

June 1, 2009

Ray LaHood, Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Re: Comments on Docket No. OST-2009-0115, Interim NOFA for Supplemental Discretionary Grants for Capital Investments in Surface Transportation Under the American Recovery and Reinvestment Act and Request for Comments on Grant Criteria

Dear Secretary LaHood,

The Poverty and Race Research Action Council, Fair Share Housing Center, and Oak Park Regional Housing Center submit these comments in response to the proposed NOFA on the TIGER Discretionary Grants program. We submit these comments on how this innovative program can be better coordinated with the nation's fair housing and livable community goals, in the spirit of your joint announcement in March with Secretary Donovan on collaboration between HUD and DOT to help create more livable and environmentally sustainable communities.

General Comments

We are writing to urge you to use the TIGER Discretionary Grants program as a first step to more explicitly consider the impact of federal transportation policy on patterns of residential segregation by race and income. The historical role of federal housing and transportation policy in creating racially and economically isolated communities in the 1940s, 50s, and 60s has been well documented. But even today, transportation decisions, in concert with federal housing policy, have the potential either to perpetuate past segregation, or to promote diverse, inclusive sustainable communities.

The recent report of the bipartisan National Commission on Fair Housing and Equal Opportunity, *The Future of Fair Housing* (December 2008),* noted the importance of aligning federal transportation policy with fair housing on a regional basis:

Implementation of major investments in transportation, employment, education, commercial development, and other infrastructure enhancements should be aligned with fair housing goals, to support and develop diverse, sustainable communities with access to opportunity for all residents.

The Commission report also pointed out that DOT and other agencies that are involved in housing and community development share HUD's statutory duty to "affirmatively further fair housing" under the 1968 Fair Housing Act. This duty was further strengthened by Executive Order 12892 (1994), which created the President's Fair Housing Council, and called on all

* www.civilrights.org/publications/reports/fairhousing/future_of_fair_housing_report.pdf

federal agencies – including DOT – to work closely with HUD to address systemic fair housing concerns.

We were encouraged by the recent HUD-DOT joint announcement that these issues would begin to be addressed systemically by the federal government and that the agencies propose to jointly undertake a “Sustainable Communities Initiative” to maximize choices for residents and businesses and build what HUD Secretary Donovan has called “a new geography of opportunity”. The TIGER Discretionary Grants program provides a good opportunity to start to implement this new approach. However, in the draft NOFA, there is only one mention of housing policy, in a limited role in secondary grant criteria.

We believe that connections to land use and housing policy and residential integration should play a more significant role in the program, specifically in the agency’s evaluation of the categories of livability and sustainability. Who lives near and uses transportation facilities has critical impacts on livable communities and environmental goals. If transit ends up displacing existing lower-income people to further flung areas, it can actually have little or no climate change impact. Highway expansion can facilitate suburban sprawl, especially if there is no provision made for affordable workforce housing in suburban locations. If a new transit facility or highway is built in a high-opportunity area, but land use changes do not follow that include people of all racial and economic backgrounds, a community is not more livable.

Comments on Specific Sections

Section B(1)(a)(iii) – Livability – The Department should add a new subsection (5) reading as follows: (5) Will lead to the creation and/or preservation of low- and moderate-income homes in all areas served by the proposed transportation project, including creating and/or preserving low- and moderate-income homes in Census tracts with poverty rates below 10 percent if such tracts are included in the project area. Low- and moderate-income homes may be created or preserved using tools included, but not limited to, inclusionary zoning, public housing, low income housing tax credits, and/or other state and federal subsidies. Preference shall be given to low- and moderate-income homes integrated with market-rate development and within convenient access to the transportation facility.

Section B(1)(a)(iv) – Sustainability – The Department should add a new subsection (3) reading as follows: (3) increase the movement of low- and moderate-income people to jobs and other trip destinations in a more energy efficient manner than existing transportation options through one or more of the following options: (a) providing new low- and moderate-income housing in employment-rich areas with little existing low- and moderate-income housing; (b) enabling low- and moderate-income households to move to existing high density housing and employment centers not currently well served by public transportation by extending public transportation to those areas; (c) avoiding displacement of existing low- and moderate-income households currently using energy-efficient means of transportation. Low- and moderate-income homes may be created or preserved using tools included, but not limited to, inclusionary zoning, public housing, low income housing tax credits, and/or other state and federal subsidies. Preference shall be given to low- and moderate-income homes integrated with market-rate development and within convenient access to the transportation facility.

Section B(1)(b) – Civil Rights requirements – As part of the civil rights requirements in this section, the Department should explicitly apply the obligation to “affirmatively further fair housing” to any unit of government or agency that receives or benefits from federal transportation funding involved in this program (including states, metropolitan planning organizations, and local governments). Funding should only be distributed to jurisdictions that show how they will carry out this requirement. Carrying out that requirement includes both (1) providing low- and moderate-income homes in areas near transportation facilities that have low populations of people of color in order to encourage racial and ethnic diversity; and (2) affirmatively marketing low- and moderate-income homes developed near transportation facilities to people of color and people with disabilities.

Section B(2)(b)(ii) – Disciplinary Integration – The Department should recognize that relevant housing goals can be met by a range of different approaches, including but not limited to public housing. The Department should also give credit for plans that have support of agencies administering other housing programs besides public housing, such as inclusionary zoning, low income housing tax credits, and/or other state and federal subsidies. The Department should also give preference to agencies providing new low- and moderate-income housing in Census tracts with poverty rates below 10 percent.

We believe that these changes would further the goals of the MOU between HUD and DOT and provide a model for future collaboration. Livability and sustainability necessarily include an understanding of who will live in sustainable communities, and mechanisms to ensure that people of all incomes and racial backgrounds have an opportunity to do so. Please let us know if there is any additional information that we can provide, or if there are ways that we can assist or participate in the process going forward.

Sincerely,

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cc: Shaun Donovan, Secretary of the Department of Housing and Urban
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Roy Kienitz, Undersecretary of Policy, Department of Transportation
Ron Sims, Deputy Secretary, Department of Housing and Urban
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