



Public Housing Authorities Directors Association

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Office of General Counsel
Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW
Room 10276
Washington, DC 20410-0001

Re: Proposed Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2011 (Docket No. FR-5430-N-01)

September 3, 2010

Gentlepeople:

PHADA had submitted comments in July concerning HUD's proposed small area FMR demonstration announcement and the underlying policy change the department has proposed (Docket No. FR-55413-N-01). The association anticipated that the department would proceed to assess comments it received, consider implications for the proposed demonstration and changes to the method for determining FMRs, announce its final plans for the demonstration and for the FMR methodology, and solicit applications or statements of interest in participating in the demonstration from HAs once it had determined policy and demonstration implementation details.

Remarkably, the proposed FMR notice solicits HA volunteers to participate in HUD's small area demonstration, although the department has still not described that demonstration in sufficient detail. PHADA understood that the department planned to publish a description of the final demonstration program along with solicitation of participants so that HAs could understand what they may be volunteering for. The interval between its receipt of comments on a small area FMR demonstration and its solicitation for participants in that demonstration in the current notice is 19 days, a period inadequate for the department to seriously consider submitted comments.

As a result, PHADA was surprised that HUD has announced the selection of the Dallas, TX CBSA as one metropolitan area that will participate in the demonstration before completing any of the steps described above. In particular, PHADA understood that participation in a demonstration would be voluntary and that a CBSA would be included in the demonstration only if the HAs that apply for participation manage at least 80 percent of the HCVs

administered in the CBSA. According to HUD's web based Housing Authority Profile dataset, there are 15 housing authorities in the Dallas metropolitan area, and at least 5 of those agencies would have to volunteer to participate in a demonstration in order to meet the criterion HUD has announced. HUD has elected not to describe the process it used to designate the Dallas area as a participant in a small area FMR demonstration, and so whether this selection conforms to the selection criteria described in the department's earlier notice is unknown.

PHADA also notes that the Dallas Small Area FMRs published in the Federal Register announcement fail to conform to the sample small area FMRs published in a searchable web based dataset. At least one comment on the demonstration objected to HUD's proposed rounding practice, noting that the variability in rents of half the value of the rounding could affect the viability of rental properties. The department requested feedback concerning proposed rounding of small area FMRs and it received several expressions of concern with that proposal, but it appears that HUD has moved forward with its rounding protocol in connection with the Dallas small area FMRs.

The regulatory definition of FMR Area at 24 CFR 888.13(d) says:

FMR areas are metropolitan areas and nonmetropolitan counties (nonmetropolitan parts of counties in the New England States). With several exceptions, the most current Office of Management and Budget (OMB) metropolitan area definitions of Metropolitan Statistical Areas (MSAs) and Primary Metropolitan Statistical Areas (PMSAs) are used because of their generally close correspondence with housing market area definitions. HUD may make exceptions to OMB definitions if the MSAs or PMSAs encompass areas that are larger than housing market areas.

Does the department believe that ZCTA based FMRs published for the Dallas CBSA each encompass a metropolitan area or are consistent with the most current OMB area definitions, or that the Dallas FMRs are legitimate exceptions to the CBSA based FMRs for that metropolitan area?

In addition to soliciting participation in its demonstration prematurely, the FMR notice also announces paradoxically:

HUD will publish a separate notice requesting volunteers for participation in a small area FMR Demonstration project. The forthcoming notice will include criteria for determining how volunteers will be selected.

Does the Dallas metropolitan area conform with HUD's yet to be announced eligibility criteria, or is this area a special case singled out by the department for unannounced reasons?

PHADA strongly urges the department to reconsider its haphazard approach to designing and implementing a small area FMR demonstration. Instead, it should proceed to assess the comments it received by July 19th and additional comments it may receive in response to this proposed FMR notice, publish a notice of the demonstration design that addresses the many comments the department received or will receive and then announce participant selection criteria and solicit participation in the demonstration. Subsequently the department may publish the metropolitan areas selected for participation including descriptions of their conformance to the departments announced selection standards.

PHADA also wishes to point out that the small area FMRs published for the Dallas CBSA largely reinforce concerns raised in many of the comments the department received by July 19th. These included concerns that the new FMRS:

1. Substantially Increase Administrative Burdens: The published FMRs raise the number of FMRs from 1 to 210 in the Dallas CBSA. That CBSA includes 8 counties and the 14 HAs in those counties will now administer from 5 to 89 ZCTA-based FMRs within their jurisdictions instead of 1.
2. Disparate Impacts on Different Communities: Although overall, small area FMRs will raise average FMRs in the metropolitan area by only 3.5 percent, one county will experience an average FMR increase of over 20 percent and 4 counties will experience significant declines in FMRs, ranging from 9.8 percent to over 32 percent.

PHADA remains concerned with outcomes of a small are FMR methodology that will not emerge for several years and urges the department to conduct a demonstration that:

1. Tests for outcomes raised by PHADA's and other comments submitted in response to Docket No. FR-55413-N-01,
2. Lasts for 5 years or a period long enough to capture outcomes and effects of a small area FMR methodology,
3. Uses small area FMRs developed with the same methodology and using the same data set as the department proposes for national implementation of a new FMR methodology, and

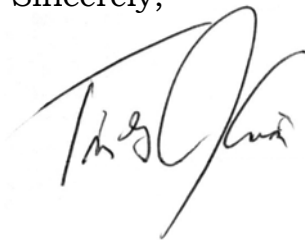
4. Includes HAs representative of agencies that would be subject to a small area FMR methodology if such a policy is implemented nationally.

To proceed with orderly implementation of a demonstration, PHADA urges the department to return to the process alluded to in Docket No. FR-55413-N-01:

- Do not designate participating jurisdictions until both a small area FMR policy and a demonstration design are defined and described,
- Publish the policy and demonstration design so that HAs may elect to participate as fully informed partners,
- Respond to comments HUD has received and will receive concerning the demonstration and the small area FMR methodology, and
- Announce a representative set of metropolitan areas and HAs participating in a small area FMR demonstration and describe how those areas and HAs meet the selection criteria described in HUD's completed demonstration design.

Thank you for the opportunity to comment once more on the department's plans to conduct a demonstration of small area FMRs and to implement such a policy nationally. PHADA appreciates the department's motivation to broaden housing choices available to HCV participants. The association hopes that a thoughtful demonstration can inform national policy implementation and avoid unintended adverse policy outcomes that could result from hasty, intemperate implementation of a demonstration or change in the existing FMR methodology.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy G. Kaiser', written in a cursive style.

Timothy G. Kaiser
Executive Director