

January 11, 2018

VIA ELECTRONIC SUBMISSION

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
Room 10276
451 Seventh Street SW
Washington, DC 20410-0500

Re: Notice for Suspension of Small Area Fair Market Rent (Small Area FMR)
Designations: Solicitation of Comment - Docket No. FR-6070-N-01

Ladies and Gentlemen:

The undersigned organizations appreciate the opportunity to comment on the Department of Housing and Urban Development's (HUD) Notice for Suspension of Small Area Fair Market Rents (SAFMRs). We commend HUD for its decision to suspend for two years the mandatory use of SAFMRs for certain metropolitan areas that had previously been designated for Small Area Fair Market Rents (SAFMR) use, due to concerns about the program's ability to reach the stated objective.

Attached please find two comment letters submitted by several real estate groups, outlining our objections to the SAFMR demonstration program. The first letter submitted on June 26, 2017, on *Proposed Changes to the Methodology Used For Estimating Fair Market Rents, Docket No. FR-6021-N-01*, outlines our support for the proposed changes to the general methodology for calculating Fair Market Rent, while also expressing our concerns with the sweeping changes proposed for calculating SAFMRs. The second letter submitted on June 30, 2017, regarding the *30-Day Notice of Proposed Information Collection: Small Area Fair Market Rent Demonstration Evaluation – Docket No. FR-5997-N-25*, provides specific recommendations to establish effective methodologies for the SAFMR program. The comments contained in both documents outline our concerns with the SAFMR concept and are attached for your review.

Our organizations recognize that moving low-income households to areas of opportunity may be a worthwhile objective, and we strongly support the principle of choice in the voucher program, however we do not believe HUD has established that SAFMRS are an effective way to accomplish this. Further, we remain concerned that HUD had prematurely sought to apply broader applications of SAFMRs in the absence of empirical evidence of their effectiveness and have strongly urged HUD to discontinue

use of the SAFMRS in the absence of an accurate assessment of the demonstration programs.

In fact, our organizations have supported HUD's effort to gather information about the SAFMR demonstration program and suggested a number of recommendations to improve the evaluation. The continued use of a methodology that remains unproven on a large scale in its ability to reach the goal of moving low-income households to areas of opportunity has far-reaching implications for members of the real estate industry and the residents they serve.

Thank you for consideration of our comments. We remain supportive of HUD's efforts to suspend the mandatory use of the SAFMRs.

Sincerely,

Institute of Real Estate Management
National Affordable Housing Management Association
National Apartment Association
National Association of Home Builders
National Association of Housing Cooperatives
National Leased Housing Association
National Multifamily Housing Council

June 26, 2017

VIA ELECTRONIC SUBMISSION

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
Room 10276
451 Seventh Street SW
Washington, DC 20410-0001

Re: Proposed Changes to the Methodology Used For Estimating Fair Market Rents
Docket No. FR-6021-N-01

Ladies and Gentlemen:

The undersigned organizations appreciate the opportunity to comment on the Department of Housing and Urban Development's Notice of Proposed Changes to the Methodology Used for Estimating Fair Market Rents.¹

HUD's tenant-based rental assistance in the Section 8 Housing Choice Voucher (HCV) program serves some 2.2 million households nationwide.² The program is substantially and critically important to all who are served, and our organizations therefore support HUD's efforts to consider and study ways to improve the HCV program.

We would like to commend HUD for its decision to let stakeholders comment on any change in the Fair Market Rent (FMR) methodology. We support the proposed changes to the general methodology for calculating base rents and recent mover factors. Adding the requirement of at least 100 observations to the test for statistical reliability should help limit FMR volatility year-to-year, an important principle we have endorsed in the past. Incorporating all-bedroom rents into the recent-mover factors seems a reasonable way to address the twin goals of statistical reliability and using local market data to the greatest extent possible. We are especially happy to see that HUD is maintaining its policy of not allowing recent mover factors to reduce the standard quality base rent.

Although we appreciate HUD's improvements to the overall FMR methodology, the sweeping changes proposed to the methodology for calculating Small Area Fair Market Rents (SAFMRs) do not assuage our concerns about SAFMRs in general. We have been skeptical of the SAFMR concept from the beginning, believing that zip codes do not represent a valid real estate market. Although we recognize that moving low-income households to areas of opportunity may be a worthwhile objective, and we strongly support the principle of choice in the voucher program, we do not believe HUD has

¹ Docket No. FR-6021-N-01

² HUD's Housing Choice Voucher Program Tenant Characteristics, HUD FY2016 Proposed Budget.

established that SAFMRs are an effective way to accomplish this. That HUD itself now believes the SAFMR methodology requires a major overhaul reinforces our view that the effectiveness of SAFMRs has not been established. We are concerned that HUD continues to use a zip code-level geography without exploration of more appropriate, market-based alternatives.

Our organizations have supported HUD's effort to gather information about the SAFMR demonstration program. In fact, we suggested a number of recommendations to improve the evaluation, which were not adopted. To date, none of HUD's SAFMR demonstration program evaluation has been released publicly, and other notices indicate that the information gathering has not even begun. The continued use, as well as expansion, of an unproven methodology to reach the goal of moving low-income households to areas of opportunity without any specific sound, empirical-based evidence of its success has far-reaching implications for members of the real estate industry and the residents they serve. HUD should not entertain any changes to the SAFMR methodology or any expansion of the program until it has undergone a statistically valid evaluation.

In fact, based on the lack of persuasive evidence that SAFMRs are effective and our continued belief that zip codes do not represent a real estate market, we urge HUD to repeal the SAFMR final rule³ but retain protections from payment standard reductions for tenants under HAP contracts at the time of the repeal. Specifically, payment standard reductions would not take effect until after the family's second annual recertification, and thereafter, PHAs have the options to hold the families harmless from payment standard reductions or gradually reduce them⁴.

Thank you for your consideration of our comments. We look forward to engaging HUD in further discussions on these important matters.

Sincerely,

Council for Affordable and Rural Housing
Institute of Real Estate Management
Mortgage Bankers Association
National Affordable Housing Management Association
National Apartment Association
National Association of Home Builders

³ "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" (FR-5855-F-03) RIN 2501-AD74 (11/16/2016)

⁴ These protections are included in the SAFMR Final Rule noted above.

Docket No. FR-6021-N-01

Page 3

National Association of Housing Cooperatives
National Leased Housing Association
National Multifamily Housing Council

June 30, 2017

VIA ELECTRONIC SUBMISSION
OIRA_Submission@omb.eop.gov

HUD Desk Officer
Office of Management and Budget
New Executive Office Building
Washington, DC 20503.

Re: 30-Day Notice of Proposed Information Collection: Small Area Fair Market Rent Demonstration Evaluation - Docket No. FR-5997-N-25

Ladies and Gentlemen:

The undersigned organizations appreciate the opportunity to comment on the Department of Housing and Urban Development's Notice of Proposed Information Collection ("Notice") for the Small Area Fair Market Rent ("SAFMR") Demonstration Evaluation.¹ HUD's tenant-based rental assistance in the Section 8 Housing Choice Voucher (HCV) program serves some 2.2 million households nationwide.² The program is substantially and critically important to all who are served, and our organizations therefore support HUD's efforts to consider and study ways to improve the HCV program.

Although we recognize that moving low-income households to areas of opportunity may be a worthwhile objective, and we strongly support the principle of choice in the voucher program, we do not believe HUD has established that Small Area Fair Market Rents (SAFMRs) are an effective way to accomplish this. In fact, many of our groups have urged HUD to withdraw the SAFMR final regulation, and hold harmless the tenants who are under housing assistance payment (HAP) contracts in the SAFMR areas.

We are concerned that HUD has enthusiastically and prematurely sought to apply broader applications of SAFMRs in the absence of empirical evidence of their effectiveness. For example, HUD has stated³ SAFMRs are more effective than other methods in helping families move to areas of higher opportunity, and that SAFMRs can achieve this goal at about the same average cost. These are very strong assumptions. In order to justify them, HUD must establish, at a minimum, that:

- 1) SAFMRs cause voucher holders to move out of zip codes where rents and HCV subsidies are lower and into zip codes where rents and subsidies are higher;
- 2) The quality of the units and neighborhoods in the high rent zip codes is better;
- 3) Reduced demand in the low-rent zip codes that retain holders will cause rents and subsidies to decline far enough to offset the increased subsidy costs in the high-rent zip codes; and
- 4) Increased demand in the high-rent zip codes into which voucher holders move will not cause rents and subsidy costs in these areas to increase further.

To this list, we would add that it is also critically important to establish that:

- 5) Reduced subsidies in lower rent zip codes do not cause disinvestment, harming voucher holders and other tenants in these areas.

¹ Docket No. FR-5997-N-25

² HUD's Housing Choice Voucher Program Tenant Characteristics, HUD FY2016 Proposed Budget.

³ For example, in the June 16, 2016 *Federal Register* notice "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."

For these reasons, we agree that HUD should study the positive and negative impacts of the SAFMR demonstration program. We do not believe, however, that the proposed methodology will yield results that have any practical utility for the operation of the HCV program. We offer the following recommendations to ensure the Department has meaningful data to evaluate the demonstration program and from which it can draw sound policy conclusions.

In reviewing the proposed information collection and interview process, we understand that HUD faces a variety of challenges in collecting actionable, generalizable information. Nevertheless, we have several concerns about the underlying methodology of the proposed information collection process.

One is the limited size of the proposed information collection, raising questions about whether it can capture enough information to establish that the demonstration program has been effective. Some of this is due to the limitations of the demonstration program itself. As one example, the restricted geography and predominance of Texas locations in the demonstration program makes it unlikely generalizations made from it would accurately portray the program’s impact nationwide. It is also unclear that, even within the confines of the demonstration program area, the proposed information collection will be extensive enough to establish the effectiveness of the program. In commenting on this, we are at a disadvantage, because the questionnaires will not be available to the public until after the comment period.

We support HUD engaging both property owners and tenants in an interview process, but note that, in order to establish the effectiveness of the SAFMR demonstrations it is critically important, in each metro area, to collect **equivalent information from property owners and tenants in zip codes where FMRs are both significantly higher and lower** than for the metropolitan area overall.

Examples of the type of information that should be collected in each case include the following:

High FMR zip codes	Low FMR zip codes
Tenants	
Did they understand the transition to SAFMRs?	Did they understand the transition to SAFMRs?
Did higher FMRs induce them to move to these zip codes?	Does knowing that FMRs are higher elsewhere in the same metro area make it more likely they will move out of this zip code?
Do they have better quality units because they live in this zip code?	
Do they have better quality neighborhoods because they live in this zip code?	
Property Owners	
Did they understand the transition to SAFMRs?	Did they understand the transition to SAFMRs?
Do the higher FMRs make it more likely they will accept voucher holders?*	Do the higher FMRs make it less likely they will accept voucher holders?*
Will increased demand for their units make it easier for them to raise rents?	Will reduced demand for their units cause them to lower rents?
Will increased demand and higher subsidies make it easier for them to maintain and upgrade their units?	Will reduced demand and lower subsidies make it more difficult for them to maintain and upgrade their units?

The asterisks that appear in the questions about willingness to accept voucher holders are there because some states and local governments require certain types of property owners to accept voucher holders, so asking these questions may place the property owners in an awkward position. Similarly, some properties built with federal funding or tax credits are required to accept HCVs as a source of income. We recommend that HUD evaluate each jurisdiction and test these questions carefully before deciding to include them in the survey.

When HUD first announced this information collection, our organizations expressed concern that HUD did not outline how it plans to control for differing market conditions, differing property situations, higher and lower program payment standards, whether the landlords in the interview process are on-site property managers or in off-site corporate offices, and other factors that could impact the feedback received. On December 1, 2016, HUD sent a written response to our comments stating, in part, that, for purposes of presenting and interpreting the findings, HUD will designate a companion PHA for each of the SAFMR PHAs included in the analysis.

Our organizations greatly appreciated receiving this written response from HUD. However, we would point out that simply designating a companion PHA and using it as a basis for comparison is not a persuasive way to analyze the data. A large body of statistical literature on estimating treatment effects by matching exists, covering several different methods, advantages and disadvantages of each, and ways in which matching may fail, such as insufficient overlap between treatment and control groups. If HUD is going to evaluate the SAFMR PHAs by matching each to a control PHA, it should employ formal statistical techniques to implement the matching procedure in a way consistent with the existing technical literature.

Our organizations support HUD's effort to gather information about the SAFMR demonstrations, and recognize the challenges that this information collection can pose. The sample being studied from the demonstration presents challenges given the diversity in market and program conditions and interviewees, as well as in the objectivity of the interview questions. We encourage HUD to work closely, and share preliminary information and results, with stakeholders in an effort to create the most informed review process possible. We also strongly urge HUD to discontinue use of the SAFMRs in the absence of an accurate assessment of the program's success in achieving the stated goal of moving voucher holders to areas of opportunity in the demonstration areas. We all share the goal of producing the most effective rental assistance policy to help those in need, but it is unclear that the SAFMR methodology as it exists today is the best way to achieve that goal. Thank you for your consideration of our comments. We look forward to engaging HUD in further discussions on these important matters.

Sincerely,

Council for Affordable and Rural Housing
Institute of Real Estate Management
National Affordable Housing Management
Association
National Apartment Association

National Association of Home Builders
National Association of Housing
Cooperatives
National Leased Housing Association
National Multifamily Housing Council