAs and over-paid the remaining PHAs, leading to the loss of over 100,000 households that could have otherwise leased during that three year period. This has had long-lasting adverse impacts on the number of households PHAs could serve as well as the amount of administrative fees they could earn to staff their programs adequately and provide services to voucher holders and property owners; and

- There were a number of PHAs in 2009 that had to receive emergency access to a portion of advanced appropriations from Congress to HUD, as a result of a funding calculation error made by HUD at that time relating to “mid-month” leasing and HAP expenses as reported by PHAs through VMS, in order to prevent having to terminate existing voucher-assisted households. Many more PHAs that also experienced HAP funding shortfalls resulting from HUD’s calculation error, but that would not require them to terminate voucher-assisted families’ housing assistance, never received the funding necessitated by the statutory funding formula that year.

All things have not been equal, when it comes to each PHA’s financial ability to administer the voucher program in their communities. The purpose of including these examples, is show that there is a lot more to consider than perhaps HUD has done to date, in determining the merits and drawbacks of implementing such a change in existing portability regulations.

Depending on the state and locality, some county-based PHAs can administer voucher programs in the cities within their county where there are two separate PHA entities, but the city-based PHAs cannot administer voucher programs in the county surrounding their city limits. This is not always the case, but in situations where there are two separate PHA entities that are not prohibited by their state enabling legislation and are not operating under an MOU or MOA that allows each agency to administer vouchers in each other’s service area, the above scenario is more likely than not. This would have to be factored into the development of such a policy and understanding the implications of implementing such a policy in the future.

**Improve HUD’s IT Systems and Then Use Them to Centralize Portability Funding**

Several of NAHRO’s PHA members were fortunate to be able to participate in HUD’s portability and SEMAP forum in March 2010 about suggesting changes to the HCV Program. At that time, NAHRO and several of our members advocated for HUD to end portability billings between PHAs and instead establish a fund, potentially through existing unobligated funds in HUD’s Transformation Initiative or through a reprogramming request with Senate and House Appropriation Committees’ consent, to pool that would provide funding for portability billings instead of PHAs billing each other. NAHRO’s July 27, 2010 attached memo under “Improve the Regulatory and Administrative Framework of Voucher Portability” (24 CFR § 982.353),
describes this recommendation in great detail. During HUD’s March 2010 forum, a brief discussion ensued about portability numbers and costs. Unfortunately, HUD did not have any credible numbers for a meaningful discussion at that time. Subsequently, one of our distinguished members with over 25 years of experience as Housing Choice Voucher Manager analyzed several sets of Voucher Management System data including the last four quarters of October 2010 to September 2011 as well as an identical analysis with the data from a year earlier. The results of both of his analyses of HUD’s VMS data during these 12 month periods, showed that approximately 3% of the Housing Assistance Payments were from port billings. Based this information, we believe that using monthly or quarterly VMS data, HUD could set aside approximately 3% of the HCV HAP budget each year for portability net HAP deficit expense reimbursements directly to the affected PHAs. This would be vast improvement over the existing portability billing system which requires unnecessary inter-agency billings and reimbursement from HUD over a year and a half after initial PHAs incur portability HAP deficit expenses. NAHRO’s detailed recommendation is laid out in our July 27, 2010 memo. This would also enable receiving PHAs to receive ongoing administrative fees directly from HUD based on their leased vouchers. Not carrying the existing burden for portability billings on HAP or an administrative fee split with receiving PHAs, initial PHAs would be able to reissue their vouchers lease them by utilizing their HAP and HAP reserves, and earn 100 percent ongoing administrative fees based on their local fee rates. Obviously there would be a necessary transition from the current state to this improved method, but one that would greatly benefit low-income voucher holders, PHAs, HUD and Congress.

Use VMS Voucher Leasing and Cost Data for All Voucher Funding Purposes

From a policy perspective, improving the portability feature of the voucher program has been an important area of interest to senior HUD officials. Yet there is still need for HUD to improve the data used in PIC and VMS so that PHAs get 100 percent reimbursement and in a timely fashion for their net HAP deficit expenses resulting from the portability feature of the HCV program (described below). Reimbursement for PHAs’ net portability HAP deficit expense is the only item in all of HUD’s HAP calculations for PHAs that are still based on PIC data rather than on VMS data. For this to have to remain unfixed for twelve years, illustrates the extent to which HUD operates in silos within and between Departments.

VMS has been in existence since FY 2003, with multiple adaptations of VMS and hundreds of millions of dollars to further improve it. Nevertheless, despite our repeated requests, HUD PIH has been unable or unwilling to make the necessary changes to VMS that the Department states it needs in order to determine 100 percent of PHAs’ eligibility for renewal HAP funding relating to PHAs’ portability billings.

NAHRO believes that HUD should be required to use VMS voucher leasing and cost data (rather than PIC data) for all HCV program-related funding decisions. HUD indicated through PIH Notice 2010-5 and through information posted on its website that the Department will use PIC data for voucher leasing and cost data in order to implement funding adjustments for portability (as opposed to using VMS data for this purpose). HUD employed the same approach in FY 2012. Portability is one of several categories where funding problems would continue to be created if PIC data is used instead of VMS data. The “Port Outs” field in HUD’s Delinquency
Report for PHAs has a host of problems that would best be fixed programmatically by HUD PIH through the rulemaking process. However, there is an inherent problem that initial PHAs with portability billings that are dependent on receiving PHAs to correct data coding in PIC so that the initial PHAs receive proper HAP renewal funding as well as accurate administrative fees and PIC reporting rates for SEMAP purposes. This problem occurs if there are portability billings where the initial PHA has their portability data properly entered into PIC and VMS, but where the receiving PHA that is billing the initial agency, has not properly coded “port-out” vouchers as being billed in PIC. As a result, HUD’s current solution is to ask initial PHAs contact a myriad of receiving PHAs with whom they have portability billings that are not properly coded in PIC to resolve it. This is an administratively burdensome process for initial PHAs that could be accomplished with the help of HUD in much easier ways, as described in our July 27 memo under “Improve the Regulatory and Administrative Framework of Voucher Portability” (24 CFR § 982.353).

PIC was not designed as a financial information system, whereas VMS was created at the direction of Congress for that very purpose. All PHAs report through the Voucher Management System’s existing fields on portable vouchers paid: port-out, as well as portable vouchers administered: port-in. This information on portability voucher leasing and costs in VMS provides HUD with the data it needs to determine each agency’s net portability HAP expenses under section 8(r) of the Act. After what happened in 2009 and HUD’s extraordinary actions to help remedy the funding shortfalls that took place in large measure due to HUD’s use of PIC data rather than VMS data for “mid-month” leasing, we believe that all interested parties wish to avoid such a crisis from occurring again through continued use of PIC data for portability reimbursement or for other funding purposes. With the considerable amount of money Congress has appropriated to HUD for its “Next Generation Voucher Management System,” finally making the necessary improvements to facilitate accurate and timely portability reimbursements to PHAs should be achievable.

Adjustments for Current Calendar Year Portability Net HAP Deficit Expense

Currently, PHAs are reimbursed in May for their net portability HAP deficit expenses during the previous calendar year. In other words, HUD’s portability reimbursement to PHAs occurs almost a year and half after the expense was occurred. Currently PHAs submit VMS leasing and voucher cost data monthly and HUD validates it quarterly. Although we think HUD’s validation system could improve to a monthly basis, we recommend Congress require HUD to use the existing VMS system to reconcile PHAs’ net portability HAP deficit expenses on an ongoing basis throughout 2013. To make this possible within existing appropriated funds, we recommend Congress include statutory language making portability reimbursement an eligible purposes for same year adjustments instead of providing for reimbursement to PHAs the following year. Implementing this measure would facilitate a more efficient administrative method for portability than the existing system. HUD officials have expressed the Department’s desire to incentivize portability and remove barriers to portability. Properly reimbursing PHAs for their actual net HAP deficit expenses relating to portability billing through the use of VMS data in a more timely fashion relates to HUD’s larger public policy objective in facilitating portability. Relying upon a more recent timeframe through the use of calendar-year funding system would reduce financial pressures on any adjustment fund. As such, an estimated portion
of the adjustment fund could be dedicated to portability costs throughout 2012 to help facilitate absorption of vouchers billed between PHAs.

**Administrative Plan Requirements of Receiving PHAs Control Discretionary Policies Applied With Voucher Holders Regardless of Billing or Absorption**

We believe it is important for HUD to clarify that under existing regulations, whether or not a receiving PHA is billing or absorbing the initial PHA for a “port,” it is the receiving PHAs’ administrative plan policies that control the discretionary policies under which voucher holders must comply, not the initial PHA. This would include the discretionary time periods and related requirements, the receiving PHA applies for housing search time from their administrative plan so long as a voucher holder is searching for units in the receiving PHAs’ service area and has not ported to the initial or another PHA.

**Requiring Receiving PHAs to Provide Initial PHAs A Minimum Amount in Advance of Their Absorbing A Portability Billing**

Even with HUD’s proposed improvement to SEMAP Indicator 13 based on the calendar year for all PHAs rather than their respective fiscal years (i.e. 3/31, 6/30, 9/30 and 12/31), the Department still needs to establish a reasonable advance period by which all receiving PHAs must provide to initial PHAs of their plans to absorb existing portability billings. Without such requirement, some receiving PHAs may provide insufficient advanced notice to initial PHAs of their plans to absorb portability billings or none at all. In the past when this has occurred, depending on the magnitude of a receiving PHAs’ simultaneous absorptions of one initial PHA, it can have a devastating effect on initial PHAs’ voucher leasing operations as well as on their SEMAP scores. This is something that can and should be prevented in the future, by establishing reasonable and workable advanced notification requirements for receiving PHAs to give initial PHAs. We view this as an interim or transition measure until such time that HUD has adopted a comprehensive portability reform framework, as we recommended in our July 27 memo under “Improve the Regulatory and Administrative Framework of Voucher Portability” (24 CFR § 982.353).

**HUD’s FMR Calculations and Small Area FMR Demonstration**

As you know, the accuracy of Fair Market Rents (FMRs) each year has a significant impact on PHAs’ voucher leasing and budget utilization rates, voucher-assisted households’ income to rent burdens, deconcentration, mobility and portability moves, and PHAs’ corresponding voucher payment standards. Attached, please find NAHRO’s comment letter to HUD regarding the FY 2012 FMRs which despite HUD having access to best data ever - the American Community Survey – we regard as being the least accurate FMRs relative to unassisted rental housing values in recent memory. Needless to say, this has and will continue to have, an adverse impact on PHAs ability to facilitate mobility and portability moves in as efficient and effective manner as they could if more accurate FMRs were published.

Combining formerly non-metropolitan areas with metropolitan areas has had adverse impacts under the HCV program nationwide. Specifically, inclusion of formerly non-metropolitan counties resulted in significant dilution in FMR values for the metropolitan areas beyond what
would have occurred absent this change in OMB area definitions. The diluted FMR areas assist a proportionally greater number of voucher holders nationally. An estimated 50 percent of the divisions the Department eliminated as geographic areas from FY 2005 have resulted in formerly non-metropolitan areas being within the proposed metropolitan areas from FY 2006 through FY 2010. This change has decreased the FMR values for many of those respective metropolitan areas beyond what they would have otherwise been had the Department not made the discretionary change to adopt *new* OMB areas for determining FMRs. HUD’s subsequent methodological changes to FMR values have made FY 2012 FMR values among the least accurate in recent memory.

During a briefing with HUD on the small area FMR demonstration, it was stated that, based on HUD’s analysis, the overall HAP cost on a national basis would be lower. We also learned that the Department planned to use some of the $150 million HAP set-aside fund (proposed for the HCV program in FY 2011 and funded in prior years) to provide additional HAP adjustment funding to PHAs participating in the demonstration to facilitate tenants’ leasing in zip code areas with relatively higher FMR values (i.e., “zip codes of opportunity”). Without any further expansion of eligible categories for agencies participating in the demonstration, PHAs only received pro-ration of 69.34 percent from the $150 million set-aside fund in FY 2010. It appears that the Department may also seek to use PHAs’ NRA over six percent of their budget authority to provide additional HAP monies for agencies participating in this small area FMR demonstration.

Even though the Department received hundreds of millions of dollars over the last several years through direct appropriations as well as through authorized transfers from other public housing and community development programs for Transformation Initiative research and demonstrations, the Department still provided increased administrative fee rates and funding to PHAs participating in the small area FMR demonstration in FY 2011 and FY 2012. We also learned during the briefing that the Department plans to use approximately $15 million of a proposed $50 million in FY 2011 to pay for a range of administrative costs to PHAs that consolidate their HCV program operations (i.e., “regionalize”). NAHRO strongly opposed siphoning funds for administrative costs/services from all PHAs to PHAs participating in the demonstration.

HUD’s FY 2013 budget request requests a new category in the HAP set-aside fund to pay more HAP for PHAs participating in the zip code FMR demonstration, which would illustrate that in the places where this demonstration is taking place that the PHAs’ HAP costs have increased beyond their ability to pay for HAP costs under the budget-based renewal funding formula without resulting in serving fewer families and/or higher income to rent burdens for voucher-assisted households. In short, it costs more HAP and more administrative fees. By including increased HAP costs under HUD’s small area FMR demonstration as a new eligible category for HAP adjustment funds, it appears that, under HUD’s FY 2013 budget request, in addition to effectively siphoning off funds from all other PHAs’ ongoing administrative fee funds, is seeking authority to siphon off additional HAP set-aside funds from other PHAs for this purpose in FY 2013. NAHRO strongly opposed siphoning HAP and/or NRA funds from all PHAs to provide additional HAP funds to PHAs participating in the demonstration.
In some ways, the Department’s unwillingness to date, to improve the accuracy of FMRs nationwide as described in our FMR comment letters has contributed to the need for the Department to test other configurations of rental housing data, such as the small area FMR demonstration. It would not surprise us, despite the anemic response HUD received from PHAs applying to voluntarily participate in HUD’s small area FMR demonstration, if at some point in the future HUD attempted to usurp PHAs’ responsibility to determine rents for voucher-assisted units, through its small area FMR figures by zip code or some other means.

**Reinstate Opportunity for Temporary and Partial Transfer of HAP Budget Authority and Vouchers between PHAs**

As you may know, North Dakota has quickly become one of the United States’ top producers of oil. In some parts of North Dakota, there has also been a very low rental vacancy rate, due to not only oil excavation but historic flooding problems. As a result, a considerable number of communities have experienced dramatic increases in their rental housing costs, making it very difficult for voucher-assisted households to lease-up in those communities. Affordable housing is not being built at a rate anywhere near sufficient to make-up for the dramatic decrease in existing housing affordable to the voucher program, even with considerable HUD approved increases in PHAs’ voucher payment standards. This problem has reached crisis level proportions in North Dakota, where help is needed now. Through a combination of: 1) the existing budget-based HAP renewal formula based HAP expenses and leasing in the previous year and 2) rescission of “excess” HAP Reserves, PHAs in North Dakota face losing scarce and precious HAP funds to serve the low-income households in their community.

In this scenario where voucher funding is quickly on the verge of being removed from North Dakota through no fault of the PHAs, there are a number of recommendations we are making to help deal with this unique problem. The result of our three recommendations below is that scarce voucher resources will remain in the State to which they are needed and were awarded for their relative worst-case housing needs under the “fair share” allocation system. If/when the housing market dynamics change in the future, initial PHAs could have the vouchers restored to them from the receiving PHAs. In addition, implementing our recommendations would have the benefit of maximizing available HAP resources to serve the maximum number of families within each state, which is contained in HUD’s five year strategic plan goals. In these type of economic dislocations or future natural disasters that have the same impact described above, we make the recommendations.

1. Under the current portability system, allow issuing PHAs to have discretion to request the receiving PHA bill for portability vouchers, rather than the receiving PHA absorb the vouchers;

2. Previously, PHAs that had more HAP funding than could serve 100 percent of their authorized vouchers, worked with under-funded PHAs in their surrounding communities (within the same metropolitan area, non-metropolitan county, or state) to voluntarily and temporarily transfer a portion of their HAP budget authority and vouchers (PIH Notice 2002-14). This process which required PHAs’ notification to HUD, enabled greater number of low-income families to be served and also facilitated a prompt method for
some communities dealing with a tight housing market to receive the necessary funding to deal with temporary spikes in their HAP costs. HUD’s previous notice enabled PHAs to transfer the same amount of HAP budget authority back to the original PHAs such that all agencies retained their total number of authorized vouchers. However, in March 7, 2007, HUD issued a notice (PIH 2007-6) rescinding PHAs authority for temporary and partial transfer of HAP budget authority and instead only allowed PHAs divest their entire voucher program to another PHA or no HAP funding at all. Under HUD’s 2007 notice, all such voluntary voucher program divestitures are permanent, which for all intents and purposes, precluded PHAs helping their under-funded neighboring agencies and the families they serve. Subsequently, HUD officials informally referred to the type of voucher program activity that was previously allowed under PIH Notice 2002-14 as “sham portability.” Currently, under PIH Notice 2012-11, Section 4 regarding exceptions to eligibility for HCV transfers states, “[t]he Department will consider approving voluntary partial transfers only in the following cases: (1) the transfer is for the purpose of developing PBV units in an area of low poverty concentration; (2) the transfer is to a state or regional PHA; or (3) for a compelling business reason. These exceptions do not apply to consolidations.” For the reasons described above, NAHRO recommends HUD reinstate the temporary and partial transfer of vouchers and HAP budget authority under PIH Notice 2002-14 either through reinstating authority to PHAs or providing similar authority to HUD Field and/or Regional Offices. Alternatively, NAHRO recommends HUD reach out to PHAs in affected communities to avail themselves of the eligible exceptions to eligibility for HCV transfers under PIH Notice 2012-11, and to work with them in an expeditious fashion to accomplish this transfer as soon as possible; and

3. To include in HUD’s Voucher HAP Set-Aside Adjustment Fund each year, an example like the one described above currently taking place in North Dakota, as an eligible category that applies to “significant increases in voucher renewal costs due to unforeseen circumstances.” Under these type of extraordinary circumstances, we would request that PHAs eligible for HAP adjustment funds under this category for this reason, receive 100 percent pro-rations of their eligibility rather than downward pro-rations.

Memorandum of Agreement / Memorandum of Understanding / Inter-Agency Agreements

Several PHAs around the country have developed MOUs/MOAs to facilitate mutual portability absorption agreements that suit their local circumstances that have served them well. As a temporary and transitional measure, NAHRO believes it would be beneficial if HUD provided similar MOU/MOA templates as well as information about the factors that PHAs should consider when developing MOUs/MOAs for their localities and states.

Difficult and Unusual Scenario In Need of Clarification from HUD

In advance of our filing these comments, one of our members contacted us to pose a plausible scenario relating to portability, that we think is important for the Department to address in clarifying existing rules. Our member described the scenario as the initial PHA under portability, requests that the receiving PHA, consider absorbing the vouchers the receiving PHA
is currently administering for the initial PHA under a portability billing arrangement. In this example, due to year-to-date over-leasing by the initial PHA resulting from dramatically slowing turnover rates, approximately 1,000 currently assisted households stand to lose their housing assistance in the initial PHAs’ community because they do not have enough HAP program funding to continue their HAP payments through the direction of the calendar year. In this scenario, the receiving PHA(s) are not in a position to absorb the portability billing vouchers with the initial PHA. If the initial PHA terminates HAP Contracts due to insufficient HAP funding, including for vouchers that are being administered by other receiving PHAs under portability billing arrangements that do not have the ability to absorb those vouchers into their HCV program, what happens to the HAP Contracts between the receiving PHA and the property owners? Would the receiving PHA, not the initial PHA, have to notify the assisted households and property owners in the receiving PHA’s community of termination of their HAP Contract (and simultaneous termination of the assisted leases) for insufficient funding, in accordance with Part B, Section 4 b (5) of the HAP Contract? The receiving PHA that posed this question to us for clarification with HUD, is concerned that if the receiving PHA has to send out the termination notices, it would damage their relationship and reputation with assisted households and participating property owners, through no fault of their own. Obviously, in this case the receiving PHA would provide the initial PHA with the contact information for affected tenants and property owners, as outlined in the receiving PHA’s administrative plan for determining the method for terminating housing assistance.

PHAs' Knowledge of Housing Markets & Property Owners

As stated previously, some have proposed regionalizing the HCV program or consolidating the administrative functions of local PHAs involuntarily, and use portability and deconcentration as one of the main justifications for their recommendation. A number of research and opinion pieces on regionalizing administration of the HCV program were published in “Housing Policy Debate” in a 2001 article titled, “Who Should Run the Housing Voucher Program? A Reform Proposal,” available at http://www.fanniemaefoundation.org/programs/hpd/v12i2-index.html. After reviewing articles in favor of and against regionalization of the Housing Choice Voucher program, Roberto Quercia, Associate Professor of City and Regional Planning at the University of North Carolina at Chapel Hill, and Stephanie Jennings, Research Fellow at the Fannie Mae Foundation, concluded that, in their view, the proponents of regionalization had not made the case that regionalizing the program would address the causes of concentrated poverty. The abstract of their article states:

Increasingly, public housing agencies (PHAs) in general and tenant-based Section 8 voucher program in particular are seen as the means to promote mixed-income communities and the deconcentration of poverty. Katz and Turner contend that the current fragmented system, consisting of thousands of local PHAs, undermines the potential of the voucher program to achieve these goals.

While Katz and Turner’s proposal for regional administration and privatization is an earnest look at the future of PHAs and Section 8, we are not convinced that their proposal will address the causes of concentrated poverty. Assessing the validity of these arguments will require much more work before their hypotheses
are translated into overly deterministic “solutions” for the complex, multifaceted problems of spatial concentration of poverty and limited access to affordable housing across the metropolitan area.

The bi-partisan Millennial Housing Commission (MHC) reviewed papers written on this topic, including “Issues and Options for HUD’s Tenant-Based Housing Assistance Programs,” prepared for the MHC's Consumer Based Assistance Task Force by Abt Associates Inc. The MHC did not recommend giving preferential treatment to State or Regional Housing Agencies over local Public Housing Agencies in the administration of the HCV program.

On November 6, 2009 HUD held an invitational event titled, “Convening on Voucher Policy Issues,” which included industry groups, researchers, advocates and voucher holders. Following presentations from researchers on their findings about location issues, as well as the intersection of voucher policy with other social policy goals available at www.nahro.org/members/news/2010/ConveningVoucherPolicy.pdf, six working groups made up of program stakeholders were asked to discuss two questions on how to improve locational outcomes and achievement of broader social policy goals such as those discussed by the panelists and to vote on their answers. Program stakeholders in each of the six working groups were asked to identify and discuss the federal policy and/or administrative changes that would be most effective in remedying the top three impediments. Although “PHA jurisdictional boundaries” was the first option listed for both questions, none of the six working groups voted on PHA jurisdictional boundaries in their list of the top three impediments.

Outside of the small area FMR demonstration, HUD has made no secret of its desire to incentivize regionalization of the administration of the HCV program. NAHRO does not regard the small area FMRs as an adequate substitute for the knowledge of local housing markets and community relationships that local PHAs possess. The fact is that real estate is essentially a local operation. As housing administrators know, metropolitan areas encompass multiple, distinct housing markets. Geographic barriers (such as rivers, railroads, highways etc.), transportation networks (public rail, buses, highways), location of employment centers, and other factors create housing sub-markets. These smaller housing markets vary in type of available housing, rent structure and other features. In addition, the majority of Section 8 property owners are small local landlords who likely reside in the community where they own the units. These owners may well prefer working with an agency that has an understanding of the local rental market and that is also locally accountable for its decisions rather than a regional entity that is far removed from the community. Changing the administration of the program from local communities to a regional authority runs counter to the current strong support for local governance and local solutions. For many communities, it would not be acceptable to have local decision-making replaced by a remote, regional entity.

Keeping in mind their primary mission and purpose, it is important to recognize that PHAs often play a role that goes well beyond the basic implementation of voucher program requirements. PHAs are also active members of the community in which they operate, and are actively involved in improving the lives of the residents they serve. Membership in the local community allows PHAs to develop strong relationships with local property owners and managers where they have a detailed knowledge of local rental markets and submarkets. Additionally, because
they have worked with landlords for so long, PHAs can administer housing quality standards effectively—encouraging landlords to improve housing quality and to participate and remain in the program.

In securing voucher funding, PHAs provide an extremely valuable affordable housing resource to the locality. Vouchers are a critical component of affordable housing in every state and region. The community benefits from a voucher program that is locally based and responsive to the needs and priorities of the local citizenry. As public institutions, PHAs are open and accountable to the public. With governing boards typically appointed by elected local officials, PHAs are subject to democratic principles of governance. PHAs are recognizable institutions. The community looks to the housing authority for housing services and knows where to turn to for assistance. Close ties to local government can give PHAs favorable consideration in the zoning and placement of affordable units to expand opportunities for the voucher population.

PHAs have spent years developing strong partnerships with social service providers who furnish voucher families with a wide range of support services. They have close working relationships with local providers such as food banks, emergency shelter programs, housing search agencies, renters organizations, credit unions, credit counseling services, educational and instructional programs (such as those for displaced workers, women entering the workforce, and English as a Second Language). PHA resources can be effective in leveraging other public and nonprofit services for recipients of housing, including public safety and transportation systems.

The structure and longevity of PHAs allow specialized program staff to work with individual families over many years, if necessary, to encourage them toward self-sufficiency and independence. Similarly, housing authorities are best suited to manage the Section 8 homeownership program, which favors long-term relationships between the new homeowners and the administering agency. Finally, PHAs have a long history of managing federal housing programs, including over 37 years of administering the Section 8 Housing Choice Voucher program. PHAs are well acquainted with HUD, able to interpret and adapt to regulatory changes, and equipped with the staff and material resources to implement and monitor the expanding voucher program. In many ways, PHAs are the best organizations to administer the Housing Choice Voucher Program.
HUD’s Portability Survey to PHAs in January 2010

**Portability Evaluation:** Please type your answers next to the questions in the survey, and email your response to HCVPortabilityEvaluation@hud.gov by January 10, 2010.

*As a receiving PHA:*

1. How many portability vouchers on average have you been billing other PHAs for within the last 12 months?
2. Do the majority of your port-ins come from neighboring jurisdictions or long distances?
3. How do portability move-ins affect your local waiting list admissions?
4. What factors contribute to your decision to either absorb or bill another PHA for a family that ports to your jurisdiction?
5. What percentage of your PHA partners pay on time?
6. What kind of billing problems, if any, are you experiencing?
   a. Are the billing problems PHA-specific, or specific to all initial or all ongoing bills?
7. How do you solve billing issues involving PHA partners?
   a. Do you follow the protocol in Notice PIH 2008 – 43 (e.g., requesting transfer of the units) for late payments by other PHAs? If not, why not?
8. Has your agency experienced any financial problems from absorbing portable vouchers? Briefly describe.
9. Does your agency conduct criminal screening checks on families porting into your jurisdiction?
   a. If so, approximately how many families are then given a hearing as a result of the criminal screening results?

*As an initial PHA:*

10. Approximately how many families have ported outside your jurisdiction within the past 12 months?
11. How many different PHAs are billing you for ports?

12. What percentage of your PHA partners submit initial and annual portability billings on a timely basis?

13. Has your agency experienced any financial problems as a result of your families porting to other agencies? Briefly describe.

14. In the last 12 months, how many requests to use portability have you denied due to insufficient funds?

15. Has your PHA used the HUD spreadsheet for analyzing funding sufficiency for ports, posted on the HUD HCV Program website at http://www.hud.gov/offices/pih/programs/hcv?
   a. If so, has it been helpful?

16. What percentage of families who request to move from your agency using portability are successful in leasing up in the new jurisdiction?

**General Questions:**

17. What are the top three administrative burdens that you see in administering portability?
   a. How would you eliminate each of these burdens?
   b. What are some local policies, procedures, or administrative arrangements that have simplified the portability process or eased administrative burdens for PHAs?

18. What are some common barriers families face in successfully leasing up in a new jurisdiction under portability?

19. Are there particular issues related to portability on which you think HUD needs to issue more guidance or provide training?

20. Do you have any other concerns or suggestions regarding portability?
September 19, 2011

Office of General Counsel
Rules Docket Clerk
Department of Housing and Urban Development
451 Seventh 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) and its members, we would like to thank you for the opportunity to comment on the Department’s Proposed Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2012. NAHRO is the nation’s largest and oldest housing and community development organization supporting the provision of adequate and affordable housing and strong, viable communities for all Americans — particularly those with low and moderate incomes. NAHRO members own or administer a substantial portion of the Section 8 tenant-based, project-based and HOME programs.

NAHRO has filed similar comments from FY 2006 to the present. Every year NAHRO made recommendations for future improvements to HUD’s FMR methodology, and raised topics including: 1) HUD’s adoption of new Office of Management and Budget (OMB) areas in FY 2006 to the present, 2) Annual Adjustment Factors (AAFs), 3) insufficient public housing minimum percentile used for census-based FMR values, 4) relationship between quality of rental housing stock and FMRs, 5) requalification for 50th percentile FMRs, 6) improvements to the random digit dialing method, 7) the impact of HUD’s definition of “recent movers” and “stayers” on FMRs, and 8) exception payment standards, to no avail. With the exception of our additional comments on pages 2 – 5 of this letter and our analysis of the attached spreadsheet, NAHRO is submitting virtually identical comments to HUD’s proposed FY 2012 FMRs as we have previously. We respectfully request that the Department adopt our recommendations.

In some ways, the Department’s unwillingness to improve the accuracy of FMRs nationwide as described in our previous comment letters has contributed to the need for the Department to test other configurations of rental housing data, such as the small area FMR demonstration. If the Department is unable to make further improvements to FMR values nationwide while it undertakes a more limited small area FMR demonstration, it would represent a lost opportunity for low-income households, participating property owners, affordable housing developers, and the affordable housing lending community. Improvements to FMRs overall and pursuit of the
Department’s small area FMR demonstration are not mutually exclusive, but should be pursued simultaneously with equal vigor.

**HUD Continued Adoption of OMB Area Definitions for FMRs Without Any 5% Cap**

The Department’s response (September 27, 2006) to NAHRO’s previous comments to HUD’s proposed FY 2007 FMRs stated, “Additional comments from NAHRO seem based on incorrect interpretations of the methodology for estimating the FY2007 FMR. For example, one criterion to determine if any parts of old metropolitan areas or formerly nonmetropolitan counties qualify as a sub-area under the new CBSA definitions is that the 2000 Census base 40th percentile, two-bedroom rent for the area is found to be more than 5 percent different than the comparable rent for the entire CBSA area. NAHRO erroneously suggests the 5 percent test is based on a comparison of the proposed FY2007 FMR with the final FY2006 FMR. Similarly, adjustments to the FMR areas based on median family income differentials are also based on 2000 Census data, not FY2006 data. The Department reminds all interested parties that a detailed description of the FY2007 FMR methodology is available to the public at [http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr07](http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr07).”

Since HUD first adopted both “new” OMB areas for its proposed and final FY 2006 FMRs and new methodology, it is fair to state that the Department’s methodology was, and still is, very complex and complicated. After reviewing HUD’s proposed FY 2006 FMR methodology using “new” OMB areas, NAHRO’s recommendation to allow the final FY 2006 FMR values resulting from adoption of “new” OMB areas and the Department’s attendant methodology to no more than a five percent change from the previous year’s final FMR values was not adopted. NAHRO’s identical recommendation each year has also not been adopted by the Department. To help make sure that there is no misunderstanding of NAHRO’s critique and corresponding recommendation of HUD’s FMR determinations, we have attached a spreadsheet of HUD’s final FMRs from FY 2006 through FY 2012 as proposed, with our analysis for each county. Our analysis shows the variances in two bedroom FMR values during this time span had NAHRO’s recommendation been adopted versus HUD’s FMRs. Had we been able with the time available to make the cross-walk between FY 2005 FMR values and HUD’s FY 2012 proposed FMRs using the same type of analysis, the variances between HUD’s FMR values using the “new” OMB areas without the provision capping year to year changes to five percent as recommended by NAHRO, would have been even more extreme.

Unfortunately, by not providing a five percent limitation on the annual changes described in NAHRO’s comment letters each year, the Department’s FMR methodology has significantly hampered the success of Section 8 voucher programs in those housing markets that have experienced the greatest changes in FMR values year to year as well as since the inception of HUD adopting “new” OMB areas. By contrast, under HUD’s income limit methodology which uses the same “new” OMB area definitions as the ones used to determine FMRs, the Department incorporated a “hold harmless” policy so that affected areas like the ones documented in NAHRO’s FMR comment letters, would not be adversely affected. It was several years later in FY 2010, before HUD began to allow Section 8 income limits to decrease, but limited all annual decreases to no more than five percent and to limit all annual increases to five percent or twice the change in national median family income, whichever is greater. Adopting an identical policy
to that of HUD’s FY 2010 income limits to HUD’s FMRs regarding annual increases and decreases to no more than five percent of each area’s previous fiscal year is something that the Department has rejected for public policy reasons that are still unknown to us. Instead of addressing the underlying public policy merits of NAHRO’s critique and recommendation to the Department, its implementation of FMR values from FY 2006 to the present continues a counterproductive practice. It should come as no surprise that many of the PHAs that filed comments regarding HUD’s proposed FY 2012 FMRs and/or requested HUD to conduct an RDD study in their respective areas consistent with NAHRO’s analysis of HUD’s FMR values and attendant recommendation using five percent caps on FMR changes.

Ironically, in responding to NAHRO’s comments to HUD’s proposed FY 2006 FMRs, HUD wrote, “…Furthermore, HUD has a hold-harmless policy for income limits because without such a policy, program rent revenues in subsidized rental projects with rents statutorily tied to income limits may fall, leading to the possibility of project default or departure from the program.” It appears that the Department does not understand or acknowledge the adverse impacts on Section 8 voucher programs, of its policy position to allow changes in area FMR values of greater than five percent year to year. When new FMR values change by more than five percent from the previous year’s FMRs, in cases where a PHA cannot set its new payment standards in relation to FY 2012 FMRs, that are sufficient to actual housing market costs and still be within a “basic range” payment standard (i.e. 90 – 110 percent of FMRs), there are a series of adverse impacts on their Section 8 voucher program participants. In areas where FMR values decrease by more than five percent for example, HUD’s policy results in a number of adverse impacts including but not limited to:

- lower Housing Assistance Payments (HAP) levels per voucher-assisted household;
- higher income to rent burdens for voucher-assisted households to the point where the inadequate FMRs may actually contribute to execrating PHAs’ compliance with HUD’s “affordability standard”[24 CFR §982.102(e)(3)(iii)];
- reduction in the quality of housing units that pass Housing Quality Standards (HQS);
- increased concentration of voucher-assisted households in developments and neighborhoods with higher concentrations of poverty;
- decreased success rates of voucher holders securing dwelling units under voucher programs after being on PHAs’ waiting lists or attempting to move after participating in voucher programs or some time; and
- existing property owners cancelling their participation in voucher programs.

PHAs that filed comments regarding HUD’s proposed FY 2012 FMRs cite these and additional adverse impacts in their communities.

In areas where FMR values increase by more than five percent for example, HUD’s policy results in a number of adverse impacts including but not limited to:
• undue increases in per voucher HAP costs in the context of PHAs’ limited budget-based HAP renewal formula funding in place to varying degrees since FY 2003. This has led individual PHAs to serve fewer authorized families than they otherwise could, and depending on the adequacy of HAP appropriations enacted by Congress, also resulted in HAP pro-rations below 100 percent in following year than would otherwise have occurred.

PHAs that filed comments regarding HUD’s proposed FY 2012 FMRs cite these and additional adverse impacts in their communities.

The Department also replied to NAHRO’s comments in regard to HUD’s proposed FY 2006 FMRs at that time. HUD wrote, “HUD does not have a similar hold-harmless policy for FMRs because voucher program rules are designed to mitigate the effects of decreases in FMRs on individual tenants. In cases where FMRs decline and the PHAs reduce payment standards accordingly, voucher rents for existing tenants remaining in their units may be maintained in accordance with the previous higher payment standard until the second annual recertification of the tenants’ income and rent subsidy after the payment standard declines. Thus, for existing voucher tenants who do not move, the rent level supported by their voucher will not decrease until up to 2 years after the payment standard decrease goes into effect.”

The net effect of HUD PIH’s existing regulations governing the time frames for PHAs lowering voucher payment standards, is that significant numbers of PHAs that might otherwise adopt a lower payment standard to reflect their local rental housing market values do not implement the change, because by the time voucher-assisted households’ second re-examinations come up for implementation of this regulation, the values in their housing markets would likely have changed. When this occurs, it becomes administratively unwieldy and burdensome to have two sets of payment standards based on the date of implementation under HUD’s existing regulations, which would contribute to PHAs’ RHIIP and RIM errors /findings from HUD and the Office of Inspector General.

NAHRO believes that the intent of HUD requiring PHAs under existing regulation (not statute), to implement a lowered payment standard at a household’s second re-examination of household members and income, was to allow for a two year transition from the merger date of October 1, 1999 of the merger rule (RIN 2577-AB91) governing the consolidation of the Section 8 Certificate and current Section 8 Voucher programs (24 CFR § 248 et al.). However, since the transition to complete the merger of both programs ended by October 1, 2001, this practice of waiting until the second household reexamination remains in place at a significant expense to the HCV program and fewer eligible low-income families being served.

To help provide some measure of financial relief to these PHAs within existing appropriated funds, NAHRO has long recommended HUD PIH to exercise its existing regulatory authority (24 CFR § 982.502) by allowing PHAs to reduce the current time frames of them to implement reduced voucher payment standards (CFR 982.505) from households’ second reexamination to the greater of 90-days from the date the household is notified or a household’s’ lease anniversary date.
HUD exercised its authority with the issuance of PIH 2005-9 and through subsequent actions, but PHAs looking to implement shorter time frames for their lowered payment standards have been required by the Department to go through what many believe should be an unnecessary burdensome waiver process. Furthermore, in order for PHAs to have their waiver requests approved in 2005 and beyond, HUD has required agencies to not re-issue turnover vouchers to eligible applicants or lease them up under the program. HUD’s existing policy creates hardships for agencies that needed waiver approval for shortened time-frames for their payment standard reductions, in order to serve the same number of existing families or to restore their leasing to previous levels or their adjusted ACC baseline number of vouchers.

When there are housing markets which are cooling and so long as a PHA’s regulatory “affordability standard” is met [24 CFR §982.102(e)(3)(iii)], taking the above measure would provide opportunities to remedy their agencies’ funding shortfalls within the existing HAP amounts provided, but while not imposing hardships on low-income families and participating property owners. This measure could help some PHAs mitigate the effects of downward pro-rated administrative fees, if they are able to better utilize their available HAP and NRA resources to increase the number of families they lease, up to their adjusted baseline number of vouchers.

Using outmoded HUD regulations about the timeframes by which PHAs can implement lowered voucher payment standards or FMRs as another basis for not adopting NAHRO’s recommendations with respect to five percent changes in area FMR values, brings to mind the phrase “two wrongs do make a right.” HUD PD&Rs’ final implementation of proposed FMRs each year since FY 2005 coupled with HUD PIH’s unwillingness to modernize regulations for PHAs’ lowered voucher payment standards and FMRs (post merger of the former Section 8 Certificate and Voucher programs), have compounded problems for voucher programs, as described above.

When it comes to HUD’s implementation of income limits in the Section 8 program, the Department has adopted a sound policy that helps mitigate significant changes in income limits each year, but when it comes to the Department’s implementation of changes in FMR values, it has not.

We note the controversy created by the Department’s initial adoption of new OMB area definitions in FY 2005, which would have had adverse impacts in metropolitan areas for the majority of voucher-assisted households. After intense public scrutiny, this approach was not adopted. Regrettably, a year later the Department proposed and adopted the same new OMB areas for FMR calculations, with a series of modifications that have not adequately addressed the fundamental problem: that the new OMB areas do not reflect the geography of housing markets around the country.

Combining formerly non-metropolitan areas with metropolitan areas has had adverse impacts under the HCV program nationwide. Specifically, inclusion of formerly non-metropolitan counties resulted in significant dilution in FMR values for the metropolitan areas beyond what would have occurred absent this change in OMB area definitions. The diluted FMR areas assist a proportionally greater number of voucher holders nationally. An estimated 50 percent of the
divisions the Department eliminated as geographic areas from FY 2005 have resulted in formerly non-metropolitan areas being within the proposed metropolitan areas from FY 2006 through FY 2010. This change has decreased the FMR values for many of those respective metropolitan areas beyond what they would have otherwise been had the Department not made the discretionary change to adopt new OMB areas for determining FMRs.

As noted below, the subareas within core based statistical areas (CBSAs), established by HUD in FY 2006 and maintained to the present day, are artificial modifications that have weak relationships to the social and economic integration of the subareas, as well as their housing market costs. In the General Explanatory Notes section of HUD’s proposed FY 2010 FMRs, HUD states, “In CBSAs where subareas are established, it is HUD’s view that the geographic extent of the housing markets are not yet the same as the geographic extent of the CBSAs, but may become so in the future as the social and economic integration of the CBSA component areas increases…Metropolitan area CBSAs (referred to as MSAs) may be modified to allow for subarea FMRs within MSAs based on the boundaries of old FMR areas (OFAs) within the boundaries of new MSAs. (OFAs are the FMR areas defined for the FY 2005 FMRs. Collectively they include 1999-definition MSAs/Primary Metropolitan Statistical Areas (PMSAs), metro counties deleted from 1999-definition MSAs/PMSAs by HUD for FMR purposes, and counties and county parts outside of 1999-definition MSAs/PMSAs referred to as nonmetropolitan counties.).”

For further information on NAHRO’s previous analysis and comments on the impacts of HUD’s discretionary adoption of new OMB areas on FMR values, please see our comment letter (attached). NAHRO reiterates our call for the Department to rescind its adoption of the new OMB areas in favor of the FMR area definitions in place for FY 2005 and prior years.

In terms of HUD’s proposed small area FMR demonstration, FMRs based on zip codes solves the problem described above (i.e., non-metropolitan counties being combined with metropolitan counties) for those agencies participating in the demonstration. However, there may still be some zip codes that straddle both non-metropolitan and metropolitan counties where the proposed demonstration does not solve this problem. While we are encouraged by the fix to the problem for many zip code areas under the proposed demonstration, we firmly believe that correcting the larger problem stemming from HUD’s discretionary adoption of new OMB areas to determine FMRs for the HCV program nationwide is needed.

**Annual Adjustment Factors**

Included in our comment letter is a detailed critique of the Department’s consolidation of AAFs from ten metropolitan and ten non-metropolitan AAF values (including columns for highest cost utility included and highest cost utility excluded) in FY 2004 to just four region AAFs nationwide (including columns for highest cost utility included and highest cost utility excluded) in FY 2005 to the present. There is no valid statistical reason to dramatically consolidate AAFs in the fashion that the Department has under the previous Administration, and there is no valid reason that the former, more applicable ten metro and non-metro AAFs should not be restored. The adverse impact of HUD’s consolidated AAFs on all FMR values nationwide, the FMRs
under the Department’s proposed small area FMR demonstration, and PHAs’ HAP renewal funding each year has been significant.

The final report issued on October 14, 1999 by the Negotiated Rulemaking Advisory Committee and prepared by The Consensus Building Institute stated that from 2000 – 2002, HUD and other Section 8 stakeholders would continue to seek ways to improve the annual adjustment process. The report, reached through consensus, stated, “HUD will create a stakeholder advisory group to assist in developing an adjustment factor research and pilot testing strategy….The researchers implementing the strategy will gather data on PHAs’ actual costs, including data on changes in rents, tenant incomes, bedroom size distribution and other cost factors. They will seek to develop adjustment factors and procedures that are more accurate and timely than the current AAFs. They will pilot test the use of these factors and procedures with a representative sample of PHAs…If HUD and other stakeholders are able to develop adjustment factors and procedures that are more accurate and timely than the current AAFs, then HUD will revise the allocation system to use the more accurate factors and procedures.”

To the best of our knowledge, the above actions have either not been acted upon or not been made known to the public. With the adoption of the new OMB areas in FY 2006 to the present, the number of AAF values for regional metropolitan counties and non-metropolitan counties were reduced by 50 percent, and the corresponding inflation factors were rendered less accurate. Given that the AAFs apply to all PHAs’ voucher renewal funding, the diluted value of many PHAs’ AAFs has contributed to the underfunding of their voucher programs in recent years. We hope that HUD PD&R does everything in its power to correct for prior inactions, and to restore AAF values based on the previous OMB areas (FY 2005 and prior years).

Utility Component of FMRs

NAHRO recommends that HUD allow interested parties to comment on the utility component of FMRs (24 CFR § 982.517) separately from the overall level of FMRs. In addition to this opportunity, the public should have available an accepted methodology in much the same fashion as the FMRs as a whole now have available for contract rents. NAHRO recommends that HUD provide PHAs with the utility data it gathers from the annual FMR calculations so that every PHA could at least evaluate the percentage utilities changed each year.

The Legal Services Client Coalition, published a paper entitled, "The Role of Utility Costs in Setting Fair Market Rents for Section 8 Housing." This paper provided data revealing how seriously inadequate HUD’s proposed FMRs are when utility bills—particularly seasonal utility bills—are explicitly considered using actual utility company data. The study reviewed 100 different communities, showing that when actual utility costs are disaggregated and considered apart from the FMR as a whole, the FMRs proposed by HUD are inadequate in 38 different cities.

The FMR methodology makes no mention of how utility costs implicit within “gross rents” are developed or determined. In addition, they are not published separately. Interested parties

1 "The Role of Utility Costs in Setting Fair Market Rents for Section 8 Housing" by the Legal Services Client Coalition (http://www.fsconline.com/downloads/UTIL-FMR.pdf)
should be able to comment on the utility component of FMRs separately from the overall level of FMRs. In addition to this opportunity, the public should have available an accepted methodology, in much the same fashion as the FMRs as a whole now have available for contract rents. At present, while there is a polling methodology with regard to rents, there is no mechanism available which relates to determination and presentation of utility bill data.

PHAs are required to revise their utility allowances if after performing extensive research on consumption and rates, utility allowances increase by ten percent or more since the last time they were changed. Among other things, we believe that greater transparency in the utility cost calculations used by HUD will also serve an important purpose of providing an objective data-driven process to determine if additional HAP funding adjustments should be considered by Congress and HUD for this purpose, so that PHAs are not left with serving fewer families for this reason.

**Insufficient Public Housing Minimum Percentile Used for Census-Based FMR Values**

HUD’s current Census-based FMR rent determination methodology does not filter out all public, otherwise assisted, and substandard housing from its rental distributions. In an attempt to account for this problem before determining the applicable percentile FMR values, HUD excludes units falling below a minimum threshold (which varies from area to area) based on the 75th percentile distribution of public housing rents. NAHRO believes that HUD’s minimum threshold rent for public housing used to compute baseline FMR percentiles, does not adequately adjust public housing rents to be consistent with unassisted units with a reasonable likelihood of meeting HQS.

As you know, public housing rents are those based on household incomes rather than the total Allowable Expense Level (AEL) – the amount of money that is required to pay debt service and operating costs of the unit. Public housing units do not have debt service. Instead housing assistance is provided by HUD to PHAs to help cover public housing operating costs and capital maintenance needs. Therefore, the costs of maintaining public housing units are not adequately reflected in the rents used by HUD for determining the public housing cut-off levels.

As a result, public housing rents used by HUD for FMR purposes are significantly below rent levels found in the unassisted market with a reasonable likelihood of meeting their debt service associated with property owners’ ability to maintain Housing Quality Standards. To address this problem in the Census data before computing Census baseline FMR rents, NAHRO recommends HUD revise the FY 2006 FMRs, using a public housing rent cut-off at the 95th percentile or higher.

**Relationship Between Quality of Rental Housing Stock and FMRs**

GAO’s recent report titled, "HUD Can Improve Its Process for Estimating Fair Market Rents" found that 14 percent of metropolitan area FMRs and 34 percent of non-metropolitan area FMRs did not fall within a 10 percent range of unassisted gross rents. In combination with HUD’s study results described below, NAHRO believes that significant improvements to capturing more accurate housing quality conditions is needed with respect to the Department’s FMR
methodology - even after full implementation of the American Community Survey. Without further improvements, agencies' ability to adequately access the bottom fortieth percentile of the housing market in most places around the country will likely continue to be compromised.

The HUD study referenced below, suggests that a significant portion of units at the bottom end of the rental housing stock – 8 percent to 14 percent - fail HUD's Housing Quality Standards (HQS) and do not have the rent revenue to support making the necessary repairs to come into compliance with HQS. Given that the majority of FMRs are at the bottom 40th percentile of the rental market, even the bottom 8th percentile represents 20 percent of the units under the FMR that are not of sufficient housing quality to qualify for the program. In these instances, PHAs have only the bottom 9th to 40th percentile of the rental housing market available and affordable for program participation. Under this scenario, just 80 percent of the program qualifying units the FMRs are designed to access actually meet the housing quality standards.

Under HUD's "Study on Section 8 Voucher Success Rates Volume I - Quantitative Study of Success Rates in Metropolitan Areas" (November 2001) found that over two-thirds (68 percent) of the successful voucher holders submitted one Request for Lease Approval (RFLA) and the unit passed on the initial inspection. The remaining 28 percent also leased the first unit, but it had to be inspected multiple times before passing inspection. Only 4 percent of voucher holders lease a unit under the Section 8 program, but only after a second or third unit is inspected. The above figures suggest that approximately 14 percent of units inspected under HQS never pass inspection.

As part of the HUD study mentioned above, PHAs were asked to estimate the proportion of units presented for inspection that passed their first housing quality standards (HQS) inspection (without needing to be re-inspected). This variable is used as a proxy for housing quality in the local jurisdiction, on the assumption that the higher the proportion of units that pass initial inspection, the better the local stock. About 31 percent of voucher holders were assisted by PHAs where no more than half of all units passed on the first inspection. Approximately 49 percent of voucher holders were assisted by PHAs where 51 – 75 percent of units passed on the first inspection. Lastly, approximately 20 percent of voucher holders were assisted by PHAs where over 75 percent of all units passed on the first inspection. The above study’s estimates of "success rates" and the factors than affect them are based on a sample of more than 2,600 households that received vouchers from 48 PHAs across the country. The sample is representative of all voucher holders in metropolitan PHAs that administer programs with more than 800 units. (The study universe includes about 60 percent of all vouchers.)

HUD's study titled, “Section 8 Rental Voucher and Rental Certificate Utilization Study” (October 1994), found that where the owner agreed to have the unit inspected and an inspection was performed, Section 8 enrollees moved into those units 89 percent of the time. The two principal factors for 11 percent of the units that were not leased under the program after an initial inspection were 1) failure of Housing Quality Standards or 2) the rent level could not be agreed upon by the property owner and PHA.
Over the lifetime of the Section 8 Housing Choice Voucher program, PHA program staff have used HUD's Housing Quality Standards (HQS) to determine adequacy of their rental housing stock. Based on interviews with PHA staff, HUD's study titled, "Costs and Utilization in the Housing Choice Voucher Program (July 2003) found that on average 8 percent of the rental housing stock was classified as "poor."

Based on the studies noted above, NAHRO believes the Department should examine methods to evaluate the percentage of units that fail to meet HQS to determine the downward bias of the existing FMR and adjustment methodologies (AHS, RDD, etc.) and recommend a method to offset any biases found. Given that the American Community Survey does not improve upon the quality of the data gathered about housing quality, this issue remains of continued importance to NAHRO members who are trying to access affordable housing opportunities for low-income households. In addition, this issue has a direct bearing on areas qualification for the 50th percentile FMRs.

Requalification for 50th Percentile FMRs

In numerous instances, HUD has disqualified PHAs from continuing their status with 50th percentile FMR area designations, if the concentration of voucher holders in the area did not lessen and the applicable PHAs did not meet minimum deconcentration objectives for the past three years. NAHRO is concerned about the conditions under which the Department rescinds 50th percentile FMRs.

At the end of the three-year period, HUD will continue to set the FMRs at the 50th percentile rent only so long as the concentration measure for the current year is less than the concentration measure at the time the FMR area first received an FMR set at the 50th percentile rent. As HUD PIH is aware, many PHAs voucher programs were dramatically under-funded in FY 2009. Their ability to help low-income families achieve deconcentration as well as qualify again for the 50th percentile FMR when compared with the base period has been affected adversely affected. Due to voucher funding shortfalls in FY 2009, rather than continuing to expand affordable housing opportunities to extremely low-income households in deconcentrated neighborhoods, PHAs’ ability to help extremely low-income households live in deconcentrated neighborhoods was compromised substantially in FY 2009 as a direct result of HUD’s inaccurate funding calculations.

The total HAP funding PHAs have available to facilitate deconcentration is also subject to a variety of macro-economic factors beyond the FMR values, including decreases in household incomes resulting in increased per voucher HAP costs. Many PHAs have had to lower payment standards or not raise them to reflect their actual housing market costs, as a result of insufficient funding.

In many instances, these PHAs vigorously implemented outreach measures to both landlords and voucher-assisted households, to expand and provide housing opportunities outside of poverty-concentrated areas. PHAs’ efforts include:

1) Based on the survey results – increased voucher payment standards;
2) Surveyed/analyzed reasons new voucher holders experienced difficulties funding housing;
3) Provided voucher holders with information packets containing lists of owners interested in leasing to program participants, and maps to various areas, with housing opportunities outside poverty areas;
4) Financed creation of a county-wide search engine for affordable rentals, and encouraged landlords interested in participating in the Housing Choice Voucher Program to list their properties; and
5) Conducted landlord outreach on a bi-annual basis at various locations.

We believe a significant change to 50th percentile FMR requalification process is warranted. Reduction of FMRs to the 40th percentile FMRs in the instances described above, erode the progress and the efforts that these PHAs have made to assist low-income families move out of high poverty areas.

For the above reasons, NAHRO recommends an automatic extension of the existing 50th percentile FMRs, as well qualification of any new areas if applicable, under a set of criterion that is also fair and consistent with the funding and program structure changes that have been implemented in FY 2009.

Random Digit Dialing (RDD) Surveys

It is unclear to us how the Department reasonably expects PHAs to be able to undertake a RDD within the thirty day period provided from its proposed FMR to the comment deadline. Improvements are needed in the Department’s timeframes for publishing proposed FMR values in order to give PHAs more meaningful time frames with which to undertake alternative rent studies that comport with HUD’s methodological standards.

With cell phones usage far greater than in prior years, HUD’s Random Digit Dialing (RDD) survey methodology using land lines should be reconsidered.

HUD's Definition of "Recent Movers" and "Stayers" Impact on FMRs

The 40th percentile FMR is drawn from the distribution of rents of all units occupied by recent movers, defined by HUD as renter households who moved to their present residence within the past 15 months. Under the RDD methodology, only 42 percent of the sample results are recent movers. In tight rental markets, renters tend to remain in occupancy longer and move less because their existing rents tend to be more affordable. HUD PD&R should examine whether capturing only 42 percent of recent movers in the RDD methodology, provides an accurate reflection of recent movers' impact on rental housing costs and make recommendations on possible improvements based on their findings.

Exception Payment Standards

To ensure successful program operation, the Section 8 program rules allow for FMR exceptions to compensate for variations in rent levels and rental housing characteristics that exist within
individual housing markets. Upon approval by HUD, a PHA may exceed the published FMRs by up to 20 percent for specified geographic submarkets of a larger FMR area. The most common way for PHAs to avail themselves of the opportunity for Exception Payment Standards is to follow HUD's "Median Rent Method."

The data provided to the public regarding the methodology used to calculate FMRs through various web-based tools has been helpful to PHAs. Given the costly process to PHAs and HUD in conducting RDDs, NAHRO recommends that the Department make available to PHAs via the Internet, Census 2000 rent data by bedroom size and rental market in a way that makes it easier for them to determine whether they may qualify for exception payment standards (or special exception payment standards) through the "median rent" method. PHAs ability to access this information for purposes of applying for “success rate” payment standards is important.

State Non-Metropolitan Minimum FMRs

NAHRO has always supported and continues to support the use of state non-metropolitan minimum FMRs.

PHA Determination of Rent Reasonableness

HUD’s existing regulations governing PHA determinations of rent reasonableness (§982.507)(a)(2)(ii) state, “[t]he PHA must redetermine the reasonable rent: (i) Before any increase in the rent to owner; If there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect 1 year before the contract anniversary; or (iii) If directed by HUD. (3) The PHA may also redetermine the reasonable rent at any other time. (4) At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the PHA.” PHAs are compelled to reevaluate the rent reasonableness of existing leased units in the HCV program if there is a five percent decrease in the published FMR in conjunction with a property owner’s rent increase request. These set of conditions do not compel PHAs to lower contract rents for HCV-assisted dwelling units if there is a five percent decrease in the published FMR. As a result, it is not a foregone conclusion that decreased FMR values under the small area FMR demonstration will necessarily lead to lowered contract rents for dwelling units assisted through the HCV program.

Under the “Housing and Economic Recovery Act of 2008” (HERA) enacted into law on July 30, 2008, PHAs are permitted to use a HAP contract provision where the maximum rent on a unit shall not be less than the initial rent. Because this provision is permissive and not mandatory, HUD is considering parameters for when its use would be appropriate. HUD has stated in the past that it will finalize its policy on this provision through rulemaking. To date, the Department has not issued a proposed rule on this matter. NAHRO recommends that the Department initiate rulemaking on this issue.
Conclusion

On behalf of NAHRO, I would like to thank you for the opportunity to comment on the proposed FY 2012 FMRs. Please include our attached letter dated August 1, 2006 to reflect our comments on the system concerns we have with HUD’s FMRs and attendant recommendations. If you have any questions concerning these comments, please feel to call me at (202) 580-7213.

Sincerely,

Jonathan Zimmerman
Senior Policy Advisor - Housing Assistance Programs
August 1, 2006

Office of the General Counsel  
Rules Docket Clerk  
Department of Housing and Urban Development  
451 Seventh Street, SW, Room 10276  
Washington, DC 20410-0001

Re: [Docket No. FR–5068–N–01; HUD-2005-0010] Proposed FMRs for Fiscal Year 2007 for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy and Certain Other HUD Programs

Rules Docket Clerk:

The National Association of Housing and Redevelopment Officials (NAHRO) appreciates the opportunity to comment on the department’s proposed FY 2007 Fair Market Rents (FMRs). NAHRO is the largest and oldest housing and community development organization which advocates for the provision of adequate and affordable housing as well as strong, viable communities. NAHRO members include local housing agencies (HAs) and community development agencies that own and/or administer vouchers and properties involved in the HOME, Low-Income Housing Tax Credit, Section 8 tenant-based and Section 8 project-based housing programs.

By and large, the proposed FY 2007 FMRs continue to use the revised Office of Management and Budget (OMB) area definitions and the same calculation methodology used in establishing FY 2006 FMR areas. The FY 2006 FMR areas were a significant departure from the FMR areas used in prior years (FY 1993 – FY 2005). In FY 2006, NAHRO filed extensive comments and analyses in opposition to the department’s revised OMB areas for its FY 2006 FMR calculations. The association maintains its opposition to the FY 2007 FMRs for the same reasons stated in our 2006 comment letter as well as other reasons described below. In order to address many of the problems outlined in our comment letter, NAHRO recommends that HUD use the prior OMB area definitions (implemented from FY 1993 – FY 2005) and the prior methodologies used for the most recent U.S. Census Bureau data to re-benchmark FMRs and bedroom size intervals.

Having just undertaken an extensive review and analysis of the FY 2007 proposed FMRs, with this letter NAHRO wishes to raise the following concerns: dilution of FMRs resulting from the adoption and modification of OMB areas; adverse programmatic impacts of the final FY 2006 FMRs that are maintained in the proposed FY 2007 FMRs; modifications to the County-based Statistical Areas (CBSAs); treatment of counties removed and added to MSAs and CBSAs; application of HUD’s five percent area and sub-area designations as well as its “hold harmless” policy in FY 2007 and beyond; the intersection between HUD’s income limit and FMR area

Donald J Cameron, SPHM, President; Renée Rooker, SPHM, Senior Vice President; Bill Jacobs, PHM, Vice President-Professional Development; Montez C. Martin, Jr., Vice President-Community Revitalization & Development; Maggie Lamont, Vice President-Member Services; Carlos A. Sanchez, Vice President-Housing; Richard S. Lujan, Vice President-Commissioners; Akinola Popoola, PHM, Vice President-International; Saul N. Ramirez, Jr., Executive Director

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definitions; inadequate improvement of AAFs and alignment with OMB inflation factors; missing Consumer Price Index (CPI) update factors or 2005 ACS replacement data for Class B and C size cities; future annual FMR updates; FMR values related to hurricane impacted areas; the various reasons areas lost their 50th percentile FMR designations; improvements needed to the overall FMR methodology in the short-term and long-term; the lack of sufficient notification to HAs of exception payment standards; and use of the American Community Survey (ACS) for the calculation of FMRs and Annual Adjustment Factors (AAFs).

FY 2007 FMRs Would Repeat the FY 2006 FMR Dilution in Rent Values for 95 Percent of Households Nationwide

As noted above, the proposed FY 2007 FMRs continue to use the revised OMB area definitions and the same calculation methodology used in establishing FY 2006 FMR areas. In support of the proposed adoption and modification of OMB areas for purposes of calculating FMR values, HUD’s notice of proposed FY 2006 FMRs states, “Note that 96.9 percent of the population is in areas where the 2000 Census Base Rent changes by less than 5 percent.” In its analysis of FY 2006 FMRs however, NAHRO found significant dilution of metropolitan FMR areas in FY 2006 than they otherwise would have absent HUD’s inclusion of former non-metropolitan counties. In the same analysis, NAHRO found small percentages of households residing in metropolitan areas that experienced increases in FY 2006 FMR values as a direct result of including former non-metropolitan counties. This dilution in FMR values will remain or continue on into FY 2007 by virtue of HUD’s continued use of the new OMB areas for FY 2007 FMR values. Not only do the OMB areas not reflect unique housing markets or improve upon the previous FMR areas, but the dilution of FMR values (described herein) disadvantages voucher-assisted households’ (and other federally assisted households’) access to modestly priced, decent, safe and sanitary affordable housing dwellings in the marketplace.

NAHRO conducted a survey from January 15 – April 30, 2006 (attachments D and E) focusing on the impact of HUD's FY 2006 FMRs. The survey illustrates the adverse programmatic impact of the FY 2006 FMRs. The FMR areas and methodologies are repeated in large measure in the notice of proposed FY 2007 FMRs.

As a result of inadequate FMR values in FY 2006, applicants deemed eligible for the HCV program, after having spent long periods of time on waiting lists, are leasing with their vouchers at lower rates of success than in years past. Diluted FMR values in FY 2006 resulted in decreased rental assistance payments for voucher-assisted households in-place, and if continued under HUD’s proposed FY 2007 FMRs could potentially cause significant displacement if they are implemented for these existing assisted households. Beyond the human toll exacted upon voucher holders by the diluted FMRs in FY 2006, NAHRO believes the proposed FY 2007 FMRs will undermine the Administration’s goal to end “chronic” homelessness in 10 years, among other things.
Adoption of OMB Areas

The implications of HUD’s proposed FY 2007 40th percentile and 50th percentile FMRs, which combine former non-metropolitan areas with metropolitan areas, will impact Housing Assistance Payments (HAP) levels per assisted household under the HCV program. Rather than outright decreases in FY 2007 FMRs resulting from this change, the department’s adoption and modification of OMB’s area definitions will result in lower values for FMRs in metropolitan counties than they would have been absent these changes. In order to address many of the problems outlined in our comment letter, NAHRO recommends that HUD use the prior OMB area definitions (implemented from FY 1993 – FY 2005) and the prior methodologies used for the most recent U.S. Census Bureau data to re-benchmark FMRs and bedroom size intervals.

As documented in detail below, NAHRO does not accept the department’s premise that adoption and modification of the new OMB areas for purposes of FMR (and income limit) calculations is justifiable. The department has yet to demonstrate or comment on in any degree of specificity the reasons that “the new definitions will facilitate the use of the extensive new ACS data that the Census will begin releasing next year that is collected and processed based on the new OMB definitions…” NAHRO respectfully requests a detailed explanation as to why the extensive new ACS data which is collected and processed based on the new OMB definitions could not also be used by the department for purposes of calculating and publishing FMR values under the former OMB definitions used from FY 1993 – FY 2005.

NAHRO has demonstrated and will continue to demonstrate that adoption and modification of the new OMB area definitions will disprove the department’s assertion that, “The other reason OMB definitions are important is that federal agencies are expected to use these definitions in administering their programs unless there is some strong program reason to do otherwise.” NAHRO requests an explanation of the annual criterion the department will apply to evaluate whether or not a strong program reason to do otherwise exists.

Despite the fact that over half of the comment letters in FY 2006 pertained to the adoption and modification of the OMB area definitions for FMRs, the final notice did not specifically or adequately address or include the substantive critiques or recommendations contained in these comment letters. In order for the public to make informed decisions about the larger impacts of the proposed FMRs on voucher-assisted households, we believe the department should provide the public with greater context about the impact of the proposed changes. To that end, NAHRO has performed additional analysis of the proposed FY 2006 40th percentile FMRs (see attachments B and C).

Changing Other Counties from Non-Metropolitan to Metropolitan and Vice-Versa under OMB Definitions

As proposed, adoption of OMB’s new area definitions will result in increases in the FMR values for many former non-metropolitan counties designated as metropolitan counties for FY
2007. However, decreases in FMR metro values for other counties in those areas will also occur.

HUD’s methodology did not state which counties are proposed to be removed from metropolitan areas. The counties to be removed will have their FMRs based on the 2000 Census-based rent method used in the FY 2007 FMR calculations. We believe this approach, will result in significant declines in proposed FMR values and an inequitable treatment of counties proposed for removal from metropolitan areas. In these instances, NAHRO recommends that the former metropolitan counties (FY 1993 to FY 2005) which were removed from their MSAs or CBSAs, have their FMRs based on the 2000 Census-based rent method used in the FY 2005 FMR calculations.

In response, in the notice of final FY 2006 FMRs the department stated, “HUD disagrees that its treatment of nonmetropolitan county FMRs is inconsistent with its treatment of metropolitan areas. Metropolitan areas with more than a five percent increase or decrease as a result of the new definitions were assigned FMRs calculated based on their own data. Counties that were removed from FMR areas were also given FMRs based on their own data. The only difference is that use of FMR area data produced larger decreases for some of the counties removed from metropolitan areas.”

NAHRO disagrees with HUD’s comments above for the following reason. HUD excluded any county from the core CBSA if its FMR value under the new OMB area definitions would be significantly higher or lower than under the former FMR area definition (FY 1993 – FY 2005). As a result, many counties were removed from their previously defined FMR areas to form a HUD Metro FMR Area (HMFA). Under HUD’s proposed FY 2006 and FY 2007 FMR-modified OMB area definitions and methodology, the rental housing values from the nonmetropolitan counties are included in determining the FMR values of the core CBSA but are removed from the proposed FMR areas. Generally however, HUD assigned separate FMRs to component counties of CBSA Micropolitan Areas. There does not appear to be a good technical or policy reason for this double counting. The effect of this double counting, however, is to dampen FMRs in all affected FMR areas. NAHRO recommends that these counties should have their FMRs based on the 2000 Census-based rent method used in the FY 2005 FMR calculations. By contrast, the higher core county rental housing values are not included in the non-metro county FMR areas removed from the core CBSA. Not only is this inconsistent, it would tend to skew the proposed FMR values to decrease federal outlays. The result is a decline in FMRs, which is considerable in the separated county and less so in the core counties.

One aspect of HUD’s comment above is true, “Metropolitan areas with more than a 5 percent increase or decrease as a result of the new definitions were assigned FMRs calculated based on their own data. Counties that were removed from FMR areas were also given FMRs based on their own data.” However, the department’s following comment is not inclusive of other differences: “The only difference is that use of FMR area data produced larger decreases for some of the counties removed from metropolitan areas.” What the department neglected to mention or recognize is one principal difference in HUD’s treatment between the counties in
question and the FMR values resulting from the department’s methodology: higher core county rental housing values were not included in the non-metro county FMR areas removed from the MSA or core CBSA while the rental housing values from former nonmetropolitan counties were included in determining the FMR values of the MSA or core CBSA. In one example there was no double counting of the counties in FMR values, and in the other case there was. This practice represents disparate treatment and should be rescinded in favor of NAHRO’s recommendations.

We believe that HUD understands the disparate treatment provided between counties which were removed from metropolitan areas and designated as nonmetropolitan counties versus those nonmetropolitan counties that were added to metropolitan areas or CBSAs in FY 2006. Even HUD’s comments in the notice of final FY 2006 FMRs acknowledged, “Subparts of any of the new areas that had separate FMRs under the old OMB definitions were identified, and 2000 Census Base Rents for these subparts were calculated. Only the subparts within the new OMB metropolitan area were included in this calculation (e.g., counties that had been excluded from the new OMB metropolitan area were not included).” But like several other important aspects of our and other interested parties’ comments, they were not addressed. This is part of a pattern of omitted information important to program stakeholders, which runs counter to recommendations made by the GAO in the report titled, “Rental Housing: HUD Can Improve Its Process for Estimating Fair Market Rents,” which among other things focused on the need for greater transparency in the FMR determination process.

Proposed Modifications to the County-based Statistical Areas (CBSAs)

The subject Notice states, “In general, any parts of old metropolitan areas, or formerly nonmetropolitan counties, that would have more than a 5 percent increase or decrease in their FMRs as a result of implementing the new OMB definitions, are defined as separate FMR areas.” In the notice of proposed FY 2006 FMRs (June 2, 2005), the department referred to this change in areas and sub-areas as a “Modified Implementation of the New OMB Definitions.” Notwithstanding our larger opposition to the adoption of the OMB areas described herein, NAHRO previously commented in favor of this specific point in the department’s FY 2006 policy, as it was consistent with the department’s stated objectives.

However, if implemented as proposed in FY 2007, this modified implementation would run counter to the department’s stated FY 2006 objective from June 2, 2005: “HUD is using the county-based statistical areas as defined by OMB, with some modifications. The new definitions have been implemented with modifications intended to minimize changes in FMRs due solely to the use of the new definitions.” In FY 2007, HUD proposes applying this policy in relation to FY 2006 FMR and income limit values, which are already represented by the new and modified OMB definitions.

Instead, to initiate its policy as proposed and implemented in FY 2006, the department should provide proposed FY 2007 FMR values (as well as proposed FY 2007 income limits) and

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supporting documentation as if the former OMB areas (FY 1993 – 1995) and corresponding methodologies were in effect. After such calculations had been performed and compared with the proposed FY 2007 FMRs (and income limits) using the modified OMB area definitions (from FY 2006), then the 5 percent test could be applied. NAHRO recommends adherence to this recommended policy, as it is consistent with the changes resulting directly and solely from the adoption and modification of the new OMB area definitions (in FY 2006 and FY 2007) themselves. NAHRO’s recommendations concerning both area disaggregation and “hold harmless” policies, apply whether or not there is as a change of five percent or more in income limits.

For purposes of evaluating the 5 percent change as described above, the association believes that the FY 2007 proposed FMR values should not be compared with final FY 2006 FMR values because the FY 2006 FMRs already reflect values influenced by the adoption of and modifications to the OMB area definitions. Instead, any FMR differences of 5 percent or more (or income limit values) should be evaluated relative to the FMR values that would have existed absent adoption of the OMB areas or sub-areas (for FY 2006, FY 2007 and beyond).

NAHRO supports a “Modified Implementation of the New OMB Definitions” policy which applies to the former OMB areas (FY 1993 – FY 2005).

HUD’s justifications for its policy in FY 2006 did not state that it was designed to minimize the number of large changes in FMR values relative to the previous year’s FMR values. Instead, the policy was designed to explicitly minimize the number of large changes in FMRs due to the use of the new OMB definitions themselves rather than the FMR values (or income limit values) in comparison to the previous fiscal year. Now, a year later, the subject Notice states, “The table below provides a list of the areas affected by this new approach. It compares the FY 2006 FMR to the Revised FY 2006 Rent that reflects the impact of the 2000 Census base median family income comparison for the new metropolitan area and its former FMR area components. The difference shown is the difference between the currently effective FY 2006 FMR and what it would have been if the new area had been used to calculate FY 2006 FMRs (the FY 2006 Equivalent Rent with Income Comparison).”

In FY 2005 the new OMB areas were proposed without any area modifications and without any “Modified Implementation of the New OMB Definitions” policy (described above). In FY 2005, in the wake of public comments, public opposition, and public examination through the media, HUD withdrew its proposal to adopt the new OMB area definitions for FMR calculations, and maintained the existing FMR areas and methodologies instead. HUD’s proposed FY 2006 FMR notice explained the department’s decision: “In response to the limited timeframe available for public comments and the number of comments received opposing use of the new definitions, HUD reverted to using the old definitions in its final FY 2005 FMR publication and in the FY 2005 income limit publication.”

The lack of transparency in HUD’s proposed FY 2006 notice regarding the department’s plan to apply its “modified implementation of the new OMB definitions” policy in subsequent years was a significant failure in the FY 2006 notice for public comment. The process to date did not adequately inform the public about one of the main modifications of the new OMB areas for use with the FMRs. This raises serious concerns about the ongoing application of
HUD’s FMR area definitions, modifications and “hold harmless” policies in FY 2007 and future years.

In a comment letter filed by one of our colleagues concerning the notice of proposed FY 2006 FMRs, they raised a series of questions about this important matter by stating, “This year, HUD has elected to moderate the impact of using OMB’s CBSA definitions by creating exception FMR schedules for jurisdictions where the CBSA-based FMR schedule would result in changes in excess of 5 percent. It is unclear what the Department plans for future years. Will these communities continue to have exception FMR schedules in the future? Will the Department continue to apply its 5 percent rule of thumb in future years until those localities have exception FMR schedules that fall within 5 percent of the CBSA-based FMRs? Will those localities then be subsumed into OMB’s CBSA geographic definitions? Will HUD apply some other standard in future years? Lack of information from the Department concerning its plans represents another source of uncertainty and confusion and compromises HAs’ abilities to make informed decisions over the value of contesting FMRs, or planning for future years in their voucher and other housing programs.”

Another one of our colleagues filed comments in FY 2006 on this issue as well by stating, “The proposed adoption of inappropriate FMR area definitions for Massachusetts is likely to create bigger problems in FY 2007 and beyond…As noted above, HUD has softened the impact of revising the FMR area boundaries by modifying its usual approach to recalculting the FMRs for communities that have been moved to a new geography. However, the June 2, 2005 Federal Register notice suggests that this modification will go away in FY 2007.”

Unfortunately, none of our colleagues’ comments on this issue were addressed in the final FY 2006 FMR notice or in the proposed FY 2007 FMR notice.

The former OMB areas adopted by HUD for purposes of the FMR area definitions remained in effect for 12 years (FY 1993 – FY 2005). It is conceivable that the new OMB area definitions HUD adopted in FY 2006 for purposes of the FMR area definitions could remain in effect for a considerable number of years into the future. If NAHRO’s recommendation above is not adopted in FY 2007 and future years, the department’s 5 percent modification and “hold harmless” policy will have provided a simple one year “fix” to a serious public policy issue, but would also embed the inequities created by the adoption of new OMB areas overall for each subsequent year it remains in effect. If HUD’s policy is implemented as proposed, the dilution of actual housing market values expressed by FMRs through the adoption and modification of new OMB areas would also have occurred without the benefit of proper public notification or comment. Should this take place, NAHRO would strongly object to this policy and the lack of proper notification to the public of this policy.

HUD excluded any county from the core CBSA if its FMR value under the new OMB area definitions would be significantly higher or lower than under the former FMR area definition.
(FY 1993 – FY 2005). The department included the rental housing values from former non-metropolitan counties in determining the FMR values of the MSAs or core CBSAs. NAHRO is currently undertaking an analysis of the impact of the department’s proposed policy in relation to these and other affected metropolitan counties. Specifically, NAHRO is in the process of performing a side-by-side analysis of HUD’s proposed FY 2007 policy, comparing the FY 2006 FMR to the Revised FY 2006 Rent that reflects the impact of the 2000 Census base median family income comparison for the new metropolitan area and its former FMR area components, versus NAHRO’s recommended policy as described above. NAHRO’s analysis will apply whether or not there was as a change of five percent or more in income limits.

**Intersection of Income Limits and FMR Values for Purposes of Defining FMR Areas**

In terms of HUD’s proposed FY 2006 income limits and FMRs, NAHRO supports a “hold harmless” and area disaggregation policy in FY 2007 and subsequent years. Specifically, NAHRO continues to recommend that the department disaggregate areas merged under the new OMB area definitions when their income limits differ by more than five percent to better reflect housing market relationships. The “hold harmless” and area disaggregation policy should apply to any separated areas which become either non-metropolitan counties, parts of different metropolitan areas, or form entirely new metropolitan areas. However, the association is troubled by the department’s implementation of the “hold harmless” and area disaggregation policy as it pertains to income limits and its intersection with FMR areas in FY 2007. NAHRO was surprised to learn that the 2007 proposed FMRs reversed the previous year’s policy on modified OMB areas.

In terms of content, in HUD’s proposed change in FY 2007 (as described above and in Attachment D) it appears that HUD has made the decision that changes of 5 percent or more in income limits is more important than changes of 5 percent or more in FMR values for purposes of establishing FMR areas. This occurred without any justification for the merits of such a decision. In terms of process, the notification to the public with both the FY 2007 FMRs and interim FY 2006 income limits as it pertains to this issue and the intersection between changes of 5 percent or more in income limits versus FMR values is completely inadequate. In light of GAO’s report titled, “Rental Housing: HUD Can Improve Its Process for Estimating Fair Market Rents,” which among other things focused on the need for greater transparency in the FMR determination process, we are concerned about ongoing data omissions.

The subject Notice states, “In order to minimize large changes in income limits in these combined areas with similar rents but differing income levels, HUD is proposing for FY 2007 FMRs to form FMR sub-areas within OMB-defined metropolitan areas in all cases where sub-area median family incomes differ from OMB-defined area median family incomes by more than 5 percent.”

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The addition of the 2000 Census base median family income analysis can have three possible effects on an FMR area and the FMRs in that area as defined in FY2006:

(1) A new sub-area may be formed (e.g., Kendall County, IL HMFA removed from the Chicago-Naperville-Joliet, IL HMFA). In FY 2006, HUD implemented the Chicago-Naperville-Joliet, IL HMFA. In FY 2007, HUD proposes to split Kendall county as part of the Kendall County, IL HMFA, from the counties of Cook, DuPage, Kane, Lake, McHenry, and Will as part of the Chicago-Naperville-Joliet, IL HMFA. However, the Chicago-Naperville-Joliet, IL HMFA was not listed in Section F table for purposes of comparing FMR values.

(2) An existing sub-area may be assigned its own 2000 Census base rent instead of the CBSA base rent (e.g., Danbury, CT HMFA). In FY 2006 HUD implemented new CBSAs. As a result, the former New York, NY HMFA which included data from the five counties of New York City, Rockland, Putnam, and Westchester counties was merged with the counties of Monmouth and Ocean, NJ to form the New York – Northern New Jersey – Long Island CBSA. However, in FY 2007, HUD proposed separating the five counties in the former New York, NY HMFA from the two counties in the former Monmouth-Ocean, NJ HMFA. HUD proposes to sever New York City’s connection to the new CBSA area and return it to the old geography: i.e., the New York, NY HMFA. The end result would be to nullify the OMB CBSA. NAHRO opposes this change from a standpoint of both substance and process.

(3) An existing sub-area may lose a component which affects the computation of the sub-area’s 2000-to-2005 update factor (e.g., Youngstown-Warren-Boardman, OH HMFA lost the new Sharon, PA HMFA). In FY 2006, HUD implemented the Youngstown-Warren-Boardman, OH-PA MSA. In FY 2007, HUD proposes to split Mercer county, formerly designated as a metropolitan county in FY 2006, into a non-metropolitan county in FY 2007, from the counties of Mahoning and Trumbell as part of the Youngstown-Warren-Boardman, OH HMFA. However, the counties of Mercer, Mahoning, and Trumbull were not listed in the Section F table for purposes of comparing FMR values. Upon closer examination of the underlying data, Mercer county’s two-bedroom FMR was $541 in FY 2006 when listed as part of Youngstown-Warren-Boardman, OH-PA MSA but when removed and classified as a non-metropolitan county its two-bedroom FMR is proposed in FY 2007 to drop to $519. Does this and other similar examples comport with the department’s stated “hold harmless” policy? If not, NAHRO requests that this and other similar areas be corrected to comply with HUD’s “hold harmless” policy.

In FY 2006, HUD listed out each of the county’s former areas next to the proposed MSA or HMFA to which they would be assigned. This helped affected stakeholders fully understand the geographic changes proposed by the department. In FY 2007, the department only listed each proposed MSA or HMFA created rather than demonstrating the former geographic areas as well. This matrix used in FY 2007 was less understandable than the FY 2006 side-by-side comparisons. HUD proposes that Metropolitan Statistical Areas implemented by HUD in FY 2006 be broken up into different areas in FY 2007, including counties in Maryland, West Virginia, Florida, New York, New Jersey, Ohio, Missouri, Kentucky, and Georgia. For a detailed listing of these area changes that were not well-documented, please see Attachment F.
Inadequate Improvement, Alignment and Application of Annual Adjustment Factors

The final report issued on October 14, 1999 by the Negotiated Rulemaking Advisory Committee and prepared by The Consensus Building Institute stated that from 2000 – 2002, HUD and other Section 8 stakeholders would continue to seek ways to improve the annual adjustment factor (AAF) process. The report, reached through consensus, stated, “HUD will create a stakeholder advisory group to assist in developing an adjustment factor research and pilot testing strategy….The researchers implementing the strategy will gather data on PHAs' actual costs, including data on changes in rents, tenant incomes, bedroom size distribution and other cost factors. They will seek to develop adjustment factors and procedures that are more accurate and timely than the current AAFs. They will pilot test the use of these factors and procedures with a representative sample of PHAs…If HUD and other stakeholders are able to develop adjustment factors and procedures that are more accurate and timely than the current AAFs, then HUD will revise the allocation system to use the more accurate factors and procedures.” To the best of our knowledge, the above actions have either not been acted upon or not been made known to the public. NAHRO recommends that HUD do everything in its power to correct for prior inactions as appropriate, and to implement inflation factors from the American Community Survey as soon as possible.

The adequacy of HUD’s AAFs has reached even greater importance, in light of the fact that differences between the AAFs and inflation factors HUD uses from OMB in its annual budget assumptions and justifications for the Section 8 Housing Choice Voucher (HCV) program have contributed to the -4.75 percent and -5.25 percent pro-rations in voucher HAP funds in the last two years alone. It is our understanding that under HUD’s FY 2007 budget request and distribution formula, which was adopted in the House version of HR 5576, deep negative pro-rations could occur again, for the same reasons. NAHRO recommends that HUD look at the trend in the differences between OMB and AAF values, as the department contemplates its budget submissions to Congress in future years.

To adjust FMR values in FY 2002 and FY 2003, the department used the AAF with the highest cost utility excluded. However, in FY 2004 and FY 2005, HUD used the AAF with the highest cost utility included. Without publication of the FY 2007 AAFs or HUD’s planned use of them. It is not clear to us how HAs are to apply them. NAHRO requests an explanation of the department’s changed approach in applying AAFs.

Missing CPI Update Factors or 2005 ACS Replacement Data for Class B and C Size Cities

We understand that the department did not conduct regional RDDs in 2004 or 2005 in anticipation of 2005 American Community Survey (ACS) data that would replace missing regional CPI data for inclusion in the final FY 2007 FMRs. However, according to the preamble to the subject Notice, if the ACS data is not available, there is apparently no backup plan to properly inflate FY 2007 FMR data for Class B and C size cities to trend 15 months from the end of 2005. This will decrease the proposed FY 2007 FMR values for these cities.
Data from the 2004 ACS was not available in time for inclusion in the final FY 2006 FMR publication. As a result, in FY 2006, Class B- and C-sized cities did not have the benefit of local CPI update factors. NAHRO would object strongly on substantive grounds if the final FY 2007 FMR values for Class B and C size cities do not include local CPI update factors or the 2005 ACS data to replace that missing data for a second year in a row. If this should occur, HAs and the families they serve in Class B and C size cities should not be penalized for the department’s improper planning assumptions to cover the 15 month period from the end of 2005.

Future FMR Annual Updates

Section E of the subject Notices states, “future updates to FMRs will be made at the metropolitan area level and applied to all FMR areas within metropolitan areas where they have been separately designated.” NAHRO objects to the department’s future implementation of annual FMR updates as described in section E on grounds that are both substantive and process oriented. The Notice further states, “Once full-scale ACS data collections become available in the latter part of 2006, sample sizes will be large enough to estimate FMRs for the larger metropolitan areas on an annual basis and for other areas on a two- to four-year basis. To the extent such detailed data are available, the FY 2007 separation of sub-areas within metropolitan areas will be re-examined to determine if FMR area base rents and median family incomes from the new survey are sufficiently different to warrant their continued separation within the metropolitan area specifically for areas separated based on 2000 Census base rent and base median family income differentials.”

First, the department’s proposal to update future FMRs using the new MSAs rather than the more specific sub-area distinctions among housing markets within some of these areas is very vague in its description. The proposal is unclear whether the department is simply seeking to replace 2000 Census data with more recent ACS data coming available later this year and each subsequent year (with which we agree), or whether the department is proposing to abandon all of the distinct FMR areas such as sub-areas, etc., adopted in FY 2006 and proposed for FY 2007 in favor of using the new MSA areas which are much larger in their geographic areas. We disagree with this approach.

Second, the department’s proposal is based on a series of untested assumptions that have not been publicly reviewed. For example, the Notice says, “the new MSAs are probably better reflections of current rental housing markets than of 2000 rental housing markets, and will be shown to be increasingly good approximations of housing markets as more data are gathered in the future.” The impact of such a prediction could be sweeping without the benefit of adequate analysis and public review of HUD’s findings.

Third, proposing a change of this nature which will take place in FY 2008 and beyond is not within the purview of the department’s FY 2007 solicitation of comments. Insufficient information is provided or available to substantively comment on this prediction.
FY 2007 FMRs Do Not Adequately Reflect Utility Cost Increases

Forty-five HAs provided information in NAHRO's survey conducted from January 15 – April 30, 2006 about the impacts of HUD's FY 2006 FMRs. When asked about the impact of HUD's FY 2006 FMRs, 82 percent of respondents stated that the utility costs in their area increased, resulting in increased utility allowances of 10 percent or greater for 76 percent of agencies. These utility-related increases were not reflected in the final FY 2006 FMRs, and are not reflected in the proposed FY 2007 FMRs.

Despite requests from NAHRO and other industry groups for supplemental funding to pay for anticipated unmet utility expenses in FY 2006, the department did not seek supplemental funding for this purpose. In late June, the department sent notices to HAs around the country lowering their Operating Fund pro-ration from 92 percent to 85.5 percent, due to $283 million in increased utility costs through the third quarter of FY 2006 alone. NAHRO and other industry groups requested the department seek $243 million in supplemental funding for anticipated increases in private sector utility expenses in the Section 8 tenant-based program. The department did not seek such supplemental funding for this purpose. Based on the department’s acknowledgment about unmet utility expenses in the Public Housing program, for which there was no supplemental funding sought, we are similarly concerned about the programmatic impacts on voucher-assisted households throughout the country.

FMR Values Related to Hurricane-Impacted Areas

HAP levels for both the Disaster Voucher Program (DVP) and the Individuals and Households Program (IHP) are based upon HUD’s FMRs for approximately 500,000 households who were displaced due to the 2005 hurricanes. Under DVP and IHP the rental assistance standard is 100 percent of the applicable FMR.

FMR values are critical to providing adequate housing assistance to evacuees. Many 50th percentile FMR areas were reduced to 40th percentile FMRs. As of October 30, 2005, the communities within the areas covered by 50th percentile FMRs served approximately 347,647 of the 500,000 evacuees (70 percent) with FEMA application numbers. Specifically, the Baton Rouge Louisiana FMR area experienced a reduction in two bedroom FMRs in FY 2006, despite the fact that the area ranked third in the number of FEMA applicants. The Dallas-Fort Worth-Arlington Texas FMR area experienced a reduction in two bedroom FMRs despite the fact that it ranked tenth in the number of FEMA applicants. NAHRO’s FY 2006 comment letter, along with meetings with senior HUD officials, have together illustrated the fact that numerous housing agencies that accepted evacuees in communities around the country have been similarly affected.

NAHRO’s analysis indicates that approximately 20 FMR areas affecting many more counties and cities in Louisiana, Mississippi, Alabama and Texas will continue to be adversely affected by the adoption and modification of OMB area definitions with respect to the proposed FMRs. Because so many communities far outside FEMA-designated disaster areas are also impacted
by displaced households seeking housing through IHP and DVP programs, the implications for assistance based on the FY 2007 FMRs and related utility allowances are far-reaching.

Despite several random digit dialing (RDD) surveys performed in the region, the proposed FY 2007 FMRs do not currently reflect the impact of the damage and dislocation in the affected areas. In areas damaged by recent hurricanes, as well as in the areas receiving displaced households, many housing units will need to be replaced by new construction. The methodology used for the proposed FY 2007 FMRs is based on existing units rather than units constructed over the last two years. As a result, the units used to derive FMRs tend to have lower housing values than newly constructed units. In both cases, the demand from displaced households will likely increase housing values.

We are appreciative that HUD is conducting special RDD surveys in several Gulf Coast FMR areas using a special protocol to detect possible changes in rents since Hurricanes Katrina and Rita, and look forward to seeing significant changes in rents as a result of these surveys. We hope the findings and modifications will be included in the final FY 2007 FMRs. With that stated, given that the department is well aware of the timing of ACS coming online for use in future FMR calculations, and the opportunity the department had in requesting supplemental funding for RDD surveys so that not all of existing RDD resources would be consumed by the obvious need to conduct them in the Gulf Coast, we are deeply concerned that only one RDD for non-Gulf Coast areas was completed in time for publication of FY 2007 proposed FMRs.

In order to address FMR and utility-related concerns stemming from Hurricanes Katrina and Rita, NAHRO recommends the following:

- HUD should institute a moratorium on any reductions in 50th percentile FMRs for at least two years for any of the federally-declared disaster areas or surrounding communities which are providing housing assistance to evacuees;

- HUD should enable the agencies in the impacted areas to go up to the 150th percentile FMR without HUD approval;

- HUD should accept HAs exemptions in any reductions in 50th percentile FMRs for voucher-assisted households already under lease by the effective date of the final notice; and

- HUD should provide notification of proposed FMR geographic changes that may affect re-qualification for the 50th percentile FMRs for FY 2007.

Further, HUD should provide supplemental utility allowance funding for the affected programs and other HUD-assisted programs, and publish a supplemental FY 2007 FMR notice which addresses fluctuating utility allowances. As utility (gas, water, electricity) rates continue to rise and utility allowances increase, the gross rents for participating units will also increase. The majority of participating landlords require families to pay for utilities which will have an impact on families’ rent burdens.
Finally, as we have noted previously, NAHRO recommends that HUD use the prior OMB area definitions for non-metropolitan and metropolitan counties (implemented from FY 1993 – FY 2005) and the prior methodologies used for the most recent U.S. Census Bureau data to re-benchmark FMRs and bedroom size intervals.

50th Percentile FMR Areas

The 50th percentile FMR policy was implemented under a prior administration in those metropolitan areas where we believe officials discerned that FMR increases were most needed to promote residential choice, help families move closer to areas of job growth, and to deconcentrate poverty. Our recommendations underscore the need to achieve the originally-stated goals and objectives which were then, and remain today, both laudable and achievable.

Re-Qualification for 50th Percentile FMRs Areas

The 39 Metropolitan Statistical Areas (MSAs) which qualified for 50th percentile FMRs in December 2000 did so under the FMR area definitions in effect in 2000. Had the department evaluated these 39 MSAs in December 2003 at the end of the three year period as established in the interim rule (dated October 2, 2000), the evaluation would have occurred under the identical FMR area definitions in effect in December 2000. However, the department’s evaluation of these 39 MSAs took place under OMB’s area definitions with modifications, which have changed significantly since 2000. Having omitted an explanation for the department’s delayed review and publication of the 50th percentile FMRs by December 2003, we call upon the department to provide a comparison of how the 50th percentile FMRs would have fared under the established criterion for renewed 50th percentile FMR status. By virtue of the department’s delayed review and as a result of the subsequent change in the FMR area definitions, deconcentration will be impacted.

HUD’s FY 2006 FMRs resulted in the elimination of 34 areas formerly operating under the 50th percentile FMRs. The elimination of these 50th percentile FMRs will affect hundreds of HAs and hundreds of thousands of voucher-assisted households, as well as households assisted through the LIHTC and HOME programs around the country.

Reasons Areas Lost Their 50th Percentile Designations

The interim rule dated October 2, 2000 establishing the 50th percentile FMRs clearly stated that they would be re-evaluated after three years using the most recent decennial census. However, no mention was made in the interim rule that communities in the 50th percentile FMR areas would be subject to re-evaluation based on the most recent OMB area definitions. Despite this fact, the discretionary adoption of OMB’s new area definitions will result in the failure of 11 FMR areas to meet the 50th percentile FMR area size criterion primarily due to having fewer than 100 census tracts. HUD’s adoption of the new OMB area definitions may also have resulted in some of the 16 FMR areas achieving deconcentration based on a different set of census tracts than established under the interim rule, and as a result losing their 50th percentile FMR designation. With respect to the FMR areas, the department’s 50th
percentile FMR re-evaluation was almost five years rather than the three years mentioned by the department when they were first created. This has resulted in a significant change to the interim rule to which these communities were subject. This was done without adequate notification of this change to the rule.

Moving-to-Work (MtW) agencies have not been subject to the same Form 50058 reporting requirements as other HAs. However, insufficient Form 50058 data relating to insufficient PIH Information Center (PIC) reporting rates in the FMR area played a factor in the department’s decision to rescind five areas’ 50th percentile FMR designation due to voucher-assisted households not making progress toward deconcentration. With respect to the threshold for 50058 data, the department’s 50th percentile FMR re-evaluation was almost five years rather than the three years mentioned by the department when they were first created, after which additional HAs signed MtW contractual agreements. This has resulted in a significant change due to the interim rule to which these communities were subject. This occurred without adequate notification of this change to the rule. NAHRO calls upon the department to publish a list of housing agencies that met the 85 percent reporting rate under the HCV program, absent MtW agencies in those same FMR areas. NAHRO also recommends the department reinstate agencies in these FMR areas that otherwise qualified, and that the department provide notification of future reporting rate requirements for continued 50th percentile FMR status.

Three metropolitan areas had their 50th percentile FMR designation rescinded because the share of the census tracts with significant numbers of rental units where at least 30 percent of two-bedroom units are affordable at the 40th percentile FMR exceeded 70 percent. The three metropolitan areas in question scored 70.2 percent, 70.3 percent and 70.4 percent, which the department interpreted to have exceeded the aforementioned criteria. However, if the department had used standard rounding practices instead, communities in all three areas would have qualified for redesignation as 50th percentile FMR areas. The department’s methodology for establishing weighted averages was not provided to the public so there is no way of knowing, but it appears that the method used was to weight by population rather than by households. This appears to have contributed to these areas having weighted averages in excess of 70.0 percent rather than at or below 70.0 percent, if households had been used for average weighting purposes. NAHRO calls upon the department to publish its methodology and to provide an explanation of the accuracy of this methodology. NAHRO recommends the department reinstate agencies in FMR areas that otherwise qualified. In addition, the department should provide notification of future rounding methods used for continued 50th percentile FMR status.

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6 Metropolitan areas including: Dallas, TX; Miami-Fort Lauderdale-Miami Beach, FL; Newark, NJ; Philadelphia-Camden-Wilmington, PA-NJ-DE-MD CBSA; and Sacramento--Arden-Arcade--Roseville, CA

7 Metropolitan areas including: Cleveland-Elyria-Mentor, OH; Tulsa, OK; and Wichita, KS
HCV Program Funding and Program Structure Changes Undermined Deconcentration Services to Households

HUD’s notice regarding proposed FY 2006 40th percentile FMRs states that 50th percentile FMR areas could lose their status if the concentration of voucher holders in the area did not lessen and if the applicable HAs did not meet minimum deconcentration objectives for the past three years. NAHRO is concerned that the conditions under which the department will rescind 50th percentile FMRs will adversely affect hundreds of HAs. The budget-based funding policy outlined in PIH Notices 2004-7 and 2005-1 had a profound and adverse impact on the level of housing assistance HAs were able to provide households from 2000-2003 to assist in deconcentration.

HUD’s proposed FY 2001 FMR notice stated, “At the end of the three-year period, HUD will continue to set the FMRs at the 50th percentile rent only so long as the concentration measure for the current year is less than the concentration measure at the time the FMR area first received an FMR set at the 50th percentile rent.”

Since that time, the funding structure and program structure under which the HAs operated with 50th percentile FMRs from January 2004 to the present are more restrictive of their ability to help low-income families achieve deconcentration and qualify for the 50th percentile FMR when compared with the same time period from December 2000 to December 2003. Public statements by the department, later confirmed by a review of Voucher Management System data in 2004, show an unprecedented drop in the national average voucher lease-up rates from 97 to 93 percent. These rates are even lower through March 2006.

The importance of the December 2000 to December 2003 time frame, even though it was a short period of time where deconcentration would have been subject to a variety of macro-economic factors beyond the FMR values, is that it occurred during a period of time when the HCV program was funded for each voucher on actual HAP costs. So while demonstrating the causal relationship of 50th percentile FMRs and deconcentration would have been difficult from December 2000 to December 2003, the fact that the funding and essential program structures changed dramatically as of January 2004 and beyond will make a fair and equitable review of the causal relationship between 50th percentile FMRs and deconcentration even more difficult.

Compared with the HCV funding and program structure in place on December 2000, when the 50th percentile FMRs took effect in FY 2004:

- PIH Notice 2004-7 was issued more than four months after the FY 2004 omnibus appropriations act was passed by Congress with retroactive funding implications on agencies;
- HAs had capped HAP funding based on their prior year’s three month snapshot with an inflation factor that skipped the last five months of 2003, rather than basing their estimates on their actual voucher costs;
HAs’ program reserves were reduced from one month to two weeks of annual program costs and not replenished for voucher costs beyond the level of August 2003 adjusted by their FY 2004 full AAF; HAs’ ability to engage in “maximized leasing” was removed, which reduced leasing for highly utilized HAs; and Administrative fees were cut by an average of 6.2 percent per year, relative to the administrative fee rates enacted following and since the passage of QHWRA.

The adverse impact of the funding and program structure of the HCV program in 2004 alone is well documented through NAHRO’s studies and newspaper articles from around the country. NAHRO’s 2004 study (http://www.nahro.org/pressroom/2004/200410renewalstudy.pdf) found that the budget-based renewal formula implemented under PIH Notice 2004-7 caused $93 million in housing assistance shortfalls and approximately $300 million in over-funding of HAs’ base renewal amounts. HAs had to offset these shortfalls in order to prevent approximately 52,000 low-income families from losing some or all of their housing assistance. Controlling for distinguishing characteristics among survey respondents, nationally over 205,000 low-income families have been put at-risk by HUD’s FY 2004 budget-based renewal formula, including families assisted by agencies in the 50th percentile FMR areas. As of July 2004 (before FY 2005 FMRs went into effect), funding shortfalls attributable to the funding policy implemented under PIH Notice 2004-7 forced agencies to take adverse actions including HAP contract terminations, canceling vouchers during families’ search periods, freezing turnover vouchers, denying new requests from voucher holders seeking portability transfers, a 9 percent average reduction in voucher payment standards, and imposing new minimum tenant rents.

In addition to all of the adverse impacts on low-income households described above, NAHRO’s survey also found that 38 percent of agencies estimate that 8 percent fewer voucher-assisted households will be successful in leasing utilizing their lowered payment standards, 6 percent of agencies lowered gross unit rents under HAP contracts for participating property owners, 21 percent of agencies shortened the time frames in which voucher holders must find a unit, and 9 percent of agencies starting serving more applicants above 30 percent of the area median income.

Prior to the issuance of PIH Notice 2004-7, 78 percent of agencies met the congressional “affordability standard” with payment standards (established under QHWRA) resulting in less than 40 percent of their families occupying units of any size who are paying more than 30 percent of their adjusted income for rent. However, after having to lower their payment standards as a result of HUD’s FY 2004 renewal policy, NAHRO’s study found that only 27 percent of agencies state that they will be able to meet Congress’s “affordability standard.” At their lowered payment standard level(s) resulting from HUD’s FY 2004 renewal policy, NAHRO’s study found that only 28 percent of housing agencies will be able to house families at or below 30 percent of area median income without exceeding 40 percent of their monthly adjusted income for housing costs.

8 NAHRO’s survey responses from 288 housing agencies results in a 90 percent confidence
HUD’s FY 2006 FMRs have had an adverse impact upon housing agencies’ ability to comply with regulations governing the scope and extent of voucher-assisted households’ housing burdens. They also have had associated hardships on voucher holders relating to the statutory requirement limiting their initial housing burdens to no more than 40 percent of their monthly adjusted income.

HAs are obligated to set payment standards that meet Congress’s statutory “affordability standard,” which was codified under 42 U.S.C. § 1437f(o)(1)(E) and implemented by HUD through regulation. This standard, however, requires HUD to “monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size, who are also paying more than 30 percent of adjusted income for rent.”

In 2004, NAHRO conducted a survey of 288 local and state housing agencies administering over 20 percent of the nation’s vouchers in 46 states. As a result of funding shortfalls attributable to budget-based funding policy outlined in PIH Notice 2004-7, agencies have been forced to lower their payment standards. At their lowered payment standard level(s), only 28 percent of housing agencies indicated that they would be able to house families at or below 30 percent of area median income without exceeding 40 percent of their monthly adjusted income for housing costs (Sec. 982.508).

While the statutory language is permissive with respect to HUD’s enforcement in particular cases, it does enunciate a clear congressional intent that a significant fraction of families served by the voucher program not bear undue rent burdens. Consistent with our FMR regulatory comment letter from last year, we remain concerned that the department did not undertake such a review prior to the issuance of proposed FY 2006 or FY 2007 FMRs. As a result, we are concerned that the proposed FMRs may in fact exacerbate affordability problems. NAHRO urges the department to undertake a review of voucher-assisted housing burdens as described above, and take necessary actions to comply with the statutory and regulatory requirements noted above before issuing final FY 2007 FMRs. In addition, under 42 U.S.C. 1437f the department has a statutory obligation to document excessive housing cost burdens showing the share of family income paid toward rent under the Housing Choice Voucher program. At least once a year the department is also required to submit a report to Congress.

More to the point, Congress required HUD to deliver a report examining whether the fair market rent for areas where voucher-assisted households have excessive housing burdens is appropriate, and to make recommendations for legislative and administrative actions appropriate as a result of analysis of the data. Noting that these requirements do not appear to have been met to date, NAHRO calls upon the department to suspend implementation of the

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9 The Department has, in implementing regulations at 24 CFR § 982.503(g), established 40 percent as the “significant percentage” of families whose rent burden should not exceed 30% of adjusted income.

FY 2006 FMRs which, as documented in our comment letters and analyses, adversely impacts housing agencies.

**Administrative Fee Cuts Undermined Deconcentration Services to Households**

The services that HAs were able to provide households from 2000-2002 to assist in deconcentration were eroded in subsequent years due to cuts in administrative fees. Compared with the pre-QHWRA administrative fee rates, on average agencies’ per unit administrative fees have been reduced by approximately 16 percent. NAHRO’s 2004 survey found that 20 percent of housing agencies state having to layoff staff, 41 percent of respondents state having to increase their staff’s workloads, and 42 percent of respondents state that the uncertainty surrounding the administrative fee rate for increased authorized leased units since August 1, 2003 creates a financial disincentive to strive for 100 percent leasing.

**HCV Funding Structure Worsened Compared with FY 2004**

If the dramatic adverse impact on HAs’ ability to serve extremely low-income families with the goal of deconcentration was not bad enough, the program structure in 2004 became even more restrictive than FY 2004. Compared with the HCV funding and program structure in place on December 2000, when the 50th percentile FMRs took effect in FY 2005:

- HAs had capped HAP funding based on their prior year’s three month snapshot with an inflation factor, rather than based on their actual voucher costs resulting in a 96 percent pro-ration for HAs;
- HAs’ program reserves were reduced from two weeks to one week of annual program costs and not replenished for voucher costs beyond the level of August 2004 adjusted by their FY 2005 full AAF;
- HAs’ ability to engage in “maximized leasing” was removed, which created a chilling effect and reduced leasing for highly utilized HAs; and
- The Central Fund for increased authorized leasing beyond August 2004 levels at capped HAP costs was eliminated (and there was no AAF appeal process or funding).

NAHRO believes that the congressional funding for voucher renewals from FY 2004 – FY 2006 was sufficient to renew all families under lease, but that the inefficient “snapshot” budget-based funding formula employed since April 2004 (under PIH Notice 2004-7) resulted in over-funding of hundreds of millions of dollars as well as under-funding that resulted in an unprecedented 100,000-family drop in the number of families served in the voucher program. Newspaper articles from around the country have documented the hardships suffered by voucher-assisted households and participating property owners.

HUD’s final rule creating 50th percentile FMRs in areas where affordable rental units and voucher recipients were highly concentrated took effect in December 2000 and were to be reviewed for ongoing eligibility three years later in December 2003. To the best of our knowledge, HUD PD&R performed a study of the 50th percentile FMRs to determine their costs and the extent to which they may or may not have helped HAs accomplish intended
deconcentration benefits under the 50th percentile FMRs. However, to date the department has not published this report nor did the department perform its scheduled review for the ongoing eligibility of the 39 MSAs in question at the end of the three-year period.

In the past, NAHRO has supported PD&R’s study reports, which we believe have contributed to the education and awareness among lawmakers in their public policy development of housing and community development (HCD) programs. To help reestablish the value and relevance of HUD PD&R on important and timely housing policy matters, we request HUD to release its study of the 50th percentile FMRs to determine their costs and the extent to which they may or may not have helped HAs accomplish intended deconcentration benefits under the 50th percentile FMRs.

Lastly, we are encouraged by the addition of other areas to those that qualify for the 50th percentile FMRs in FY 2007, including West Palm Beach-Boca Raton HMFA, as well as the Dallas HMFA, the Fort Lauderdale HMFA, and the San Diego-Carlsbad-San Marcos MSA. As noted in our comment letter in FY 2006, the Dallas-Fort Worth-Arlington Texas FMR area experienced a reduction in two bedroom FMRs despite the fact that it ranked tenth in the number of FEMA applicants.

**Former Non-Metro County State Minimum FMRs**

We are pleased that in FY 2006 HUD rescinded its proposal to group non-metropolitan counties formerly designated as State minimum FMRs with other counties making up metropolitan areas for FY 2007. State minimum FMRs have been set at the respective state-wide median non-metropolitan rent level, but are not allowed to exceed the U.S. median non-metropolitan rent level. As such, it would be helpful if the department listed a side-by-side comparison of the non-metropolitan areas and their State minimum FMR values next to the FMR level capped at the U.S. median non-metropolitan, so that small non-metropolitan counties in the South with low rents could make this direct comparison.

**HUD’s Use of OMB Definitions**

OMB Bulletin 04-03 issued on February 18, 2004 states, “An agency using the statistical definitions in a non-statistical program may modify the definitions, but only for the purposes of that program.” NAHRO believes that the new OMB area definitions should not be used as a framework to determine eligibility or as a means to allocate funds for the Section 8 and HOME programs (including the calculation of FMRs) until the measures highlighted below are fully completed. Use of the new OMB area definitions for analytic purposes is completely consistent with one of the main purposes of using those definitions across federal agencies. This does not preclude the department from using the former FMR areas for purposes of program implementation, while at the same time using the new OMB area definitions for external reporting purposes to OMB, the US Census and Congress.

OMB Bulletin 04-03 states, “…OMB cautions that Metropolitan Statistical Area and Micropolitan Statistical Area definitions should not be used to develop and implement
Federal, state, and local nonstatistical programs and policies without full consideration of the effects of using these definitions for such purposes. These areas are not intended to serve as a general-purpose geographic framework for nonstatistical activities, and they may or may not be suitable for use in program funding formulas.”

In OMB’s Federal Register comments on the standards used to define MSA and Micropolitan areas it states, “Programs that base funding levels or eligibility on whether a county is included in a Metropolitan or Micropolitan Statistical Area may not accurately address issues or problems faced by local populations, organizations, institutions, or governmental units…OMB urges agencies, organizations, and policy makers to review carefully the goals of non-statistical programs and policies to ensure that appropriate geographic entities are used to determine eligibility for and the allocation of Federal funds…”

In cases where there is no statutory requirement and an agency elects to use the area definitions in a non-statistical program, it is the sponsoring agency's responsibility to ensure that the definitions are appropriate for such use. When an agency is publishing for comment a proposed regulation that would use the definitions for a non-statistical purpose, the agency should seek public comment on the proposed use of the definitions. Surprisingly, HUD’s proposed FY 2007 FMR notices did not mention that the public could appeal the new area definitions themselves, if they believed and could demonstrate that the proposed areas are inconsistent with their distinct housing markets.

It should be noted that OMB establishes and maintains these definitions solely for statistical purposes. In developing these definitions, OMB did not take into account or anticipate any non-statistical uses that may be made of the definitions. Even in those cases where there is legislation specifying the use of metropolitan areas for programmatic purposes, including allocating Federal funds, OMB, working with the Congress, continues to clarify the foundations for the metropolitan area definitions and the resultant, often unintended consequences of their use for non-statistical purposes. NAHRO recommends that the department suspend use of all new area OMB definitions for purposes of determining FY 2007 FMRs until such time as adequate analysis can be performed regarding the adequacy and suitability of these area definitions to distinct housing markets around the country.

We further recommend that before HUD makes any change in the FY 2007 FMR areas, it conduct an analysis of whether each new proposed area best conforms to the boundaries of a local housing market. To this end, the department should publish a list of factors, as well as thresholds for each factor, that it considers adequate to define distinct housing markets. It should also state the reasons for these determinations.

In the short term, and prior to the execution of any changes recommended here, NAHRO recommends that the department use the OMB area definitions in existence since 1993 for purposes of determining FMRs. This does not preclude the department from using the new OMB area definitions for purposes of collecting, tabulating, and publishing statistics that measure economic and social conditions of geographic areas. OMB has always acknowledged a difference in establishing new area definitions for analytical purposes, separate and apart
from a federal agency’s program purposes. OMB, we believe, fully planned for data users and analysts interested in demographic and economic patterns, trends, and processes to consider data from these new area definitions when conducting analyses. We understand that HUD is still able to group counties in the new OMB area definitions, which would not require the department to group counties by the new area definitions for purposes of determining FMRs.

Factors for Review in Establishing Adequacy of OMB Areas

Lowering the percent of employed workers that commute to a central county/counties as well as eliminating the graduated population density requirements and urban classification of outlying counties (taking into account their proportional population to the core county) seems to have significantly weakened the thresholds for determining their social and economic ties. This appears to have had a profound impact on FMR areas.

As proposed, a county qualifies as an outlying county if (a) 25 percent of the employed residents of the county work in the CBSA’s central county or counties, or (b) 25 percent of the jobs in the potential outlying county are accounted for by workers who reside in the CBSA’s central county or counties.

However, the following associated requirements were removed:

Conditions formerly requiring 50 or more people per square mile (ppsm) and two of the following: 1) 60 or more ppsm, 2) at least 35 percent urban population, 3) a population growth rate of at least 20 percent, 4) at least 10 percent or a population of 5,000 lives in qualifier Urban Area (UA). The proposed area definitions also dropped OMB’s previous criterion with additional requirements that formerly required less than 50 ppsm and two of the following: 1) at least 35 percent urban population, 3) population growth rate of at least 20 percent, 4) at least 10 percent or 5,000 of population lives in qualifier UA.

With respect to outlying counties, also eliminated from OMB’s prior area definitions were:

4) 50 percent or more of employed workers commute to the central county/counties of an MSA and: 25 or more ppsm, or at least 10 percent or 5,000 of the population lives in a qualifier UA; or

5) 40 percent to 50 percent of employed workers commute to the central county/counties of an MSA and 35 or more ppsm, or at least 10 percent or 5,000 of the population lives in qualifier UA; or

6) 25 percent to 40 percent of employed workers commute to the central county/counties of an MSA and 35 ppsm and one of the following: (1) 50 or more ppsm, (2) at least 35 percent urban population, (3) at least 10 percent or 5,000 of population lives in qualifier UA.
The Metropolitan Area Standards Review Committee (MASRC), responding to changes to OMB’s metropolitan area (MA) standards, concluded that “as changes in settlement and commuting patterns as well as changes in communications technologies have occurred, settlement structure no longer is as reliable an indicator of metropolitan character as was previously the case.” Noting this, it seems that the department’s proposed FY 2006 FMR notices provided no analysis of the adequacy of this change as it pertains to distinct housing markets in which rental housing units are in competition [as defined in 24 CFR 888.113(a)].

NAHRO recommends that the department provide the public with comments on its position, after having compared OMB’s prior and proposed criteria (as described above) and their respective suitability to distinct housing markets under 24 CFR 888.113(a).

**Employment Interchange Rate**

It appears that the use of employment interchange rates as currently proposed have also had a profound impact on the differences between the former and proposed area definitions. Many working households face high housing cost burdens or commute long distances from areas with more affordable housing. The employment interchange rate as a factor by itself is too simplistic and is an insufficient measure for all social and economic interactions between areas. NAHRO recommends that the department examine the incomes of those employed residents who make up the employment interchange, particularly for low-income households affected by the proposed FMRs.

Further, there can be many examples where the incomes of employed residents commuting into the central county are considerably less than the incomes of employed residents within the central county, and vice-versa. Clearly, the level in household incomes is a significant determinant in households’ ability to pay varying levels of rent. As such, they should be examined carefully and specific thresholds should be established for similar income ranges among employed commuter residents between outlying and central counties. Absent further examination of the incomes of employed commuters, significant distortions could have been introduced into the social and economic ties making up the new FMR areas.

In addition, neither the previous nor proposed criterion measures the incomes or median incomes of those employed residents commuting from one county to another. It appears that other aspects of OMB’s prior definitions were consistent with distinct housing markets without this test.

**Strongly and Moderately Self-Contained Areas**

While there was an examination of certain economic aspects of self-contained areas under HUD’s proposed FY 2006 FMR areas, the proposed rule did not contain an examination of the internal migration of residents moving within the county or city. The U.S. Census 2000 showed a major trend where the majority of moves took place within an existing county.
NAHRO believes that internal migration should be considered a significant factor in determining a single housing market, as defined in 24 CFR 888.113(a).

Within Metropolitan Statistical Areas containing at least 2.5 million people, OMB has determined that counties that are strongly self-contained are ones that have 65 percent or greater of employed residents who remain in the county to work and have a .75 or greater ratio of jobs to resident workers. Secondary counties are considered moderately self-contained when consisting of 50 to 64.9 percent or greater of its employed residents who remain in the county to work and have a .75 or greater ratio of jobs to resident workers. NAHRO believes that without further examination of the “employment income containment” associated with these statistics, it is difficult to demonstrate meaningful socio-economic impacts on their housing markets.

**In Forming Distinct Housing Market Areas, Other Housing Factors Deserve Examination**

In forming distinct housing market areas, other critical factors such as median rents, distribution of bedroom sizes, percentage of renters, median home price, median gross rent as a percentage of household income, vacancy rates, and seasonal housing deserve examination. We believe that Census household income or family income, etc., should be examined when determining the adequacy of grouping counties (or cities and towns) into distinct housing market areas for purposes of determining FMRs. We believe analysis of HUD’s proposed FY 2007 FMR areas will demonstrate substantial housing market differences between counties considered to be within the same areas exists.

**Examining Disproportionate Impacts on Protected Classes**

No mention was made in the preamble to the notice as to whether the department undertook an analysis of the percentage of Section 8 and/or HOME household beneficiaries by county and/or city to determine whether the new area definitions will have a disproportionate impact. This is particularly important in those areas that have laws protecting against discrimination against households based on source of income. If no analysis of this kind was done, NAHRO recommends that this take place before final implementation of the proposed FY 2007 FMR areas. Similarly, we recommend an analysis by race and ethnicity, as well as by disabled assisted-households and other protected classes, be conducted.

**Exceptions to OMB Definitions**

In the past, HUD has granted exceptions when counties were removed from several large metropolitan areas whose revised OMB metropolitan area definitions were determined by HUD to be larger than the housing market areas. One such example is the Santa Barbara – Santa Maria, CA MSA which encompasses an area of over 2,750 square miles with two
distinct housing markets – North County and South County\(^{11}\) – where housing market costs in
the South County are twice that of the North County and they are separated by over an hour
by automobile. Further examination of a representative number of proposed areas will
undoubtedly reveal that there are a number of other areas which are larger than the housing
market areas and should be granted exceptions to the OMB area definitions [24 CFR 888.113
\((e)(iv)\)].

Similarly, outlying counties of large metropolitan areas whose income and rent characteristics
differ significantly from their core metropolitan areas should also continue to receive
exceptions to the OMB area definitions. To this end, the department should make known the
income and rent characteristics, as well as the thresholds needed to qualify for such an
exception.

**Intersection Between Budget-Based HCV Renewal Policy and Proposed FY 2007 FMRs**

Agencies that set their payment standards up to 110 percent of the FY 2006 FMRs would be
forced through a combination of the FY 2006 budget-based renewal funding policy and the
adoption and modification of OMB area definitions to request payment standards well below
actual housing market costs or face financial insolvency. They would also be forced to serve
fewer families. Moreover, due to current Section 8 HCV program funding constraints, housing
agencies lack sufficient resources to mitigate FMR reductions by increasing payment
standards.

By contrast, some housing agencies have already lowered their payment standards in reaction
to the FY 2006 budget-based “snapshot” renewal policy. The proposed FY 2007 FMR
amounts applied to their existing lowered payment standards would in fact be even lower than
these agencies’ anticipated payment standards. Many agencies that have already completed
annual recertifications over the last 90 days using their prior payment standards now face
either having to increase their payment standards again or leaving them intact. However, they
will be forced to redo all of those recertifications. This will create tremendous upheaval for
these housing agencies as well as the households and participating property owners they
serve.

Many metropolitan areas have proposed revisions in FY 2007. These revisions include
counties previously designated as non-metropolitan areas. Some of these formerly non-
metropolitan counties will find that the proposed FY 2007 FMRs are substantially higher.
Counties with substantial increases in the new proposed FMR may find program
implementation difficult because of insufficient funding. Previously, HUD advised these
counties to apply to the Office of Public and Indian Housing for exception rents below 90
percent of the FMR standard (See 24 CFR 982.503) where appropriate. HUD’s proposed FY
2007 FMRs are increasing in some areas; HAs also have to lower per voucher Housing
Assistance Payments within the annual budget-based amounts provided.

\(^{11}\) North County is made up of the cities of Santa Maria, Lompoc, Buellton, Guadalupe and the Orcutt
area. The South County is made up of the cities of Santa Barbara, Carpinteria, as well as the Goleta, Montecito
and Isla Vista areas.
The FY 2007 proposed FMRs will require HAs to lower their payment standards and request waiver approvals to meet the implementation time frames for existing voucher-assisted households, and in some cases HAs will need to request exception payment standards lower than 90 percent of the FY 2006 FMRs and/or FY 2007 FMRs, not because the market warrants it, but for the sole purpose of keeping average HAP costs within insufficient annual funding provided under a budget-based “snapshot” funding system (PIH Notice 2005-1). By requesting a lower exception rent, HUD’s renewal policy puts housing agencies in a position of increasing the risk of households of not being able to locate units that meet the new artificially lowered payment standards while market rates continue to increase.

A reduction in the FMR/Payment Standards for the HCV participant families will cause them to experience difficulties in locating suitable units. This may result in increased family search time and possibly voucher expiration. As families turn over vouchers, housing agencies will experience reduced utilization and leasing rates affecting Section Eight Management Assessment Program (SEMAP) indicators.

While HAs generally welcome increased FMRs that better reflect the market rates in their communities, such increases well above their actual market costs put additional pressures when there is no additional HAP funding to support the increased per voucher cost for existing voucher-assisted households that would accompany these increases. Therefore, it is important to keep FMRs at realistic and accurate levels.

In FY 2004, when HUD changed the voucher funding policy into a three-month “snapshot” budget-based funding system (under PIH notice 2004-7), many HAs around the country found that they were under-funded relative to their true voucher costs and actual annual leasing. Being fiscally responsible, many agencies found ways to reduce per voucher costs accordingly. While they were successful at doing so, it has regrettably been at the cost of reduced subsidy for the low-income households that we serve. These families are faced with higher rent burdens and shallower subsidies. These levels of low subsidies cannot be sustained over a long period of time, as property owners’ costs for utilities, insurance, taxes and more continue to increase.

HUD issued PIH Notice 2005-9 providing guidance designed to assist agencies under certain local conditions in offsetting funding shortfalls through program cost reductions allowed under the regulations, including shorter time frames for implementing lower payment standards and reducing utility allowances. Department officials’ public statements and notifications to HAs stated that waivers under PIH Notice 2005-9 will only be approved if the HA can demonstrate a shortfall that would result in the termination of participant families, and that waivers will not be approved to allow an HA to lease up more units.

To address this issue, we reviewed the department’s criterion and calculations for determining agencies’ waiver eligibility under PIH Notice 2005-9 and raised the following concern. NAHRO wrote to HUD in June 2005, requesting that the department address the harmful effects of its discretionary policy which prevents approval of HAs’ requests to lower their
voucher payment standards and to be implemented in less time than existing households’ second re-examination (as described above). Specifically, we noted that HUD’s policy was having an adverse impact on communities’ housing affordability problems, afflicting homeless and at-risk populations among both owners and renters.

NAHRO wrote at that time, “recent waiver requests have been denied under PIH Notice 2005-9 that would have lowered HA’s average voucher Housing Assistance Payment costs that would have otherwise enabled them to lease additional authorized families with the annual funding amount available to them.”

To date, the department has not exercised its option to approve HAs' voucher payment standard reduction waiver requests under PIH Notice 2005-9 without the preconditions described above. NAHRO is concerned that the net effect of the department’s discretionary policy requires agencies not to lease turnover vouchers to other eligible families as a pre-condition to being eligible for waiver approvals under PIH Notice 2005-9. NAHRO believes that the department’s overly restrictive waiver policy pertaining to reduced payment standards has been a contributing factor in an unprecedented 100,000-family drop in the number of families served in the voucher program.

HUD PIH Notice 2005-9 also suggested that HAs that find that the FMRs are too high due to low funding levels request exception rents so as to set their payment standards below 90 percent of the FMRs. Exception rents have been used over the past 30 years for situations where the FMRs were not high enough to meet the market rate demands of a community. If an HA must request an exception rent to decrease their payment standards, this provides a further indication of a fundamental flaw in the methodology used for existing FMRs or more likely in the “snapshot” budget-based distribution of otherwise adequate funding and the methodology.

It is also worth noting that NAHRO requested that the department issue an extension to PIH Notice 2005-9 which expired on February 28, 2006. To date, no such extension has been issued.

**Short-Term Needs to Improve FMR Methodology**

**Results in RDDs Shows A Dramatic Departure Relative to Previous Years**

As the department transitions to full use of the ACS, we are pleased to learn that HUD plans to follow GAO’s recommendation to continue its use of other surveys (including random digit dialing and the AHS) to assess the accuracy of its FMRs. The importance of being able to gauge the accuracy of HUD’s FMR process through RDD surveys and AHS assessments was raised by GAO in its recent report, which states that HUD needs to have a means to assure itself and others that any given FMR estimate is accurate. The GAO claims that having no reasonable alternative for assessing FMR accuracy “will not likely address the concerns of PHAs with reason to question FMR accuracy and may also contradict HUD's own data quality guidelines.”
With each successive fiscal year, from each decennial census onward, HUD’s FMR values have been determined through a standard methodology. This approach has yielded results that have been progressively below the FMRs values determined through both RDD surveys and the AHS. In other words, the frequency and amounts by which FMRs were increased as a result of AHS and RDD surveys relative to HUD’s FMR methodology alone suggests the diminishing accuracy of Census-based rents with each successive year as well as the diminishing adequacy of using the Consumer Price Index (CPI) residential rent index to adjust FMRs. From FY 1997 - 2001, the percentage of HUD’s FMRs has increased as a result from RDD and AHS findings. Specifically, FMRs resulting from AHS and RDD surveys have increased steadily compared with rents developed through the Census-based FMR methodology alone, from 25% in FY 1997 to 45% in FY 2001.

In FY 2003 and prior years, the department held that the AHS and RDD surveys provided a more accurate measure than the FMR methodology alone. However, in sharp contrast to prior experience, FMRs determined through HUD’s RDDs over the last two years have dramatically decreased proposed FMR values relative to HUD’s FMR methodology alone. In lieu of the implementation of the ACS in the near future, it would appear that either the department’s RDDs or AHS have lost their utility relative to the HUD’s new FMR area definitions or that the department’s new FMR area definitions are less accurate than HUD’s RDDs or AHS housing assessments. However, without any public statements about the underlying reasons for the dramatic reversal in the trends resulting from RDDs and AHS surveys relative to the proposed FMRs alone, we have questions regarding the accuracy of HUD’s new proposed FMRs. We recommend that the department address this issue. The department’s response to this issue in FY 2006 reflects a different understanding of the point NAHRO is making. As such, we welcome the opportunity to discuss this matter further.

**The Role of Utility Costs in Setting Fair Market Rents for Section 8 Housing**

FMRs include utilities, which are based on costs for housing units, and are calculated prior to the beginning of the fiscal year to which they apply. By contrast, utilities are not included in the CPI residential rent index, and CPI data are based on actual costs for the period they cover. The scope of impact on FMR values is significant, because HUD uses CPI data for areas with metropolitan CPI surveys for over 60 percent of the populations.

The Legal Services Client Coalition published a paper entitled, “The Role of Utility Costs in Setting Fair Market Rents for Section 8 Housing.”

The paper provided data revealing how seriously inadequate HUD’s proposed FMRs are when utility bills—particularly seasonal utility bills—are explicitly considered using actual utility company data. The study reviewed 100 different communities, showing that when actual utility costs are disaggregated and considered apart from the FMR as a whole, the FMRs proposed by HUD are inadequate in 38 different cities.

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With regard to the FMR methodology, HUD makes no mention of how utility costs implicit within “gross rents” are developed or determined. We appreciate the department’s providing a better explanation of the utility component of the gross rent in the FMRs than in previous years. However, NAHRO requests that utility components of the FMRs be published separately from the rents that make up each area’s FMR values. In addition, they are not published separately. Interested parties should be able to comment on the utility component of FMRs separately from the overall level of FMRs. In addition to this opportunity, the public should have available an accepted methodology, in much the same fashion as the FMRs as a whole now have available for contract rents. At present, while there is a polling methodology with regard to rents, there is no mechanism available which relates to determination and presentation of utility bill data.

**Insufficient Public Housing Minimum Percentile Used for Census-Based FMR Values**

HUD’s current Census-based FMR rent determination methodology does not filter out all public, otherwise assisted, and substandard housing from its rental distributions. In an attempt to account for this problem before determining the applicable percentile FMR values, HUD excludes units falling below a minimum threshold (which varies from area to area) based on the 75th percentile distribution of public housing rents. NAHRO believes that HUD’s minimum threshold rent for public housing used to compute baseline FMR percentiles does not adequately adjust public housing rents to be consistent with unassisted units with a reasonable likelihood of meeting HQS.

Public housing rents are those based on household incomes rather than the total Allowable Expense Level (AEL)—the amount of money that is required to pay operating costs of the unit. Instead, housing assistance is provided by HUD to HAs to cover the gap between rent and operating costs, plus capital improvement needs. Therefore, the costs of maintaining public housing units are not adequately reflected in the rents used by HUD for determining the public housing cut-off levels.

As a result, public housing rents used by HUD for FMR purposes are significantly below rent levels found in the unassisted market with a reasonable likelihood of meeting their debt service associated with property owners’ ability to maintain Housing Quality Standards. To address this problem in the Census data before computing Census baseline FMR rents, NAHRO recommends HUD revise the FY 2006 FMRs using a public housing rent cut-off at the 95th percentile or higher.

**Relationship Between Quality of Rental Housing Stock and FMRs**

GAO’s recent report titled, “HUD Can Improve Its Process for Estimating Fair Market Rents” found that 14 percent of metropolitan area FMRs and 34 percent of non-metropolitan area FMRs did not fall within a 10 percent range of unassisted gross rents. In combination with HUD’s study results described below, NAHRO believes that significant improvements to capturing more accurate housing quality conditions is needed with respect to the department’s FMR methodology—even after full implementation of the ACS. Without further
improvements, agencies' ability to adequately access the bottom 40th percentile of the housing market in most places around the country will likely continue to be compromised.

The HUD study referenced below suggests that a significant portion of units at the bottom end of the rental housing stock—8 percent to 14 percent—fail HUD's Housing Quality Standards (HQS) and do not have the rent revenue to support making the necessary repairs to come into compliance with HQS. Given that the majority of FMRs are at the bottom 40th percentile of the rental market, even the bottom 8th percentile represents 20 percent of the units under the FMR that are not of sufficient housing quality to qualify for the program. In these instances, HAs have only the bottom 9th to 40th percentile of the rental housing market available and affordable for program participation. Under this scenario, just 80 percent of the program qualifying units the FMRs are designed to access actually meet the housing quality standards.

HUD's “Study on Section 8 Voucher Success Rates Volume I - Quantitative Study of Success Rates in Metropolitan Areas” (November 2001) found that over two-thirds (68 percent) of the successful voucher holders submitted one Request for Lease Approval (RFLA) and the unit passed on the initial inspection. The remaining 28 percent also leased the first unit, but it had to be inspected multiple times before passing inspection. Only 4 percent of voucher holders lease a unit under the Section 8 program, but only after a second or third unit is inspected. The above figures suggest that approximately 14 percent of units inspected under HQS never pass inspection.

As part of the above study, HAs were asked to estimate the proportion of units presented for inspection that passed their first HQS inspection (without needing to be re-inspected). This variable is used as a proxy for housing quality in the local jurisdiction, on the assumption that the higher the proportion of units that pass initial inspection, the better the local stock. About 31 percent of voucher holders were assisted by HAs where no more than half of all units passed on the first inspection. Approximately 49 percent of voucher holders were assisted by HAs where 51 – 75 percent of units passed on the first inspection. Lastly, approximately 20 percent of voucher holders were assisted by HAs where over 75 percent of all units passed on the first inspection.

The above study’s estimates of “success rates” and the factors that affect them are based on a sample of more than 2,600 households that received vouchers from 48 HAs across the country. The sample is representative of all voucher holders in metropolitan HAs that administer programs with more than 800 units (The study universe includes about 60 percent of all vouchers.).

HUD's study titled, “Section 8 Rental Voucher and Rental Certificate Utilization Study” (October 1994) found that where the owner agreed to have the unit inspected and an inspection was performed, Section 8 enrollees moved into those units 89 percent of the time. The two principal factors for 11 percent of the units that were not leased under the program after an initial inspection were 1) failure of Housing Quality Standards or 2) the rent level could not be agreed upon by the property owner and HA.
Over the lifetime of the Section 8 Housing Choice Voucher program, HA program staff have used HUD's HQS to determine adequacy of their rental housing stock. Based on interviews with HA staff, HUD's study titled, “Costs and Utilization in the Housing Choice Voucher Program” (July 2003) found that on average 8 percent of the rental housing stock was classified as “poor.”

Based on the studies noted above, NAHRO believes the department should examine methods to evaluate the percentage of units that fail to meet HQS to determine the downward bias of the existing FMR and adjustment methodologies (AHS, RDD, etc.) and recommend a method to offset any biases found. Given that the ACS does not improve upon the quality of the data gathered about housing quality, this issue remains of continued importance to NAHRO members who are trying to access affordable housing opportunities for low-income households. In addition, this issue has a direct bearing on areas’ qualification for the 50th percentile FMRs.

**Environmental Impact**

Ordinarily, when the department publishes rules revising existing FMRs, an Environmental Impact section is included. However, the proposed rule did not include an examination of the environmental impact, and no mention was made as to whether it qualified for a categorical exclusion from the environmental assessment. NAHRO recommends the department provide the public with an explanation of the environmental impact of the proposed rule.

**Medium and Long-Term Need to Improve FMR Methodology**

NAHRO fully supports the implementation of the Census’s ACS. We understand that ACS data will be available for metropolitan areas by 2007, but it is possible that some adequate sample sizes for some areas around the country may be available in the near future. ACS data are expected to replace RDD surveys. However, RDDs would continue to be used until the ACS is fully implemented. While the ACS is likely to make substantial improvements to HUD’s underlying data for future FMR determinations, there are a number of ongoing concerns that we believe deserve further attention.

**HUD's Definition of "Recent Movers" and "Stayers" Impact on FMRs**

The 40th percentile FMR is drawn from the distribution of rents of all units occupied by recent movers, defined by HUD as renter households who moved to their present residence within the past 15 months. Under the RDD methodology, only 42 percent of the sample results are recent movers. In tight rental markets, renters tend to remain in occupancy longer and move less because their existing rents tend to be more affordable.

HUD PD&R should examine whether capturing only 42 percent of recent movers in the RDD methodology provides an accurate reflection of recent movers’ impact on rental housing costs and make recommendations on possible improvements based on their findings.
The AHS definition comes closest to reproducing the Section 8 Housing Choice Voucher program's Housing Quality Standards for program participation. Out of the 2,704 FMR areas (354 metropolitan areas and 2,350 non-metropolitan county FMR areas), sample sizes and area definitions under each AHS limit its use to approximately 20 areas. RDD surveys provide the closest estimate to the Census determined rents. However, it is worth noting that the Census limited definition of deficient housing quality results in only 1.2 percent of America's housing stock being deficient (1990 Census).

In the past, HUD had considered adding the full set of AHS housing quality questions to some of its RDD surveys to study their impacts. Unfortunately, the ACS does not improve upon the housing quality data gathered beyond that collected in AHS surveys. NAHRO recommends that the department evaluate ways to improve the housing quality data captured for purposes of determining FMRs.

**Exception Payment Standards**

To ensure successful program operation, the Section 8 program rules allow for FMR exceptions to compensate for variations in rent levels and rental housing characteristics that exist within individual housing markets. Upon approval by HUD, an HA may exceed the published FMRs by up to 20 percent for specified geographic submarkets of a larger FMR area. The most common way for HAs to avail themselves of the opportunity for Exception Payment Standards is to follow HUD's "Median Rent Method."

The data provided to the public regarding the methodology used to calculate FMRs through various web-based tools has been helpful to HAs. Given the costly process to HAs and HUD in conducting RDDs, NAHRO recommends that the department make available to HAs via the Internet Census 2000 rent data by bedroom size and rental market in a way that makes it easier for them to determine whether they may qualify for exception payment standards (or special exception payment standards) through the "median rent" method. In light of the fact that there are over 300 counties with proposed decreases in their FY 2006 FMRs, HAs ability to access this information for purposes of applying for “success rate” payment standards is important.

**Insufficient Notification to HAs of Payment Standard Application to HUD Field Offices**

The harmful “snapshot” budget-based funding policy, coupled with diluted FMR values, has contributed to significantly lower voucher success and lease-up rates around the country. In addition, the department has not adequately informed housing agencies in recent years of HUD Field Office Economic Market Analysis Division’s resumption of the payment standard review process for HA requests above 110 percent of the FMR. This notification is essential to a sound FMR and payment standard policy, irrespective of the FMR methodology used.

On October 3, 2005, HUD issued an expedited electronic notification process for HAs in the federally-declared disaster areas to establish separate payment standard amounts up to 120 percent of the published FMR, with higher exception rents to be requested through a described
expedited waiver process. An expedited waiver process is available to non-federally declared
disaster communities that are hosting hurricane evacuees. NAHRO’s recent survey of HAs
found that all of the respondents located in federally-declared disaster areas stated they either
notified or requested an exception payment standard.

**Future FMR and AAF Annual Updates**

NAHRO fully supports the use of the ACS for the calculation of both FY 2007 FMRs and
Annual Adjustment Factors (AAF s). The release of the Census Bureau’s ACS data will
initiate a major change in FMR calculations. The surveys are large enough to provide annual
FMR estimates for large metropolitan areas, and two or more years of data can be combined
to provide reliable estimates for smaller areas. NAHRO supports the re-benchmarking of all
metropolitan areas and FMR areas when sufficient ACS or other data are available to estimate
rents at the same level of accuracy for all other FMR areas.

**HUD Local Market Surveys**

Until such time that use of the ACS is fully operational, NAHRO continues to support HUD
economists’ field work and research of local market conditions, as well as HUD paid RDD
surveys.

**Conclusion**

Attachment A contains a summary of NAHRO’s key recommendations covered in this letter
in greater detail. We look forward to discussing these recommendations with the department
and would be happy to address any questions that you might have.

Thank you for the opportunity to comment on the proposed FY 2007 FMRs. If you have any
questions, please feel to call me at (202) 289-3500 ext. 7215 or Jonathan Zimmerman at ext.
7213.

Sincerely,

John F. Bohm
Director of Legislation, Program Development & Media
Attachment A:
Summary of NAHRO’s Key Recommendations

Adoption of OMB Areas

NAHRO recommends that HUD use the prior OMB area definitions (implemented from FY 1993 – FY 2005) and the prior methodologies used for the most recent U.S. Census Bureau data to re-benchmark FMRs and bedroom size intervals.

NAHRO requests a detailed explanation as to why the extensive new ACS data which is collected and processed based on the new OMB definitions could not also be used by the department for purposes of calculating and publishing FMR values under the former OMB definitions (implemented from FY 1993 – FY 2005).

NAHRO requests an explanation of the annual criterion the department will apply to determine whether or not a strong program reason exists to rescind the modified OMB areas.

Changing Other Counties from Non-Metropolitan to Metropolitan under OMB Definitions

NAHRO recommends that the former metropolitan counties (FY 1993 to FY 2005) which were removed from their MSAs or CBSAs, have their FMRs based on the 2000 Census-based rent method used in the FY 2005 FMR calculations.

Under HUD’s proposed FY 2006 and FY 2007 FMR-modified OMB area definitions and methodology, the rental housing values from the nonmetropolitan counties are included in determining the FMR values of the core CBSA but are removed from the proposed FMR areas. Generally however, HUD assigned separate FMRs to component counties of CBSA Micropolitan Areas. There does not appear to be a good technical or policy reason for this double counting. The effect of this double counting, however, is to dampen FMRs in all affected FMR areas. NAHRO recommends that these counties should have their FMRs based on the 2000 Census-based rent method used in the FY 2005 FMR calculations.

Proposed Modifications to the County-based Statistical Areas (CBSAs)

For purposes of evaluating the 5 percent change, NAHRO believes that the FY 2007 proposed FMR values should not be compared with final FY 2006 FMR values because the FY 2006 FMRs already reflect values influenced by the adoption and modifications made to date with respect to the OMB area definitions. Instead, any FMR differences of 5 percent or more should be evaluated relative to the FMR values that would have existed absent adoption of the OMB areas or sub-areas (for FY 2006, FY 2007 and beyond). NAHRO supports a “Modified Implementation of the New OMB Definitions” policy which applies to the former OMB areas (FY 1993 – FY 2005).
To initiate its policy as proposed and implemented in FY 2006, the department should provide proposed FY 2007 FMR values (as well as proposed FY 2007 income limits) and supporting documentation as if the former OMB areas (FY 1993 – 1995) and corresponding methodologies were in effect. After such calculations had been performed and compared with the proposed FY 2007 FMRs (and income limits) using the modified OMB area definitions (from FY 2006), then the 5 percent test could be applied. NAHRO recommends adherence to this recommended policy, as it is consistent with the changes resulting directly and solely from the adoption and modification of the new OMB area definitions (in FY 2006 and FY 2007) themselves. NAHRO’s recommendations concerning both area disaggregation and “hold harmless” policies, apply whether or not there is as a change of five percent or more in income limits.

**Intersection of Income Limits and FMR Values for Purposes of Defining FMR Areas**

In FY 2006, HUD implemented the Youngstown-Warren-Boardman, OH-PA MSA. In FY 2007, HUD proposes to split Mercer county, formerly designated as a metropolitan county in FY 2006, into a non-metropolitan county in FY 2007, from the counties of Mahoning and Trumbell as part of the Youngstown-Warren-Boardman, OH HMFA. However, the counties of Mercer, Mahoning, and Trumbull were not listed in the Section F table for purposes of comparing FMR values. Upon closer examination of the underlying data, Mercer county’s two-bedroom FMR was $541 in FY 2006 when listed as part of Youngstown-Warren-Boardman, OH-PA MSA but when removed and classified as a non-metropolitan county its two-bedroom FMR is proposed in FY 2007 to drop to $519. Does this and other similar examples comport with the department’s stated “hold harmless” policy? If not, NAHRO requests that this and other similar areas be corrected to comply with HUD’s “hold harmless” policy.

**Inadequate Improvement, Alignment and Application of Annual Adjustment Factors**

NAHRO recommends that HUD do everything in its power to correct for prior inactions on making improvements to AAFs as described in the final report issued on October 14, 1999 by the Negotiated Rulemaking Advisory Committee and prepared by The Consensus Building Institute. Further, the department should implement inflation factors from the American Community Survey as soon as possible.

NAHRO recommends that HUD look at the trend in the differences between OMB and AAF values, as the department contemplates its budget submissions to the Congress in future years.

NAHRO respectfully requests an explanation of the department’s changed approach in applying AAFs in FY 2002 – FY 2005, as it pertains to the AAFs with the highest cost utility included.
Missing CPI Update Factors or 2005 ACS Replacement Data for Class B and C Size Cities

Data from the 2004 ACS was not available in time for inclusion in the final FY 2006 FMR publication. As a result, in FY 2006, Class B- and C-sized cities did not have the benefit of local CPI update factors. NAHRO would object strongly on substantive grounds if the final FY 2007 FMR values for Class B and C size cities do not include local CPI update factors or the 2005 ACS data to replace that missing data for a second year in a row. If this should occur, HAs and the families they serve in Class B and C size cities should not be penalized for the department’s improper planning assumptions to cover the 15 month period from the end of 2005.

Future FMR Annual Updates

Section E of the subject Notices states, “future updates to FMRs will be made at the metropolitan area level and applied to all FMR areas within metropolitan areas where they have been separately designated.” NAHRO objects to the department’s future implementation of annual FMR updates as described in Section E on grounds of both substance and process.

FY 2007 FMRs Do Not Adequately Reflect Utility Cost Increases

The proposed FY 2007 FMRs do not reflect increased utility allowances of 10 percent or greater for approximately 76 percent of agencies. Based on the department’s acknowledgment about unmet utility expenses in the Public Housing program for which there was no supplemental funding sought, we are concerned about the programmatic impacts on voucher-assisted households throughout the country, and renew our previous request accordingly.

FMR Values Related to Hurricane Impacted Areas

In order to address FMR and utility-related concerns stemming from Hurricanes Katrina and Rita, NAHRO recommends the following:

- institute a moratorium on any reductions in 50th percentile FMRs for at least two years for any of the federally-declared disaster areas or surrounding communities which are providing housing assistance to evacuees;
- enable the agencies in the impacted areas to go up to the 150th percentile FMR without HUD approval;
- accept Has’ exemptions in any reductions in 50th percentile FMRs for voucher-assisted households already under lease by the effective date of the final notice;
- provide notification of proposed FMR geographic changes that may affect re-qualification for the 50th percentile FMRs for FY 2007; and
• provide supplemental utility allowance funding for the affected programs and other HUD-assisted programs, and publish a supplemental FY 2007 FMR notice which addresses fluctuating utility allowances.

Re-Qualification for 50th Percentile FMRs Areas

We call upon the department to provide a comparison of how 50th percentile FMRs would have fared under the established criterion for renewed 50th percentile FMR status.

NAHRO requests that HUD release its study of the 50th percentile FMRs to determine their costs and the extent to which they may or may not have helped HAs accomplish intended deconcentration benefits under the 50th percentile FMRs.

Reasons Areas Lost Their 50th Percentile Designations

NAHRO also calls upon the department to publish a list of housing agencies that met the 85 percent reporting rate under the HCV program, absent MtW agencies in those FMR areas. NAHRO recommends the department reinstate agencies in these FMR areas that otherwise qualified, as well as provide notification of future reporting rate requirements for continued 50th percentile FMR status.

NAHRO calls upon the department to publish its methodology with regard to several HAs’ share of the census tracts with significant numbers of rental units where at least 30 percent of two-bedroom units are affordable at the 40th percentile FMR exceeded 70 percent, and to provide an explanation of its accuracy. NAHRO recommends the department reinstate agencies in these FMR areas that otherwise qualified, and provide notification of future rounding methods used for continued 50th percentile FMR status.

While the statutory language is permissive with respect to HUD’s enforcement in particular cases, it does enunciate a clear congressional intent that a significant fraction of families served by the voucher program not bear undue rent burdens. Consistent with the FMR regulatory comment letter from last year, we remain concerned that the department did not undertake such a review prior to the issuance of proposed FY 2006 or FY 2007 FMRs. As a result, we are concerned that the proposed FMRs may in fact exacerbate affordability problems. NAHRO urges the department to undertake a review of voucher-assisted housing burdens as described above, and take necessary actions to comply with the statutory and regulatory requirements noted above before issuing final FY 2007 FMRs. In addition, under 42 U.S.C. 1437f 13 the department has a statutory obligation to document excessive housing cost burdens showing the share of family income paid toward rent under the Housing Choice Voucher program. At least once a year the department is also required to submit a report to Congress.

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NAHRO calls upon the department to suspend implementation of the FY 2006 FMRs which adversely impact HAs (as documented in our comment letters and analyses).

**Rescind Restrictive Waiver Approval Standards in PIH Notice 2005-9**

HUD issued PIH Notice 2005-9 providing guidance designed to assist agencies under certain local conditions in offsetting funding shortfalls through program cost reductions allowed under the regulations, including shorter time frames for implementing lower payment standards and reducing utility allowances. Department officials’ public statements and notifications to HAs stated that waivers under PIH Notice 2005-9 will only be approved if the HA can demonstrate a shortfall that would result in the termination of participant families, and that waivers will not be approved to allow an HA to lease up more units. NAHRO recommends that the department address the harmful effects of its discretionary policy which prevents approval of HAs’ requests to lower their voucher payment standards and to be implemented in less time than existing households’ second re-examination (as described above). NAHRO urges the department to reverse its positions on these issues in an expeditious and manageable fashion, within the confines of the law.
Attachment B:
Changing Other Counties from Non-Metropolitan to Metropolitan under OMB Definitions

Adopting OMB’s area definitions will result in increases in the FMR values for 184 formerly non-metropolitan counties being designated as metropolitan counties for FY 2006. These counties include approximately 14.7 million people. However, as previously stated, 51 formerly non-metropolitan counties with sufficient rental survey observations proposed for conversion to metro areas to be consistent with OMB’s area definitions also resulted in decreases in FMR metro values for the other counties in those metro areas. There was a 2 percent weighted average increase of the remaining 133 formerly non-metropolitan counties with sufficient rental survey observations proposed for conversion to metro areas to be consistent with OMB’s area definitions.

Unlike the department’s methodology for counties proposed to be added to metropolitan areas, HUD’s methodology did not provide counties that are proposed to be removed from metropolitan areas to have their FMRs based on the 2000 Census-based rent method used in the FY 2005 FMR calculations. This methodology resulted in sharp declines in their proposed FMR values, as well as an inequitable treatment of counties proposed for removal of metropolitan areas. There was a 5 percent weighted average decrease of the 77 formerly non-metropolitan counties with sufficient rental survey observations proposed for conversion to metro areas to be consistent with OMB’s area definitions. These counties include approximately 3.7 million people. Attachment C contains a list of the proposed impacts of converting former metropolitan counties into non-metropolitan counties. As stated in our earlier written comments, we believe that HUD should in these instances also base FMRs for the counties removed from metropolitan areas on the 2000 Census-based rent method used in the FY 2005 FMR calculations.

### NAHRO’s Estimated Percent Impact on Metro Area

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<tr>
<th>Metro Area Name</th>
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<tr>
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<td>San Angelo, TX MSA</td>
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<td>Percentage</td>
<td>Location</td>
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<td>Wichita Falls, TX MSA</td>
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## Attachment C: Impact of Converting Former Metropolitan Counties Into Non-Metropolitan Counties in proposed FY 2006 FMRs

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<th>Town/County '06</th>
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<th>FMR Area</th>
<th>Percent Impact (FY '05 – '06)</th>
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<td>Ashtabula County, OH</td>
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<td>Davidson County, NC</td>
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<td>Genesee County</td>
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<td>Harrison County</td>
<td>Harrison County</td>
<td>Harrison County, TX</td>
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<td>Island County</td>
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<td>Montgomery</td>
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<td>Nye County</td>
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<td>Nye County, NV</td>
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<td>Ogle County</td>
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<td>Ogle County, IL</td>
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<td>Peach County, GA</td>
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<td>Pottawatomie</td>
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<td>Scott County</td>
<td>Scott County</td>
<td>Scott County, IN</td>
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<tr>
<td>Webster Parish</td>
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Attachment D: Impact of FY 2006 Reductions of 50th to 40th Percentile FMRs

NAHRO’s 2006 survey further illustrates the adverse programmatic impacts of the FY 2006 FMRs, with the areas and methodologies repeated in large measure in FY 2007. Forty-HAs provided information in NAHRO's survey conducted from January 15 – April 30, 2006 about the impacts of HUD's FY 2006 FMRs, which reduced 34 areas from 50th percentile FMRs to the 40th percentile. When asked about the impact of HUD's reduction of 50th percentile FMRs to the 40th percentile in FY 2006, respondents stated:

**Housing Agency's Voucher Lease-up Rates:** 57 percent of respondents stated that it will have adverse impacts on their voucher lease-up rates.

**Households' Searching Time & Households' Lease-ups:** 46 percent of respondents stated that it will have adverse impacts on voucher-assisted households' searching time and/or ability to lease-up with their voucher.

**Households' Housing Cost Burdens:** (i.e., rent + utilities or voucher homeownership costs): 64 percent of respondents stated that it will have adverse impacts on voucher-assisted households' housing cost burdens.

**Deconcentration of Poverty:** 55 percent of respondents stated that it will have adverse impacts on their ability to promote the deconcentration of poverty.

**Recruiting Property Owners:** 48 percent stated that it will have adverse impacts on their ability to recruit property owners in the HCV program, Section 8 project-based voucher (PBV) assistance program, HOME, and/or LIHTC program.

**Retaining Property Owners:** 48 percent of respondents stated that it will have adverse impacts on their ability to retain property owners in the HCV program, PBV assistance program, HOME, and/or LIHTC program.

**Utility Costs:** 82 percent of respondents stated that the utility costs in their area increased, resulting in increased utility allowances of 10 percent or greater for 76 percent of agencies. These utility-related increases were not reflected in the final FY 2006 FMRs, and are not reflected in the proposed FY 2007 FMRs.

**FMR Increases Versus Exception Payment Standards:** With the same amount of annual budget authority in FY 2006, 47 percent of respondents stated that there is a difference in their HCV program operations effective and efficient use of Section 8 funding between receiving an approved HUD exception payment standard (120 percent) versus HUD raising their area FMR values by 120 percent and allowing their HA to set payment standards between 90 - 110 percent (by bedroom size, neighborhood and for reasonable accommodations) of the increased FMR value. All respondents that were located in federally-declared disaster areas stated that with the same amount of annual budget authority in FY 2006, they would prefer HUD raising...
their area FMR values by 120 percent, allowing them to set payment standards between 90 - 110 percent of the increased FMR value.
Attachment E: Impact of FY 2006 FMRs in Hurricane Impacted Areas

NAHRO’s 2006 survey further illustrates the adverse programmatic impact of the FY 2006 FMRs as it related to federally-declared disaster areas, with the FMR areas and methodologies repeated in large measure in FY 2007. When asked in NAHRO’s recent survey about the impact of HUD's decision to not increase FY 2006 FMR values in the wake of hurricanes Katrina, Rita and Wilma, other than the expedited electronic process:

Housing Agency's Voucher Lease-up Rates: 13 percent of respondents stated that it has had adverse impacts on their voucher lease-up rates.

Households' Searching Time & Households' Lease-ups: 18 percent of respondents stated that it has had adverse impacts on voucher-assisted households' searching time and/or ability to lease-up with their voucher.

Households' Housing Cost Burdens (i.e., rent + utilities or voucher homeownership costs): 18 percent of respondents stated that it has had adverse impacts on voucher-assisted households' housing cost burdens.

Deconcentration of Poverty: 5 percent of respondents stated that it has had adverse impacts on their ability to promote the deconcentration of poverty.

Recruiting Property Owners: 5 percent of respondents stated that it has had adverse impacts on their ability to recruit property owners in the HCV program, PBV assistance program, HOME, and/or LIHTC program.

Retaining Property Owners: 5 percent of respondents stated that it had an adverse impact on their ability to retain property owners in the HCV program, PBV assistance program, HOME, and/or LIHTC program.
Attachment F: Counties Affected by Changes of 5 Percent in Income Limits

- In FY 2006 HUD implemented the Hagerstown-Martinsburg, MD-WV MSA and Washington-Arlington-Alexandria, DC-VA-MD HMFA from FY 2006. In FY 2007, HUD proposes to split the District of Columbia as part of the Washington-Arlington-Alexandria, DC-VA-MD HMFA from the counties of Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, Alexandria city, Fairfax city, Falls Church city, Fredericksburg city, Manassas city, Manassas Park city as part of the Washington-Arlington-Alexandria, DC-VA-MD HMFA from Washington county as part of the Hagerstown, MD HMFA from the counties of Berkeley and Morgan as part of the Martinsburg, WV HMFA;

- In FY 2006, HUD implemented the Miami-Fort Lauderdale-Miami Beach, FL MSA. In FY 2007, HUD proposes to split Broward county in the Fort Lauderdale, FL HMFA from the counties of Miami-Dade as part of the Miami-Miami Beach-Kendall HMFA from the county of Palm Beach to form the West Palm Beach-Boca Raton, FL HMFA;

- In FY 2006, HUD implemented the Columbus, OH HMFA. In FY 2007, HUD proposes to split Union County as part of the Union County, OH HMFA from the counties of Delaware, Fairfield, Franklin, Licking, Madison, Morrow, Pickaway as part of the Columbus, OH HMFA;

- In FY 2006, HUD implemented the Jefferson City, MO HMFA. In FY 2007, HUD proposes to split Callaway county as part of the Callaway County, MO HMFA from the counties of Cole, Osage as part of the Jefferson City, MO HMFA;

- In FY 2006, HUD implemented the Louisville, KY-IN HMFA. In FY 2007, HUD proposes to split Shelby County as part of the Shelby County, KY HMFA from the counties of Bullitt, Henry, Jefferson, Oldham, Spencer, Trimble as part of the Louisville, KY-IN HMFA; and

- In FY 2006, HUD implemented the Macon, GA MSA. In FY 2007, HUD proposes to split Monroe County as part of the Monroe County, GA HMFA from the counties of Bibb, Crawford, Jones, Twiggs as part of the Macon, GA MSA. However, the Macon, GA MSA was not listed in Section F table for purposes of comparing FMR values.

If you have any questions, please feel free to contact me at 202-289-3500 or via e-mail at jzimmerman@nahro.org. Thank you for your consideration of our comments.