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August 12, 2022

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

Re: Proposed Changes to the Methodology Used for Calculating Fair Market Rents [Docket No. FR-6334-N-01]

To Whom It May Concern:

On behalf of the National Association of Housing and Redevelopment Officials (NAHRO), I am pleased to offer the following comments in response to the notice entitled "Proposed Changes to the Methodology Used for Calculating Fair Market Rents" (Docket No. FR-6334-N-01), published in the Federal Register on July 13, 2022.

Formed in 1933, NAHRO represents over 19,500 housing and community development individuals and agencies. Collectively, our members manage over 970,000 public housing units, 1.7 million Housing Choice Vouchers (HCVs), and receive over $1.5 billion in Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Program funding to use in their communities. NAHRO members also frequently utilize the Low-Income Housing Tax Credit (LIHTC) program to develop new affordable housing units across the country. NAHRO has the unique ability to represent public housing agencies, local redevelopment agencies, and other affordable housing developers of all sizes and geography.

This comment letter is divided into two sections. The first section provides a brief summary of the proposed methodological changes HUD intends to make to the Fair Market Rents (FMRs). The second section provides NAHRO's position that we are "cautiously optimistic" about the changes and feel that HUD should implement them with two caveats.

Background
Currently, HUD calculates FMRs through a seven-step process. First, HUD establishes a two-bedroom base rent from American Community Survey (ACS) 5-year data. HUD then updates this base rent with a "recent mover adjustment factor" based on one-year ACS data. This adjusted data is then inflated by a "gross rent adjustment factor" and then trended forward through the use of a "trend factor." HUD then adjusts the rents for other unit sizes by applying "bedroom ratios" calculated from the relationships between different size units in the five-year ACS data. There is also a regulatory limit to how much HUD will allow an FMR to decline from one year to the next (i.e., an FMR cannot fall below this percentage "floor" in the span of one year). Finally, HUD also calculates minimum FMRs for each state based on the median FMR for non-metropolitan portions of each state.

The Department is proposing certain changes to the calculation of FMRs—primarily the use of private sector data in two steps during the calculation process in certain instances. First, due to the pandemic, there is a lack of ACS 1-year data for 2020. To correct for this, there is a special tabulation of the five-year ACS data for 2020 of rents paid by people who moved in 2020 or 2019. This special tabulation will be updated by private data sources in certain situations where the data sources are accurate and there are three private data sources. HUD would like to estimate the "recent mover adjustment factor" from these sources. When one-year ACS data becomes available again, HUD would like to use it again, while still considering augmenting it with private sector data. Second, HUD would like to use private data sources along with its standard Consumer Price Index (CPI) data in calculating the average gross rent inflation factor in certain instances. These changes would impact the calculation of Small Area FMRs also.

Comments
As with previous methodological changes, NAHRO is cautiously optimistic that the proposed methodological changes will result in more accurate FMRs. We are pleased that HUD is continuing to refine its FMR calculation method, which NAHRO has encouraged in multiples instances in the past.

While NAHRO understands the risks of change, it encourages HUD to implement changes that have the potential to positively refine the calculation of FMRs. NAHRO understands that using private data may mean "FMRs may be higher in areas with faster rent growth than their respective regions, but lower in other areas . . . ."[1] Nonetheless, as long as this represents actual on-the-ground variation between regions, NAHRO does not object to this. Additionally, while private sources of rent data may add additional volatility, NAHRO believes that rule limiting the maximum amount an FMR may decrease year over year to 10% of the prior year's FMR for the area will help mitigate volatility.[2] Thus, we believe that HUD should move forward with these proposed changes with two caveats.

> <u>*HUD Should Evaluate Current FMR Methodological Changes Against Future ACS Data*</u>
> If HUD decides to move forward with the proposed methodological changes, HUD should develop a system to check the accuracy of its FMRs and then produce a report each year documenting the efficacy of the FMRs. For example, when HUD publishes its 2023 FMRs, HUD should compare the 2023 FMRs to the ACS 5-year data set for 2023 updated by the recent mover adjustment factor for 2023, when that data becomes available in 2025. The Department should publish a report in 2025 comparing the FMRs to the ACS data and evaluating the methodological efficacy of its

[1] Proposed Changes to the Methodology Used for Calculating Fair Market Rents, 87 Fed. Reg. 41,742.
[2] Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs, 81 Fed. Reg. 80,573.

changes. The Department should also make this report publicly available. This should be done every year so that efficacy of a particular FMR methodology can be publicly assessed.

HUD Should Create New Administrative Mechanisms to Cope with Inaccurate FMRs
In previous comment letters, NAHRO has noted that HUD should increase the basic range of payment standard flexibilities.[3] We are pleased that HUD feels that these changes "may be done as part of a larger package of regulatory reforms."[4] NAHRO is aware that this requires "statutory and regulatory changes."[5] As previously mentioned, we recommend that HUD include these changes in its future budget proposals. This is especially important now when HUD will be changing its methodology and incorporating private data into its calculations. The Department should allow housing agencies the flexibility to increase their payment standards, if the new methodology does not match on-the-ground rental prices because this will give PHAs the ability to compensate for potentially inaccurate FMRs. Staff at housing agencies will best know their neighborhoods and can better match rental prices better than any methodology. This will act as a safeguard to ensure the efficacy of the voucher program, if the FMRs produced this year do not accurately represent on-the-ground rental prices.

The National Association of Housing and Redevelopment Officials thanks the Department for the opportunity to share these comments. If the Department has any questions or comments on these points, or any other issue, please feel free to reach out to me at tgurjal@nahro.org.

Sincerely,

Tushar Gurjal

Tushar Gurjal,
Policy Advisor

[3] NAHRO Comment Letter, http://www.nahro.org/sites/default/files/searchable/NAHRO-Comment-FY-2020-FMRs-final.pdf, pages 4-5.
[4] Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program, and Other Programs Fiscal Year 2020, 84 Fed. Reg. 45,797.
[5] Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program, and Other Programs Fiscal Year 2020, 84 Fed. Reg. 45,797.