<u>Proposal to Incorporate an Opportunity Framework to Transition REO Property into Rental Housing</u>

In January 2012, President Obama released a "Plan to Help Responsible Homeowners and Heal the Housing Market". A key component of the President's plan is the ***First Pilot Sale to Transition Foreclosed Property into Rental Housing to Help Stabilize Neighborhoods and Improve Home Prices***. The Federal Housing Finance Agency (FHFA), in conjunction with Treasury Department and the U.S. Department of Housing and Urban Development (HUD), is developing a strategy to transition Real Estate Owned (REO) properties into rental housing. The goals are to reduce the inventory of unsold homes, help stabilize housing prices, support neighborhoods, and provide sustainable rental housing.

Prior to this announcement, FHFA and HUD issued a "Request for Information" (RFI) to solicit ideas for disposition of REO properties held by Fannie Mae, Freddie Mac and FHA. Fair housing advocates across the country submitted their concerns in a letter dated September 15, 2011. The Housing Partnership Network also submitted a detailed proposal. The key concern raised by fair housing advocates was that the RFI made no mention of "affirmatively furthering fair housing" (AFFH) as one of the listed goals/objectives of the disposition strategy. There is no question that the Fair Housing Act applies to any REO disposition plan issued by FHFA, including a legal obligation to promote racial integration This "AFFH" obligation involves not only the protection of vulnerable communities of color, but also requires the federal government to expand housing opportunities for low income families of color in higher opportunity communities, outside traditional "areas of minority concentration." Data on the REO inventory indicates that while REOs are disproportionately located in minority communities, a significant number of properties are located in job-rich communities with low poverty rates and high performing schools.

The disposition of this inventory presents a once-in-a-generation opportunity to advance fair housing goals. The foreclosure crisis had a disproportionate impact on families of color; the government has an obligation to ameliorate these disparities. The recommendations listed below would incorporate fair housing goals and requirements into the REO-to-rental strategy being developed by FHFA, Treasury and HUD to protect vulnerable neighborhoods and expand regional housing choice.

1. <u>Geographical Distribution</u>
   Pools designated for use as rental property should not be concentrated primarily in low income neighborhoods or segmented by rent levels. It would be best to structure the pools to include properties throughout a metro area to also include at least an equal number of properties in communities of opportunity. In addition, having a mix of properties, geographic diversity, and rent levels increases the likelihood of success of the property management function.

   Prior to the disposition process, for each metropolitan area FHFA and HUD should conduct an analysis, using data sets HUD has been developing for the proposed AFFH rule (FR-5173) that overlays higher opportunity communities outside traditional "areas of minority concentration" with FHFA's total REO stock. Two types of areas should be identified for each metropolitan area: (1) higher opportunity areas outside traditional "areas of minority concentration" with a significant concentration of REOS (25+).; and (2) other higher opportunity areas outside traditional "areas of minority concentration" with some REOs. For the former areas, FHFA and HUD should develop an expanded outreach plan to identify potential partners that could take advantage at scale of these opportunities. For the latter areas, FHFA and HUD should develop a monitoring and public reporting system to ensure that such areas are represented in scattered site portfolios disposed of through this process for use as affordable housing in numbers at least in equal proportion to their proportion of the overall stock.

Geographical diversity could be achieved by instituting a point system during the bidding process that prioritizes proposals that create affordable housing in areas of high opportunity.

2. Nonprofit Partnerships
The nonprofit sector is a natural partner with FHFA, Treasury and HUD because the mission focus of nonprofit organizations will balance the needs and concerns of the residents and the communities in addition to bringing expertise in housing finance and property management. Nonprofit participation in the program from national networks of strong affordable housing providers such as the Housing Partnership Network and others is necessary to advance fair housing objectives, stabilize hard-hit communities, and create new opportunities for low-income families to live in communities of opportunity.

3. Scale
Scale is very important to the successful economics of scattered site property and asset management. Disposition of REO through bulk sales will create some economies of scale and potentially lower management costs. However, too much aggregation of properties may make it difficult for nonprofits to compete. There must be a balance between volume and feasibility for nonprofit partners.

4. Bidding Process
The bidding process should both enhance neighborhood stabilization and advance the acquisition of properties in high opportunity communities for rental use. Many nonprofits have the experience and capacity to do this well, can operate at a regional scale, bring experience working with the public sector and the community, and are mission aligned with the public policy goals.

Bidders should be required to meet certain affordable housing and fair housing goals for the portfolio that they acquire, such as a specified number or percent of units used for affordable rental. The percentage would be higher in high opportunity areas and lower in distressed areas that already have large concentrations of public and assisted housing. Purchasers should be required to manage the properties as rental housing for a fixed period of time unless sold to its current resident.

Currently Fannie Mae and Freddie Mac "First Look" programs provide select nonprofits the opportunity to purchase REO homes during the initial 15 days of a property's listing. The proposed REO to Rental program should extend the "first look" time period from 15 to 45 days for REO properties in low poverty, high opportunity communities. The right of first refusal should be extended to qualified nonprofit organizations and Public Housing Authorities (PHAs) in high opportunity areas, as well as other entities that commit to maintaining the property as long term, income targeted rental housing.

For properties in higher poverty, racially concentrated areas, the "first look" process should be restricted to nonprofit organizations and PHAs. In addition, the "first look" time period should be extended to 45 days in order to allow additional time to secure financing and to protect key community development areas from speculators.

5. Bulk purchase program

The Administration's plan should include an aggressive pre-retail bulk purchase program limited to the acquisition of properties for rental in low poverty, high opportunity communities. These properties should be prioritized for Section 8 voucher access, to cover the higher purchase price, and to ensure strong affirmative fair housing marketing goals.

Bulk purchase programs occurring after the retail sales period should focus on neighborhood stabilization. The bidding process should be structured to encourage the participation of strong nonprofit organizations that are focused on expanding home ownership and building REO rentals into an overall plan for community revitalization.

Basic civil rights data collection should be required for all bulk sales of REO properties, including racial and ethnic demographics of renters, family size, source of income (including vouchers), long term use restrictions on the units, and other relevant data.

6. Financial Incentives

The government should offer financial structures like seller financing and joint venture arrangements that increase the ability of nonprofits to participate in the purchase of the properties. One example is a loan product that would finance or insure an entire portfolio for nonprofit purchasers and those who commit to reuse the properties for affordable rental housing in neighborhoods that meet some opportunity criteria and will be affirmatively marketed, accept vouchers, or be part of a project-based scattered site development. Another option is to create a regional pooling of project based Section 8 vouchers, to be attached to appropriate REO units outside of racially concentrated areas. This program should extend the discounts already offered by FHA to local governments and affordable housing developers to properties located in high opportunity areas as well as in revitalization areas. The discount should be at least 50% if they are expected to find other sources of rehab financing.

Current HUD development regulations and procedures need to be streamlined or waivers granted to facilitate the use of existing HUD subsidy allocations to purchase REO properties. For example, HUD's development regulations (24 CFR Part 941) make scattered site acquisition and rehab very cumbersome, if not impractical. PHAs and their development partners should be able to access HUD public housing Capital Funds, Replacement Housing Factor funds, HOPE VI and Choice Neighborhoods funds to acquire properties without first having to identify specific properties and obtain site control.

As described above, instead, PHAs should be allowed and encouraged to finance the acquisition of packages of REO properties that will subsequently be identified based on certain location criteria and approved rehab standards. Similarly, the Treasury Department should encourage or require state housing finance agencies that allocate Low Income Housing Tax Credits to relax site control requirements for LIHTC applications and other requirements that impede use of LIHTC in connection with acquisition of scattered site single family REO properties. These site control requirements should be replaced with more flexible site selection guidelines that do not necessitate site control just to file an LIHTC application.

Management and operation of single family rental properties is often more expensive than management of multi-family properties. Treasury, FHFA, or HUD should take this into account in pricing properties. Alternatively, they should provide a boost in operating subsidies paid to the owners of REOs operated as affordable rental housing through the various HUD subsidy programs (Section 8 contracts, portable vouchers, or ACC operating subsidies). Funding for this boost should ideally come from the proceeds of REO disposition, and not from the regular HUD budgets for these programs.

Predevelopment grants from proceeds received by the federal government from sales of the REO inventory could be distributed to nonprofit organizations and PHAs for predevelopment expenses and capacity-building.

7. Variety of Models
   Affordable rental housing should be coupled with rent-to own models to bring additional choices to the residents, garner greater community acceptance, and improve the economics of financing and management.

8. Affirmative Marketing
   REO properties and property managers should be subject to affirmative marketing requirements. This program should be viewed by the government as an opportunity to expand opportunity for low-income families, particularly through the utilization of both tenant based and project based vouchers in REO properties in high opportunity communities. A strict source of income non-discrimination policy should be established for REO rental properties, to ensure that Section 8 voucher holders have access to REO rental units in high opportunity areas.

   Affirmative fair housing marketing should target households least likely to apply in the area where each property is located, and ban discriminatory local residency preferences. Where they exist, nonprofit housing counseling and regional housing mobility programs could be contracted to perform this marketing function. In return for a marketing fee, the nonprofits would market the units to their participants, conduct a preliminary screen for program eligibility, counsel and prepare prospective tenants, and refer them to REO property managers with appropriate units. The programs would receive a marketing fee for these services, based on successful referrals and lease up.

Thank you for the opportunity to present these recommendations to include as part of your REO strategy. We look forward to working together to advance fair housing and related policy goals.

Respectfully Submitted,

National Urban League

NAACP

Poverty & Race Research Action Council

The Lawyers Committee for Civil Rights Under Law