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

RE: [Docket No. FR 6277-N-01] Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program, and Other Programs Fiscal Year 2022

To Whom It May Concern:

The Council of Large Public Housing Authorities (CLPHA) is a non-profit organization that works to preserve and improve public and affordable housing through advocacy, research, policy analysis, and public education. We support the nation's largest and most innovative public housing authorities (PHAs) by advocating for the resources they need to solve local housing challenges and create communities of opportunity. Our members own and manage nearly half of the nation's public housing program, administer a quarter of the Housing Choice Voucher (HCV) program, and operate a wide array of other housing programs.

We appreciate the opportunity to submit comments to the United States Department of Housing and Urban Development (HUD or the Department) in response to the notice titled "Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program, and Other Programs Fiscal Year 2022" published in the Federal Register on Friday, August 6, 2021.

HUD should exercise its waiver authority permitted under the CARES Act to provide a hold harmless policy for implementing FY22 Fair Market Rents (FMRs) in areas that have experienced significant FMR reductions.

The devastating impacts of the coronavirus pandemic are continuing to be felt in public housing authorities (PHAs) nationwide. As many PHAs attempt to resume routine operations of conducting unit inspections, processing income recertifications, and assisting families with relocation activities, many CLPHA members report that maintaining high voucher utilization has been problematic. The compounding impacts of skyrocketing rental housing costs, insufficient inventories of affordable housing units, landlords hesitant to accept vouchers in areas without Source of Income protections in place, and now large influxes of new Emergency Housing Vouchers (EHVs), Mainstream Vouchers, HUD-Veterans Affairs Supportive Housing (HUD-VASH) Vouchers, and Family Unification Program (FUP) Vouchers, are all factors that are challenging for PHAs attempting to keep pace with reduced staffing and the ever-changing realities of COVID-19.

In some of our largest metropolitan areas like Ashville, San Diego, Santa Clara, Boston, Cambridge and New York City, where we have seen FY22 FMRs decrease by approximately 2 to nearly 10%, we anticipate that the FY22 FMRs will provide further external pressure on already depressed voucher utilization rates.

While it is true that PHAs are allowed to set their payment standards between 90-110% of the basic range, many members report that their payment standards are already nearly maxed, but currently having little effect on a family's ability to find affordable homes. These large FMR decreases will also have an impact on setting initial Project-Based Voucher contract rents and calculating the gross rent cap on annual increases, determining exception payment standards as a reasonable accommodation, and delaying the implementation of higher payment standards for families requiring interim reexaminations until their next annual reexamination thus adding to their overall rent burden.

The CARES Act gives broad statutory and regulatory waiver authority to HUD with respect to all statutes or regulations connected to use of operating and capital funds including those appropriated under prior appropriations acts. HUD may waive or specify alternate requirements, except for fair housing, nondiscrimination, labor standards and environmental requirements, upon a finding that the action is "necessary for the safe and effective administration of these funds to prevent, prepare for, and respond to coronavirus." We believe that like other waivers HUD has implemented to keep families housed during the pandemic and lessen the administrative burden on PHAs focused on delivering front-line services to the most vulnerable populations, such a waiver would follow HUD's past model for granting PHA waivers. We believe HUD has the authority and should implement a waiver to provide a hold harmless policy to exempt PHAs in areas that experienced a significant FY22 FMR decreases from the statutory requirements of Section 8(c)(1) of the USHA, as amended by HOTMA (Pub. L. 114–201, enacted July 29, 2016), which states that each FMR, "shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so that rentals will be current for the year to which they apply…".

HUD should provide additional funding for FMR reevaluations and use commercial data to obtain more accurate gross rents.
As provided under Section 8(c)(1)(B) of the U.S. Housing Act, as amended by the Housing Opportunity through Modernization Act (HOTMA), a PHA or other interested party may request a HUD reevaluation of its FMRs. Like years past, HUD is requiring that PHAs assume the financial burden for conducting costly and time-consuming independent surveys to collect more recent rental cost data.

We carry forward our comments submitted in 2019[1] that advises HUD to continue to explore the use of commercial data to obtain more accurate gross rents. Though the FMR calculation is made up of three components (the gross rent, inflation factor, and trend factor), HUD's proposed changes detailed in the 2019 Federal Register Notice [Docket No. FR-6161-N-01] *Proposed Changes to the Methodology Used for Estimating Fair Market Rents*, would only address issues with the trend factor while neglecting to improve gross rent data, which our members believe is outdated and leading to inaccurate FMR calculations.

[1] 1 CLPHA's 2019 comment letter on proposed changes to the methodology used for estimating fair market rents can be found here: https://clpha.org/sites/default/files/documents/CLPHA%20Final%20FMR%20Methodology%20Change%20Comments%207.5.19.pdf

Despite recent data showing that average rents across the U.S. is up 9.4% compared with pre-pandemic levels from March 2020 and CLPHA members reporting drastic swings in rental costs over the last three months, HUD is not making any changes to its estimation methodology for FMRs as used by HUD in FY21. It is evident that in some large metropolitan areas, the FMR methodology is not accurately portraying the current rental market and PHAs should not be required to undertake costly and time-consuming rental cost surveys to address HUD's outdated calculation methodology.

Thank you for the opportunity to submit these comments.

Sincerely,

Sunia Zaterman
Executive Director, CLPHA