



**National Association of Housing and Redevelopment Officials**

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August 15, 2016

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

Re: [Docket No. FR-5855-P-02] Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs

To Whom It May Concern:

On behalf of our agency members--who manage 1.7 million Housing Choice Vouchers--and the more than 20,000 individual members that make up the National Association of Housing and Redevelopment Officials (NAHRO), I would like to offer the following comments in response to the notice published in the *Federal Register* on June 16, 2016, titled "Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs." NAHRO would like to thank the United States Department of Housing and Urban Development (HUD or the Department) for the opportunity to comment on this proposed rule.

NAHRO does not believe that this proposed rule to implement Small Area Fair Market Rents (SAFMRs) in certain metropolitan areas should be implemented as currently written. NAHRO's primary recommendation is the following:

All PHAs should have the option to voluntarily implement SAFMRs—including Project-Based Vouchers (PBVs)—according to the needs of their local communities.

**Stephen W. Merritt**, PHM, President; **Carl S. Richie, Jr.**, NCC, NAHRO Fellow, Senior Vice President; **Julie Brewen**, Vice President-International Research and Global Exchange; **Donna Brown-Rego**, Vice President-Member Services; **Donovan Duncan**, Vice President-Community Revitalization and Development; **Duane Hopkins**, Vice President-Professional Development; **Richard Leco**, PHM, Vice President-Commissioners; **Regina Mitchell**, SPHM, PHM, Vice President-Housing; **John F. Bohm**, Acting Chief Executive Officer.

Additionally, NAHRO strongly believes that the mandatory imposition of SAFMRs has the potential to cost burden many current or future program participants. While NAHRO appreciates HUD's commitment to "monitoring the progress of use of Small Area FMRs in addressing high levels of voucher concentration" to test "the core hypothesis . . . that this will significantly expand the ability of [Housing Choice Voucher] holders to access housing in neighborhoods with high-quality schools, low crime rates, and other indicators of opportunity," NAHRO does not believe that a policy that has the potential to have such a large deleterious effect on the lives of hundreds of thousands of people should be implemented as an experiment.<sup>1</sup> Given the large number of people and large effect on their lives, it is too early to implement this policy without further empirical evidence of its effects.<sup>2</sup>

This comment letter is split into two major sections. The first section details NAHRO's objections to the proposed rule. NAHRO's objections can be placed into three broad categories: first, concerns about the welfare of tenants under the proposed rule; second, tenant choice concerns about the proposed rule; and third, objections based on the additional administrative burdens imposed by the proposed rule. In this first section, NAHRO also notes why additional research is necessary. The second section responds to HUD's specific solicitations of comment in its notice.

## **1. Broad Concerns with the Small Area Fair Market Rents Proposed Rule**

NAHRO has many concerns about the implementation of SAFMRs proposed by this rule. NAHRO's concerns fall into three broad categories tenant welfare concerns, tenant choice concerns, and administrative burden concerns.

### **a. Tenant Welfare Concerns**

NAHRO believes that a mandatory imposition of SAFMRs on certain metropolitan areas will have a deleterious effect on Housing Choice Voucher (HCV) program participants. NAHRO believes that it will increase the housing cost-burden of program participants significantly.

#### **i. Barriers to Entry in "high-opportunity" zip-codes**

After consulting with our membership, NAHRO does not believe that the shift to SAFMRs will lead to program participants moving to "high opportunity" areas. One of the reasons for this is

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<sup>1</sup> 81 Fed Reg. 39,226 (Proposed June 16, 2016).

<sup>2</sup> NAHRO is aware that HUD is concerned about the current cycling in and out of jurisdictions from 50<sup>th</sup> percentile FMRs, but NAHRO believes that the potential negative effects of mandatorily imposing SAFMRs exceed the negative effects of the current cycling on Housing Choice Voucher programs and current Housing Choice Voucher program participants.

that lower payment standards are only one barrier to entry to these “high opportunity” areas. Removing one barrier to entry will not necessarily cause people to move to “high opportunity” areas when other barriers remain. Other barriers to entry that could hinder people’s shift to “high opportunity” areas include low vacancy rates, lack of housing mobility counseling, and lack of supplemental fees for security deposits.

### **1. Low Vacancy Rates**

After discussing this with our membership, we believe that the proposed rule will be most detrimental to tenant welfare in metropolitan areas with low vacancy rates. In these areas, program participants will be unable to find new units in “high-opportunity” areas because of the scarcity of available units. The criteria for determining whether SAFMRs should be mandatorily imposed on a region does not take into account vacancy rates, but only takes into account the stock of available housing. The Department should allow PHAs, the entities with the greatest knowledge of their local markets, to decide whether it makes sense to implement SAFMRs in their jurisdictions.

As discussed in greater detail later in this comment letter, much of this rule is premised on the findings of a study of the Dallas mobility program.<sup>3</sup> HUD should not assume that the findings from this study are applicable nationally because the Dallas rental housing market is very different from other rental housing markets around the country. Before implementing the SAFMR rule, additional housing markets should be studied, so all potentially adverse effects can be caught.

### **2. Lack of Housing Mobility Counseling**

Another barrier to entry is lack of knowledge about “high-opportunity” areas amongst program participants. To increase knowledge about neighborhoods where program participants may not have knowledge (perhaps because of a lack of social networks), mobility counseling is required. Mobility counseling can help to ease the transition to neighborhoods by foreseeing problems and helping households to navigate around those problems. Without mobility counseling, program participants may face high hurdles in moving to “high opportunity” areas.

### **3. Lack of Supplemental Fees for Security Deposits**

Another barrier to entry in “high-opportunity” areas is the lack of money that program participants may have to cover additional expenses such as security deposits. From discussing

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<sup>3</sup> Collinson, R. and Ganong, P. (2015, May) The Incidence of Housing Voucher Generosity. ([http://papers.ssrn.com/sol3/papers?abstract\\_id=2255799](http://papers.ssrn.com/sol3/papers?abstract_id=2255799)).

the issue with our membership, it is their experience that these additional expenses are more likely to occur in “high-opportunity” areas. In many cases, these expenses may prove to be an insurmountable burden without the aid of additional resources. Other rental housing markets may have these additional expenses to a greater extent than the Dallas rental market.

**ii. SAFMRs will negatively affect place based solutions by lowering the impact of PBV funding streams**

A switch to using SAFMRs for PBVs will have a negative impact on place-based solutions. Our membership feels that there is the potential for the switch to SAFMRs for PBVs to negatively impact place-based development in some communities. With the imposition of SAFMRs, projects currently being developed are less likely to receive financing. This is because in those areas where many developments are being built, the SAFMR will be less than the current FMR. As PHAs rely on the projected revenue streams for these PBV units to guarantee financing, the lower projected revenue streams will make these developments difficult to complete.

It is true that while there will be some zip codes with lower PBV revenue streams, there will be “high-opportunity” zip codes with higher projected PBV revenue streams under the imposition of a SAFMR rule. According to our membership, the higher projected revenue from these PBVs will not be enough to offset the cost of developing in these neighborhoods in many instances across the country. Thus, while the intended effect of the regulation may be to shift development to “high-opportunity” areas, the actual effect will be to lower the total amount of affordable housing units created in jurisdictions that have SAFMRs mandatorily placed on them.

**iii. High opportunity areas are not the same as “high opportunity” zip codes**

Another concern of NAHRO’s is that “high-opportunity” areas are not necessarily those zip codes that have the most expensive rental properties. There is no reason to believe that areas that have high rental prices are necessarily those that would have the best living environments for families. There are alternative metrics that might be better suited for deciding what a “high-opportunity” area is and these metrics might vary by local jurisdiction.

It is also NAHRO’s understanding that there is currently research being undertaken that aims to identify better metrics for areas of opportunity.<sup>4</sup> A mandatory imposition of this rule should not

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<sup>4</sup> It is NAHRO’s understanding that Stanford researcher Raj Chetty is working with PHAs across the country to better identify areas of opportunity. Moving too quickly with a poorly designed SAFMR rule without waiting for additional research may be counterproductive.

occur until this research is published in peer reviewed journals and evaluated so that it may better inform future discussion around mobility and opportunity.

**iv. SAFMRs may contradict PHA and regional compliance with consolidated planning and Fair Housing requirements**

As HUD notes in its *Affirmatively Furthering Fair Housing Rule Guidebook*, “[d]ifferent strategies will be relevant in different contexts.”<sup>5</sup> HUD notes that in areas with lower housing cost and high vacancy “vouchers [sic] mobility strategies may be more effective,” but in areas with higher housing cost and low vacancy “preservation of existing assisted units can be combined with neighborhood revitalization.”<sup>6</sup> Mandatorily imposing SAFMRs may make it harder for PHAs to affirmatively further fair housing because they will no longer have the discretion to implement strategies that best fit their local circumstances. This proposed rule will serve as a hindrance for many PHAs as they are trying to complete their Assessment of Fair Housing.

**v. Higher cost-burdens for those families that are unwilling or unable to move**

Those households that are unable or unwilling to move to “high opportunity” areas will suffer higher cost burdens and will be forced to prioritize between housing and other basic needs.

**1. Those families that choose to stay or cannot move because of barriers to entry in “high-opportunity” areas will be excessively cost-burdened**

Depending on the effective date of certain provisions in the Housing Opportunity Through Modernization Act of 2016 (HOTMA),<sup>7</sup> certain families may be excessively cost burdened by the imposition of SAFMRs. Those families that choose to stay or cannot move because of barriers to entry (see above) will be excessively cost burdened. They will see a cut to their subsidy and will be forced to spend more of their limited income towards housing.

These families will face greater cost burdens than they would have without the imposition of this SAFMRs rule. These higher cost burdens will force the families to cut back on other areas of

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<sup>5</sup> *Affirmatively Furthering Fair Housing Guidebook*, p. 130.  
(<https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf>.)

<sup>6</sup> *Affirmatively Furthering Fair Housing Guidebook*, p. 130.  
(<https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf>.)

<sup>7</sup> The act contains a provision that allows for PHAs to choose to hold harmless FMRs and SAFMRs if they decrease for a household that is already a program participant as long as that household remains in their current unit.

spending. As described in a 2013 Joint Center for Housing Studies report, cost burdened families have “much less to spend on other necessities that profoundly affect quality of life. For the lowest-income households, high housing costs means skimping on other basic needs to the detriment of their health and well-being. Cost-burdened households with even modest incomes spend less on vital needs.”<sup>8</sup> Greater cost-burdens may mean that these families will have less money on food, transportation, health care, retirement savings, and other categories of non-housing spending. The Department should not be the cause of a greater housing burden and potentially be the cause of a family having to choose between greater spending on housing or greater spending on other necessities.

## **2. There needs to be clarity around how FMR hold-harmless provisions in HOTMA will impact this proposed rule**

With the passage of HOTMA, there is a provision that allows PHAs to hold harmless FMR (and SAFMR) payment standards, if they are decreased. There needs to be greater clarity on when the provision will apply and whether it will be in effect before the proposed SAFMR rule becomes a final rule. Having the HOTMA provision in effect before any mandatory transition to SAFMRs is essential to making sure that people who are currently in the HCV Program in areas that will be forced to make the transition, will not face a cut in subsidy.

NAHRO would also like to make clear that the hold harmless provision is not enough by itself. The provision is only applicable to households that are program participants for the unit that they currently live in. This will not protect future households from facing rental markets where they are starting at a disadvantage in certain neighborhoods because they now face reduced subsidies in those neighborhoods. In those areas where there will be greater subsidies, they still face other barriers to entry, despite this rule.

## **3. Current FMR methodology tends to undervalue markets, SAFMRs may undervalue certain neighborhoods even more**

From speaking with our membership, there is a broad concern that the current FMR methodology tends to undervalue rental markets in many metropolitan areas. While NAHRO is aware that for the FY 2017 FMRs and SAFMRs, HUD will be changing the methodology used to calculate FMRs, there is still a concern that because of the ACS data set used, it may still not accurately reflect current rental prices. If the current FMRs are actually undervaluing many metropolitan rental markets, then the lower SAFMR, which is also based on a similar

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<sup>8</sup> *The State of the Nation's Housing 2013*, Joint Center of the Nation's Housing, p. 32. ([http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/ahr2013\\_05-affordability.pdf](http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/ahr2013_05-affordability.pdf).)

methodology and American Community Survey data may be undervaluing those neighborhoods to a greater extent.

NAHRO feels that additional research is needed to confirm or disprove this point. We recommend that HUD pick a representative sample of SAFMRs and then conduct market research studies to see how accurately the SAFMRs represent the true fair market rent in those zip codes. Our membership believes, through anecdotal evidence, that current FMRs are currently undervaluing the rental markets and that SAFMRs will undervalue those markets to a greater extent until a different methodology and data set are used to calculate them.

#### **b. Tenant Choice Concerns**

NAHRO believes that the mandatory imposition of SAFMRs on metropolitan areas will lead to disincentivizing program participants from living in certain neighborhoods. Disincentivizing living in certain neighborhoods constrains tenant choice.

##### **i. Disincentivizing living in certain neighborhoods reduces choice among program participants**

NAHRO believes that the transition to SAFMRs goes against the spirit of the HCV program and the spirit of federally assisted housing in general. The goal of these programs is to increase choice for program participants. The mandatory imposition of SAFMRs in metropolitan areas will lower payment standards for many neighborhoods for the explicit purpose of disincentivizing people from living in those neighborhoods.

The Department is no longer promoting choice when the purpose of regulations that they are promulgating is disincentivizing people from living in certain neighborhoods. This disincentive, while not absolutely barring people from living where they choose, does still present a thumb on the scales when people are making their decisions about which neighborhood to live.

Additionally, disincentivizing people from living in certain neighborhoods may have a detrimental impact on those neighborhoods. Additional research is required to see the effects of disincentivizing people living in certain neighborhoods has on those neighborhoods. If disincentives to living in a neighborhood have a negative effect on the neighborhood, then the proposed SAFMR rule is likely to have a negative effect on HUD's place based strategies, which the Department has stated are as important as their mobility strategies.

### **c. Administrative Burden Concerns**

NAHRO has concerns about how the mandatory imposition of SAFMRs on certain metropolitan areas will increase the administrative burden of PHAs in those regions. Increased administrative burden is functionally similar to a decrease in funding, meaning that PHAs will be less able to efficiently serve program participants and will have a smaller positive impact on their communities.

#### **i. SAFMRs will increase administrative burdens and neither the current administrative fee formula nor any of the proposed administrative fee formulas take into account the administrative costs**

A mandatory switch to SAFMRs will prove to be administratively costly. These administrative costs would span both short and long time horizons. In the short term, PHAs will have to make large up-front investments in Information Technology (IT) upgrades and developing new systems to deal with the potentially hundreds or thousands of new payment standards. Depending on when and how implementation of HOTMA's FMR payment standard provision is implemented, this may add additional complexity.<sup>9</sup>

NAHRO is grateful that HUD is looking for ways to reduce administrative burdens, but one of the methods mentioned, "to round Small Area FMRs to the nearest ten dollars to make it easier to arrange the small areas into payment standards," will not substantially reduce administrative burden.<sup>10</sup> After discussions with our membership, we believe that while this will reduce the total number of payment standards that have to be administered, it will not reduce them to a sufficient degree to make a meaningful impact on the overall level of administrative burden added by the mandatory imposition of this rule.<sup>11</sup>

While NAHRO appreciates HUD's response that "HUD recently released a final report on the costs of running a high performing housing authority and HUD is currently engaged in a proposed rulemaking effort regarding the administrative fee formula," it should be noted that *The Housing Choice Voucher Program Administrative Fee Study* did not calculate the costs of running a high performing housing authority that was using SAFMRs.<sup>12</sup>

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<sup>9</sup> Please see subsection titled "HOTMA may make administration of SAFMR rule more complex."

<sup>10</sup> 81 Fed Reg. 39,223 (Proposed June 16, 2016).

<sup>11</sup> NAHRO members are also skeptical about HUD's proposed mobile application to automate payment standard determinations.

<sup>12</sup> 81 Fed Reg. 39,223 (Proposed June 16, 2016).



The use of SAFMRs will likely add complexity and time to the administration of payment standards, which are not currently accounted for in the current administrative fee formula. None of the proposed administrative fee formulas take into account the use of SAFMRs and *The Housing Choice Voucher Program Administrative Fee Study* did not assess whether the use of SAFMRs were a cost driver. The study formula initially had a small area rent ratio variable, which was “a measure of how the average rents in the area where a PHA’s voucher participants live compare with the average rents for the overall area.”<sup>13</sup> This variable, which has been removed in the latest iteration of the formula, did not calculate the cost of using SAFMRs though.

NAHRO anticipates that mandatory imposition of SAFMRs will mean that any formula based on *The Housing Choice Voucher Program Administrative Fee Study* will have less predictive power than if this rule were not implemented. Implementing this rule may make it harder to argue for the implementation of the revised new proposed administrative fee formula as it is currently written.

**ii. SAFMRs are difficult to explain to landlords and may result in landlords leaving the program**

One of the long term costs to HCV programs will be the difficulty in repeatedly explaining the varied payment standards to landlords. PHAs will have to create new education materials to explain the more complex system. Landlords will have trouble adjusting to a system where they may own multiple properties in multiple zip codes and will be forced to have different payment standards in different zip codes. Adding to this complexity may be the payment standard provisions in HOTMA, which have the potential to add multiple payment standards to single buildings.<sup>14</sup> The additional complexity has the potential to drive landlords away from the HCV program.

**iii. SAFMRs are difficult to explain to tenants**

Another long term cost to HCV program will be the difficulty in explaining the varied payment standards to tenants. In addition to repeatedly having to create new fact sheets or tables of thousands of payment standards, this multitude of payment standards will be difficult to explain and constantly update so that tenants know how much their voucher is worth in a particular area. This additional complexity may make it harder to lease-ups to occur.

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<sup>13</sup> *The Housing Choice Voucher Program Administrative Fee Study*, p 139.

<sup>14</sup> Please see subsection of this letter titled “HOTMA may make administration of SAFMR rule more complex.”

**iv. HOTMA may make administration of SAFMR rule even more complex**

The implementation of the payment standards provision of HOTMA may result in additional complexity in the administration of this rule that HUD did not envision when initially drafting it. If a PHA chooses to hold harmless those households that receive a subsidy reduction, then they will have to keep track of additional payment standards. For example, if the PHA holds harmless the payment standard of a family that receives a subsidy deduction, but then has another family move into a different unit in the same building, there may be multiple payment standards for which the PHA must keep track. While this is an additional layer of administrative complexity with normal FMRs, with SAFMRS in metropolitan regions this may lead many more payment standards that PHAs may need to keep track of.

There may also be budget consequences for PHAs that hold harmless all those that receive subsidy cuts, while providing for higher payment standards for those that live in “high opportunity” areas.

**v. PHAs will have to spend additional time explaining to their local community leaders why HUD is favoring one neighborhood over another**

Our membership has expressed a concern that the imposition of mandatory SAFMRs will force many PHAs to have to explain to local community leaders (e.g., city council members, community activists, etc.) why PHAs and HUD are favoring one neighborhood over another. This will lead to strained relationship between PHAs and leaders from certain neighborhoods, who may feel that the PHA is encouraging residents to abandon their communities.

**d. Additional research needs to be done**

NAHRO questions the extent to which HUD uses Dallas’s implementation of SAFMRs as a representative test case for its proposed rule in the rest of the country. HUD writes the following:

Evidence from Dallas where SAFMRs have been in effect since 2010 is quite promising – suggesting de-concentration to lower poverty, lower crime neighborhoods at essentially the same total cost per voucher as using the 40<sup>th</sup> percentile metropolitan FMR. Research and results from Dallas suggest SAFMRs could be *more effective* and *less costly* than the 50<sup>th</sup> percentile FMR policy.<sup>15</sup>

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<sup>15</sup> See HUD FAQs Concerning HUD’s Notice of Proposed Rulemaking: “Establishing a More Effective Fair Market Rent (FMR) System; Using Small Area Fair Market Rents (SAFMRs) in Housing Choice Voucher Program

One cannot assume that the results from the Dallas test case will hold in the rest of the country for three reasons: first, the Dallas rental housing market is different than the housing markets in the rest of the country; second, the Dallas implementation of SAFMRs is different than what is being proposed by this proposed rule; and, third, implementation of HOTMA provisions means that the cost estimates from the Dallas study are no longer applicable.

**i. The Dallas rental housing market is not representative of the rest of the country**

The United States of America is a large and heterogeneous country. It is not appropriate to selectively pick the results of one rental housing market and then assume that results in other rental housing markets will be exactly the same. The rental markets in New York and Los Angeles, as well as many of the other areas listed as places to possibly mandatorily implement SAFMRs, are very different than Dallas. Dallas may not have the same vacancy issues that the rental markets in New York and Los Angeles are more likely to face. While it is important to look at and analyze the results of Dallas's SAFMR implementation and the SAFMR Demonstration, it is also important to allow localities to best decide which policies make sense in their markets, instead of the command-and-control approach outlined in the proposed SAFMR rule. A degree of decentralization may be wise given the wide varieties of housing rental markets in our country.

**ii. The Dallas implementation of Small Area FMRs is not representative of implementation discussed in the HUD's proposed rule**

It is NAHRO's understanding that the Dallas implementation of SAFMRs included an extensive mobility counseling program. Mobility counseling can help break down barriers that program participants may face when entering new neighborhoods and are deprived of their pre-existing social networks. The proposed rule that HUD is suggesting does not include any additional money for mobility counseling. It is not clear whether Dallas's success with moving its program participants is a function of SAFMRs, mobility counseling, or both, but HUD makes the assumption that the causal factor is SAFMRs. Additional research is required to assess whether SAFMRs were the causal factor.

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Instead of the Current 50th Percentile FMRs" (<https://www.huduser.gov/portal/datasets/fmr/fmr2016p/SAFMR-Proposed-Rule-FAQ.pdf>).

**iii. Implementation of HOTMA provisions makes the cost estimate of Small Area FMRs given by the Collinson and Ganong study incorrect**

HUD writes the following:

[The Collinson and Ganong study (2015, May)] reports that according to a Dallas PHA official, implementation costs of multiple payment standards were minimal at roughly \$10 a household. Though it is unclear what this estimate considers, and assuming it can be applied elsewhere, as a rough measure of magnitude this would mean \$3.9 million to \$56 million in implementation costs over the 31 areas designated . . . by this proposed rule.<sup>16</sup>

First, NAHRO would like to point out that it is not clear that this measure of cost can be applied easily to PHAs across the country given the differences in size between PHAs and the vastly different markets that PHAs serve. Additionally, with the passage of HOTMA and its hold harmless provision of FMRs, the hundreds or thousands of additional payment standards, many possibly within the same building, make this estimate outdated. There may be other provisions of HOTMA that might increase this cost that neither HUD nor interested stakeholders are currently seeing. Additional research will have to be done after implementation of the HOTMA provisions to see the true cost of implementation.

**2. Responses to specific solicitations of comment<sup>17</sup>**

**a. Should HUD provide for PBVs that are in the pipeline to continue using metropolitan FMRs even if the area is designated as a Small Area FMR area? Additionally, should HUD require newly proposed PBVs post Small Area FMR designation to use Small Area FMRs?**

At this time, NAHRO believes that HUD should not mandatorily designate SAFMRs be applied to the calculation on any PBV payment standards. NAHRO believes that it should be completely voluntary for the PHA to decide whether to use SAFMRs for their PBVs depending on what makes the most sense for them in their individual rental markets.

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<sup>16</sup> 81 Fed Reg. 39,233 (Proposed June 16, 2016).

<sup>17</sup> HUD solicitations are paraphrased for clarity. Additionally, NAHRO does not have a position on solicitations not answered.

- b. The proposed rule provides for Small Area FMR area selection parameters to be codified in regulatory text. HUD is seeking comment on whether these parameters should be codified or should be incorporated into each annual proposed FMR notice to provide HUD, PHAs, and other stakeholders with flexibility, in any given fiscal year, to offer changes to these selection parameters and have the opportunity to comment before any changes to the parameters are made.**

SAFMR selection parameters should be codified in regulatory text. That way changes are guaranteed to fall under the informal administrative rulemaking process. While NAHRO is pleased that HUD would currently like to “offer changes to [the] selection parameters” and offer “the opportunity to comment before any changes [are made] to the parameters” even if they were not codified, there is no guarantee that future administrations would offer input from outside stakeholders when making changes to the selection criteria. Codifying the relevant provisions would guarantee that interested stakeholders would have the opportunity to comment irrespective of the leadership at HUD at any given time. Additionally, utilizing the informal rulemaking process is an open and transparent process that is part of good governance.

- c. What additional policies or requirements should the final rule include that would mitigate the impact of significant and abrupt decreases in the FMRs for certain zip code areas on families currently under HAP contract in those impacted areas.**

As mentioned above, the best protections would be to make the adoption of the rule voluntary. In addition to voluntary adoption of the rule, HUD should allow for flexibility to group payment standards or allow PHAs to voluntarily implement their own mobility programs in ways that make sense for their local markets.

If the rule is implemented as currently written, then HUD should be sure to implement the provision in HOTMA that would give PHAs the discretion to hold harmless decreases in FMRs and SAFMRs for households that are currently program participants, though NAHRO stresses that this is not a panacea and there would still be drastic consequences for future program participants and budgetary consequences for many PHAs.

- d. Should the final rule limit the potential decline in the FMR for a zip code area resulting from the implementation of SAFMRs in order to ensure that sufficient housing opportunities remain available to voucher holders? If so, what specific policies or requirements should be included in the final rule to achieve the desired outcome?**

As mentioned in the question above, HUD should be sure to implement the provision in HOTMA that would give PHAs the discretion to hold harmless decreases in FMRs and SAFMRs for households that are currently program participants.

If the rule is being implemented as written, NAHRO supports establishing exceptions payments through a streamlined process and would support allowing payment standards of up to 130 percent in the first year of the rule's effect, 120 percent in the second year of the rule's effect, and 110 percent in the third and following years, though NAHRO stresses that this would only cause families to experience their increased cost burden more slowly, but not avoid it.

If HUD implements the HOTMA payment standard provision, there would be no need to implement a hold harmless provision that holds payment standards harmless in the third, fourth, or fifth reexamination.

- e. Should the provision that allows PHAs that are in 50th percentile rent areas that revert to 40th percentile rent areas, but still allow PHAs to request (with HUD approval) higher payment standards based on 50th percentile FMRs still remain (§ 982.503(f))?**

Yes, this provision should remain.

- f. How can HUD reduce administrative burdens? Should the rent reasonableness trigger be changed from five percent to ten percent?**

The best way for HUD to reduce administrative burdens would be to make the application of SAFMRs voluntary for all PHAs across the country. The second best way would be to implement a rule that allowed for greater flexibility in how payment standards are implemented such that PHAs implement a few "bands" instead having to deal with hundreds or thousands of payment standards or allow PHAs to innovate and come up with better ways to encourage mobility, without the onerous side-effects that this proposed rule currently has.

NAHRO supports changing the rent reasonableness trigger from five to ten percent.

**g. Are there other programs that should use SAFMRS?**

At this time, NAHRO does not believe there are other programs that would benefit from the mandatory imposition of SAFMR use.

**h. Are there situations or groups where the use of SAFMRs (elderly or persons with disabilities) where an alternate policy should apply?**

NAHRO believes that there elderly households or households with people who have a disability should be exempt from SAFMRs that are lower than their current FMR. The mobility rationale that HUD uses to justify the rule is less likely to apply to these groups

**i. Are there specific groups within the general population for whom the policy would be especially burdensome? How could this policy create a disproportionate burden on these groups?**

After consulting with our membership, NAHRO believes that families with large numbers of children would be adversely impacted by the imposition of SAFMRs. Having a large number of children can act as a barrier to being able to find suitable housing. Some of our members have stated that having a large number of children can lengthen a family's unit search and there are far fewer options available to that family.

This rule, as currently written, could force these families to try to find acceptable units in "high opportunity" areas, but be unable to find acceptable units. The large number of children may act as another barrier to "high opportunity" areas.

**j. Is the criteria for HUD's selection of the mandatory application of SAFMRs appropriate? What other criteria should HUD be using in making these selections?**

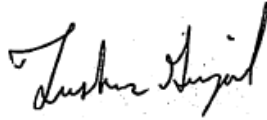
Again, no jurisdiction should have SAFMRs mandatorily imposed on them. Each PHA should decide whether it makes sense to implement SAFMRs or some other mobility incentive program in their respective jurisdiction. If HUD does insist on mandatorily implementing this rule, then some metric that takes into account an area's vacancy rate or availability of rental stock for program participants in "areas of opportunity" is important to make sure that program participants are able to find units in areas with higher subsidies.

**k. Should voucher holders using vouchers for manufactured home space be exempt from this rule because of the costly nature of moving manufactured homes?**

NAHRO believes that the application of this rule should be completely voluntary, including for those areas which may have vouchers for manufactured home space. NAHRO does note that the mobility rationale that HUD uses to justify the imposition of SAFMRs is less applicable in the manufactured home space context.

NAHRO thanks the Department for the opportunity to comment on this proposed rule. If there are any additional questions or concerns, please feel free to reach out to me at [tgurjal@nahro.org](mailto:tgurjal@nahro.org) or (202) 580-7216.

Sincerely,

A handwritten signature in black ink that reads "Tushar Gurjal". The signature is written in a cursive style with a large initial 'T'.

Tushar Gurjal  
NAHRO Policy Analyst, Section 8 Programs