December 5, 2016

Colette Pollard  
Reports Management Officer, QDAM  
U.S. Department of Housing and Urban Development  
451 7th Street, SW  
Washington, DC 20410

Subject: Comment on FR–5913–N-27 60 Day Notice of Proposed Information Collection: Energy Benchmarking

Dear Ms Pollard:

The National Multifamily Housing Council (NMHC) and National Apartment Association (NAA) thank you for the opportunity to comment on the proposed rules regarding information collection for energy benchmarking for FHA insured multifamily loans described in ‘FR–5913–N–27 Notice of Proposed Information Collection: Energy Benchmarking.’

For more than 20 years, NMHC and NAA have partnered in a joint legislative program to provide a single voice for America’s apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry’s largest and most prominent firms. As a federation of nearly 170 state and local affiliates, NAA encompasses over 72,000 members representing more than 8.4 million apartment homes throughout the United States and Canada.

NMHC and NAA broadly support methods to improve the operational efficiency of the apartment industry including energy and water efficiency. Many of our members use the EPA’s ENERGY STAR Portfolio Manager as a voluntary, not mandatory, way to benchmark their properties performance. While EPA’s ENERGY STAR Portfolio Manager can serve as a very good benchmarking tool for the industry, local restrictions on access to whole building data have stymied efforts of property owners to benchmark usage throughout a property and often only common areas are able to be benchmarked. NMHC and NAA are supportive of efforts to broaden access to whole building data however, in the near term, many areas of the country will not have utility programs in place to provide this information.

Imposing a mandatory requirement to benchmark for every property with an FHA loan places an administrative and financial burden on owners who often are already providing naturally occurring affordable apartments. Adding this further mandatory requirement is an unnecessary financial burden. The proposed rule recognizes that while access to whole building data is expanding, there remains large areas in the country where this is not available. Further, for the cities where benchmarking is a requirement, it is only required where utilities can already provide this information but not where this
capability does not exist. Similarly, we strongly recommend that in those areas where whole building data is not available that benchmarking would not be a requirement.

The sampling process recommended by the proposed rule does not recognize the difficulty, cost and administrative burden in obtaining this information. In properties where there is no deed restriction or subsidy the resident has no incentive to provide this information. Further, even if an owner could obtain a sampling of data its usefulness is limited in making decisions and the EPA’s ENERGY STAR Portfolio Manager recognizes that this is not sufficient to obtain a certified score. HUD needs to examine this process more deeply to understand the reality that this is a difficult process fraught with uncertain value of the outcome.

Water usage is also an important measure of a buildings efficiency and many of our members manage that closely as part of their normal operational business practice. The EPA has had their proposed water usage benchmarking tool under development for some time now and it has been delayed in its release. Not knowing how the tool will function makes its inclusion, even by reference, in this proposed rule too preliminary to include at this time. Consideration should be given to removing reference to this tool until it is finalized and released by the EPA.

Requiring that any request under the loan programs, 223a7 and 223f, to have a score prior to issuance places an undue burden on these owners and may have a damaging effect of driving away borrowers if they are unable to get whole building data prior to refinancing their existing FHA loan.

Affordable housing is a significant and growing challenge for American families. FHA multifamily financing plays a vital role in supporting housing affordability for our nation’s citizens, and these proposed changes may carry undue financial and administrative burdens if not implemented carefully.

Sincerely,

Douglas M. Bibby
President
National Multifamily Housing Council

Robert Pinnegar, CAE
President & CEO
National Apartment Association