LISC
Helping neighbors build communities

July 1, 2015

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

Re: Docket No. FR-5855-A-01 Establishing a More Effective Fair Market Rent (FMR) System

To Whom It May Concern:

The Local Initiatives Support Corporation (LISC) is pleased to provide comments on the proposed rulemaking regarding the use of Small Area Fair Market Rents (SAFMR) in the Housing Choice Voucher (HCV) program in lieu of the current 50Th percentile FMRs. LISC strongly supports efforts to expand housing choice and opportunities for low-income persons, and applauds HUD's continuing efforts to improve its programs to offer affordable housing options to low income families in the neighborhoods of their choice.

LISC is a national non-profit housing and community development organization that is dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations with loans, grants and equity investments; as well as technical and management assistance. Our community development corporation (CDC) partners use a host of funding sources and federal programs to provide quality affordable housing in their communities. Many of the residents served by our CDC partners benefit from the HCV program.

LISC has a nationwide footprint, with local offices in 30 cities and partnerships with over 70 different organizations serving rural communities throughout the country. LISC's "Building Sustainable Communities" model involves partnering with local stakeholders to devise comprehensive community revitalization strategies to address housing, education, health, safety and other needs in severely distressed neighborhoods. With this as context, we offer the following comments with respect to the proposed use of SAFMR; including both overarching comments on the proposed approach, as well as responses to specific questions posed in the advanced notice of proposed rulemaking.

Overarching Comments:

While we are encouraged that SAFMRs will provide greater opportunity for residents potentially at a lower cost that frees up funds for additional vouchers, we have concerns regarding SAFMR methodology, particularly as it will apply to revitalizing and gentrifying neighborhoods. We understand that the rent ratios used to calculate SAFMRS are based on 2006-2010 census data. As neighborhoods are revitalized, rents can rise quickly and the relationship to rents across the statistical area can change. If the rent ratio is based in part on data that is 5-10 years old, resulting SAFMRs may be artificially low. This could make neighborhoods undergoing revitalization inaccessible to HCV tenants, including many residents that may wish to remain in their own gentrifying neighborhoods. SAFMRs should be calculated using the most recent data available so that the program allows HCV tenants to access not only established communities of opportunity, but also emerging and revitalizing neighborhoods.

Further, while zip codes identify a smaller market area, they vary greatly in size and population density. Some zip code areas straddle areas of both high and low incomes and rents. SAFMRs calculated for such areas may be skewed downward by a higher concentration of rental units in lower rent neighborhoods thus reducing SAFMR and making the higher rent units within the same zip code less accessible. This, in turn, may limit voucher holder access to amenities such as transit and high performing schools that may be located in the higher rent sections of a given zip code. To mitigate the risk of limited mobility created by significant variation within a zip code, HUD should allow PHAs discretion to use higher SAFMRs from adjacent neighborhoods where necessary to provide broader access to a zip code area. HUD should offer guidance on when use of such a neighborhood based variance would be appropriate, e.g. where there is a significant rent differential between neighborhoods within a zip code or where available units in neighborhoods close to transit have rents exceeding SAFMR. Moving to Work agencies such as the District of Columbia Housing Authority have already adopted a neighborhood based rent setting to address these issues and may be able to offer input.

1. **Measurement of undue voucher concentration: What poverty rate and concentration level should be used in determining the criteria for selecting SAFMR areas?**

LISC supports policies and programs that increase mobility and opportunity to participants in the HCV program and accordingly encourages HUD to identify a poverty concentration level for participation that will maximize resident opportunities. We note that in HUD's recent guidance on transferring project based Section 8 assistance a 30% poverty concentration level was used as a threshold and may provide a consistent starting point for this demonstration.

For purposes of the FMR demonstration, we support the Department's proposal to target areas where concentration of voucher tenants in high poverty census tracts is generally higher than the concentration of rental units. We believe that distinguishing areas of voucher concentrations from areas that simply have high poverty rates will provide for a more meaningful demonstration of the effectiveness of SAFMR as a tool to help deconcentrate voucher holders in high poverty neighborhoods.

While LISC supports this demonstration of the use of SAFMR and its objectives of offering choices outside of high poverty neighborhoods, we encourage HUD to consider the consequences of this demonstration for apartment communities in high poverty neighborhoods within participating metropolitan areas. If the payment standard for vouchers moves to a zip code based SAFMR, the payment standard for some lower-income/higher poverty neighborhoods may decrease. This could have a number of consequences, including but not limited to:

i. Reduced voucher rents may reduce net income to owners, leading to deferred maintenance and reduction in services to residents.

ii. Landlords may be unwilling to accept the lower voucher rents, leaving tenants to have to cover the difference and exposing them to eventual displacement. This risk is particularly high in low income areas that are gentrifying.

As part of the demonstration program and to mitigate the risk that decreased rents will lead to deferred maintenance and deteriorating housing quality, HUD should ensure that PHAs have sufficient capacity to enforce Housing Quality Standards in all units. To address the risks associated with a lower payment standard, HUD should: 1) require participating PHAs to provide detailed communications plans and reporting on how the PHA will communicate the changes in rent setting to landlords and voucher holders; 2) require that, following the hold harmless period, any reduction in payment standard that exceeds 10% of the existing payment standard be phased in by no more than 10% per year; and 3) ensure that PHAs have a clear understanding of the protections that tenants should have against displacement if revised payment standards are no longer sufficient to meet the rent established by the landlord.

Further, in areas where use of SAFMRs are expected to result in a material decrease in the payment standard, HUD should test the estimated payment standard against data for median operating costs for the area to identify areas where the new payment standard would create potential shortfalls likely to lead to deferred maintenance or disinvestment in properties or the community. If projected shortfalls are identified, HUD should consider whether a floor SAFMR is appropriate for those metropolitan areas/zip codes.

2. **SAFMR Effectiveness: What percentage of an area's rental stock should be above or below the FMR?**

LISC does not have a specific recommendation as to what percentage of the area's rental stock should be above or below the FMR. We strongly encourage HUD to consider adopting a relatively low threshold for the sufficient proportion in order to facilitate maximum choice and mobility into neighborhoods that may represent a small proportion of the housing stock in a lower income city, but may offer the best opportunities for schools, jobs and other resources that would position HCV tenants for success.

3. **Program scale: In terms of number or percentage of metropolitan-area vouchers (which is roughly 1.9 million), what should be the size of the SAFMR program?**

LISC supports a SAFMR program that provides meaningful options for mobility and deconcentration of poverty where they are needed. Given that many PHAs have cycled in and out of the 50% FMR program, we expect that in order to adequately address the needs of communities of concentrated poverty, the program will be somewhere between the size of the current 50th percentile FMR portfolio (175,000 vouchers and 150 PHAs) and the total 50th percentile program participation of approximately 350,000 vouchers and 300 PHAs. Given that this program is still new and that it will create a separate set of programmatic and administrative needs for HUD to support, we would encourage HUD to balance the size of the program based on the need among the communities served and the capacity of HUD and the PHAs to support the new program size.

4. **PHA or metropolitan-wide: Should SAFMRs apply to all PHAs in a metropolitan area, or only to PHAs that display a pattern of HCV tenant concentration in high-poverty census tracts?**

In a metropolitan area where a pattern of HCV tenant concentration in high-poverty census tracts exists, SAFMRs should apply in a manner that creates a sufficient amount of choice and opportunity for residents. Providing SAFMR will only provide choice and mechanism to deconcentrate poverty if a variety of neighborhoods are available and if all HCV tenants have the option of mobility. If certain neighborhoods are unavailable to tenants because they are serviced by a nonparticipating PHA, then tenants have limited mobility and the use of SAFMRs may be unsuccessful in deconcentrating poverty. Furthermore, if clients of only one PHA serving a metropolitan area benefit from the use of FMRs, while clients of other PHAs are limited by metropolitan wide FMRs, neighborhoods where the payment standard is set closer to metropolitan wide FMRs may experience a concentration of voucher holders in contravention of HUD's goals.

5. Voluntary Participation: Should a PHA be allowed to use SAFMRs even if the PHA or the underlying metropolitan area would not qualify for the use of SAFMRs?

While we are encouraged by the potential positive effects of use of SAFMRs, it is a new program and its effectiveness and spillover effects are unknown. Further, transitioning to and using SAFMRs will create an administrative burden for public housing authorities that are already under resourced. For these reasons, we support use of SAFMRs only in metropolitan areas that display a pattern of HCV tenant concentration in high-poverty census tracts at this time. When more information has been gathered on the effectiveness of the SAFMR program, we would hope that voluntary participation would be reevaluated.

6. PBV Use of SAFMRs: Should SAFMRs be applied to PBVs at least for future PBV projects?

SAFMRs should be applied only to future PBV projects. Rents under current PBV contracts, including those subject to an Agreement to Enter a Housing Assistance Payment contract for PBV should be adjusted using current rent redetermination formulas. Existing PBV projects have been underwritten based on current standards for setting and adjusting rents. A shift to a new rent setting mechanism may benefit some projects, but others may experience rent reductions that would leave the project unable to support the financing that was sized based on existing rent setting formulas. This would not only jeopardize individual projects, but would also deter investment in projects supported by PBV.

Further, while we recognize that use of SAFMR may facilitate PBV development in some zip codes, we are concerned that zip code based SAFMRs may also hinder preservation of existing housing in some neighborhoods. As noted above, LISC strongly supports policies that facilitate the opportunity for residents to move to lower poverty neighborhoods <u>and</u> that encourage investment in low income neighborhoods to make them neighborhoods of choice and opportunity. SAFMRs for some low income neighborhoods may be relatively low, but the cost of preservation may not be supported by SAFMR rents, and those rents may be far below market comparability for preserved units. This is a particular risk for properties in or adjacent to gentrifying neighborhoods. Since SAFMRs are set based on historical rents, they won't necessarily reflect current conditions.

In order to facilitate both opportunity for PBV development in higher income/higher rent neighborhoods and to permit reinvestment in lower income neighborhoods, we recommend that SAFMR only be applied for <u>future</u> PBV contracts. In addition, we recommend that an exception rent criteria be added for properties that are a part of a private or public plan for the revitalization of the surrounding neighborhood that would permit rents to be set at the reasonable rent (as defined under the regulations) not to exceed 150% of the metropolitan wide FMR.

While LISC has concerns about the implementation of the SAFMR rent setting for future PBV contracts, we are also concerned that use of a separate FMR and therefor a separate payment standard for new TBV and new PBV contracts will add to the PHAs' administrative burden. For future PBV contracts only, rents should be set using SAFMRs with the exception rent standard for preservation properties described above.

As a national non-profit dedicated to building sustainable communities LISC supports policies that support social and economic mobility both through the ability to move to better neighborhoods and through investments in existing neighborhoods. Both paths to opportunity and strong neighborhoods require flexible tools and we applaud HUD's efforts to implement SAFMR in a way that will most effectively offers residents choices and opportunities using limited government funds. We encourage HUD to carefully balance the goals of mobility to better neighborhoods with the need to reinvest in existing neighborhoods where many residents, even with an SAFMR TBV voucher, will wish to remain.

We thank you for this opportunity to provide comments. If you have any questions please contact Celia Smoot, Director of Housing, at csmoot@lisc.org or Andrea Ponsor, Policy Director, at aponsor@lisc.org.

Sincerely,

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