contracts signed by owners participating in the Department’s Section 8 housing assistance payment programs provide annual adjustment to monthly rentals for units covered by the contract. This Notice announces revised Contract Rent AAFs for adjustment of contract rents on assistance contract anniversaries. The factors are based on a formula using residential rent and utility cost changes from the most current annual Bureau of Labor Statistics Consumer Price Index (CPI) survey. These factors are applied at Housing Assistance Payment (HAP) contract anniversaries for those calendar months commencing after the effective date of this Notice. HUD will publish “Renewal Funding AAFs,” in a separate Notice, to be used exclusively for renewal funding of tenant-based rental assistance, if so required in the fiscal year (FY) 2011 HUD Budget.

DATES: Effective Date: March 16, 2011.

FOR FURTHER INFORMATION CONTACT:
Contact Danielle Bastarache, Director, Housing Voucher Management, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, 202–708–1380, for questions relating to the Project-Based Certificate and Moderate Rehabilitation programs (non Single Room Occupancy); Ann Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, 202–708–4300, for questions regarding the Single Room Occupancy (SRO) Moderate Rehabilitation program; Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, 202–708–3000, for questions relating to all other Section 8 programs; and Marie L. Lihn, Economist, Economic and Market Analysis Division, Office of Policy Development and Research, 202–708–0590, for technical information regarding the development of the schedules for specific areas or the methods used for calculating the AAFs. Mailing address for the above persons: Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. Hearing- or speech-impaired persons may contact the Federal Information Relay Service at 800–877–8339 (TTY). (Other than the “800” TTY number, the above-listed telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Tables showing Contract Rent AAFs will be available electronically from the HUD data information page at http://www.huduser.org/portal/datasets/aaf.html/FY2011_CR_tables.pdf.

I. Applying Contract Rent AAFs to Various Section 8 Programs

Contract Rent AAFs established by this Notice are used to adjust contract rents for units assisted in certain Section 8 housing assistance payment programs during the initial (i.e., pre-renewal) term of the HAP contract and for all units in the Project-Based Certificate program. There are three categories of Section 8 programs that use the Contract Rent AAFs:

Category 1—The Section 8 New Construction and Substantial Rehabilitation programs and the Section 8 Moderate Rehabilitation program.

Category 2—The Section 8 Loan Management (LM) and Property Disposition (PD) programs.

Category 3—The Section 8 Project-Based Certificate (PBC) program.

Each Section 8 program category uses the Contract Rent AAFs differently. The specific application of the Contract Rent AAFs is determined by the law, the HAP contract, and appropriate program regulations or requirements.

AAFs are not used in the following cases:

Renewal Rents. With the exception of the Project-Based Certificate program, Contract Rent AAFs are not used to determine renewal rents after expiration of the original Section 8 HAP contract (either for projects where the Section 8 HAP contract is renewed under a restructuring plan adopted under 24 CFR part 401; or renewed without restructuring under 24 CFR part 402). In general, renewal rents are based on the applicable State-by-State operating cost adjustment factor (OCAF) published by HUD; the OCAF is applied to the previous year’s contract rent minus debt service.

Budget-Based Rents. Contract Rent AAFs are not used for budget-based rent adjustments. For projects receiving Section 8 subsidies under the LM program (24 CFR part 886, subpart A) and for projects receiving Section 8 subsidies under the PD program (24 CFR part 886, subpart C), contract rents are adjusted, at HUD’s option, either by applying the Contract Rent AAFs or by budget-based adjustments in accordance with 24 CFR 886.112(b) and 24 CFR 886.312(b). Budget-based adjustments are used for most Section 8/202 projects.

Certificate Program. In the past, Contract Rent AAFs were used to adjust the contract rent (including manufactured home space rentals) in both the tenant-based and project-based certificate programs. The tenant-based certificate program has been terminated and all tenancies in the tenant-based certificate program have been converted...
to the Housing Choice Voucher Program, which does not use Contract Rent AAFs to adjust rents. All tenancies remaining in the project-based certificate program continue to use Contract Rent AAFs to adjust contract rent for outstanding HAP contracts. **Voucher Program.** Contract Rent AAFs are not used to adjust rents in the Tenant-Based or the Project-Based Voucher programs. **Moderate Rehabilitation Program.** Under the Section 8 Moderate Rehabilitation program (both the regular program and the single room occupancy program), the public housing agency (PHA) applies the Contract Rent AAF to the base rent component of the contract rent, not the full contract rent.

II. Adjustment Procedures

This section of the Notice provides a broad description of procedures for adjusting the contract rent. Technical details and requirements are described in HUD notices H 2002–10 (Section 8 New Construction and Substantial Rehabilitation, Loan Management, and Property Disposition) and PIH 97–57 (Moderate Rehabilitation and Project-Based Certificates).

Because of statutory and structural distinctions among the various Section 8 programs, there are separate rent adjustment procedures for the three program categories:

**Category 1: Section 8 New Construction, Substantial Rehabilitation, and Moderate Rehabilitation Programs**

In the Section 8 New Construction and Substantial Rehabilitation programs, the published Contract Rent AAF factor is applied to the pre-adjustment contract rent. In the Section 8 Moderate Rehabilitation program, the published Contract Rent AAF is applied to the pre-adjustment base rent.

For Category 1 programs, the Table 1 Contract Rent AAF factor is applied before determining comparability (rent reasonableness). Comparability applies if the pre-adjustment gross rent (pre-adjustment contract rent plus any allowance for tenant-paid utilities) is above the published Fair Market Rent (FMR).

If the comparable rent level (plus any initial difference) is lower than the contract rent as adjusted by application of the Table 1 Contract Rent AAF, the comparable rent level (plus any initial difference) will be the new contract rent. However, the pre-adjustment contract rent will not be decreased by application of comparability.

In all other cases (i.e., unless the contract rent is reduced by comparability):

- The Table 1 Contract Rent AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- The Table 2 Contract Rent AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

**Category 2: The Loan Management Program (24 CFR Part 886, Subpart A) and Property Disposition Program (24 CFR Part 886, Subpart C)**

At this time Category 2 programs are not subject to comparability. (Comparability will again apply if HUD establishes regulations for conducting comparability studies under 42 U.S.C. 1437f(c)(2)(C).) Rents are adjusted by applying the full amount of the applicable AAF under this Notice. The applicable Contract Rent AAF is determined as follows:

- The Table 1 Contract Rent AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- The Table 2 Contract Rent AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

**Category 3: Section 8 Project-Based Certificate Program**

The following procedures are used to adjust contract rent for outstanding HAP contracts in the Section 8 PBC program:

- The Table 2 Contract Rent AAF is always used. The Table 1 Contract Rent AAF is not used.
- The Table 2 Contract Rent AAF is always applied before determining comparability (rent reasonableness).
- Comparability always applies. If the comparable rent level is lower than the rent to owner (contract rent) as adjusted by application of the Table 2 Contract Rent AAF, the comparable rent level will be the new rent to owner.
- The new rent to owner will not be reduced below the contract rent on the effective date of the HAP contract.

III. When To Use Reduced AAFs (From AAF Table 2)

In accordance with Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), the Contract Rent AAF is reduced by 0.01:

- For all tenancies assisted in the Section 8 Project-Based Certificate program.
- In other Section 8 programs, for a unit occupied by the same family at the time of the last annual rent adjustment (and where the rent is not reduced by application of comparability (rent reasonableness)).

The law provides that: Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type and age in the market area. 42 U.S.C. 1437f(c)(2)(A).

Legislative history for this statutory provision states that “the rationale [for lower AAFs for non-turnover units is] that operating costs are less if tenant turnover is less * * *.” Department of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations for 1995, Hearings Before a Subcommittee of the Committee on Appropriations 103d Cong., 2d Sess. 591 (1994). The Congressional Record also states the following:

Because the cost to owners of turnover-related vacancies, maintenance, and marketing are lower for long-term stable tenants, these tenants are typically charged less than recent movers in the unassisted market. Since HUD pays the full amount of any rent increases for assisted tenants section 8 projects and under the Certificate program, HUD should expect to benefit from this “tenure discount.” Turnover is lower in assisted properties than the unassisted market, so the effect of the current inconsistency with market-based rent increases is exacerbated. (140 Cong. Rec. 8659, 8693 (1994)).

To implement the law, HUD publishes two separate Contract Rent AAF Tables, Tables 1 and 2. The difference between Table 1 and Table 2 is that each Contract Rent AAF in Table 2 is 0.01 less than the corresponding Contract Rent AAF in Table 1. Where a Contract Rent AAF in Table 1 would otherwise be less than 1.0, it is set at 1.0, as required by statute; the corresponding Contract Rent AAF in Table 2 will also be set at 1.0, as required by statute.

IV. How To Find the AAF

Tables 1 and 2 that show Contract Rent AAFs are posted on the HUD User Web site at http://www.huduser.gov/portal/datasets/aaf.html/FY2011_GR_tables.pdf. There are two columns in each Table. The first column is used to adjust contract rent for rental units where the highest cost utility is
included in the contract rent, i.e., where
the owner pays for the highest cost
utility. The second column is used
where the highest cost utility is not
included in the contract rent, i.e., where
the tenant pays for the highest cost
utility.

The applicable Contract Rent AAF is
selected as follows:

- Determine whether Table 1 or Table
2 is applicable. In Table 1 or Table 2,
locate the Contract Rent AAF for the
geographic area where the contract unit
is located.

- Determine whether the highest cost
utility is or is not included in contract
rent for the contract unit.

- If highest cost utility is included,
select the Contract Rent AAF from the
column for “highest cost included.” If
highest cost utility is not included,
select the Contract Rent AAF from the
column for “utility excluded.”

V. Methodology

Contract Rent AAFs are rent inflation
factors. Two types of rent inflation
factors are calculated for Contract Rent
AAFs: gross rent factors and shelter rent
factors. The gross rent factor accounts
for inflation in the cost of both the rent
of the residence and the utilities used by
the unit; the shelter rent factor accounts
for the inflation in the rent of the
residence, but does not include any
change in the cost of utilities. The gross
rent inflation factor is designated as
“Highest Cost Utility Included” and the
shelter rent inflation factor is designated
as “Highest Cost Utility Excluded”.

Contract Rent AAFs are calculated
using CPI data on “rent of primary
residence” and “fuels and utilities”. The
CPI inflation index for rent of primary
residence measures the
inflation of all surveyed units regardless
of whether utilities are included in the
rent of the unit or not. In other words,
it measures the inflation of the “contract
rent” which includes units with all
utilities included in the rent, units with
some utilities included in the rent and
units with no utilities included in the
rent. In producing a gross rent inflation
factor and a shelter rent inflation factor,
HUD decomposes the contract rent CPI
inflation factor into parts to represent
the gross rent change and the shelter
rent change. This is done by applying
the percentage of renters who pay for
heat (a proxy for the percentage renters
who pay shelter rent) from the
Consumer Expenditure Survey (CEX)
and American Community Survey
(ACS) data on the ratio of utilities to
rents.²

Survey Data Used to Produce Contract
Rent AAFs

In this publication, the rent and fuel
and utilities inflation factors for large
metropolitan areas and Census regions
are based on changes in the rent of
primary residence and fuels and utilities
CPI indices from 2008 to 2009. The CEX
data used to decompose the contract
rent inflation factor into gross rent and
shelter rent inflation factors come from
a special tabulation of 2008 CEX survey
data produced for HUD for the purpose
of computing Contract Rent AAFs. The
utility-to-rent ratio used to produce
Contract Rent AAFs comes from 2008
ACS median rent and utility costs.

Geographic Areas

Contract Rent AAFs are produced for
class A CPI cities (CPI cities with
a population of 1.5 million or more) and
for the four Census Regions. They are
applied to core-based statistical areas
(CBSAs), as defined by the Office of
Management and Budget (OMB),
according to how much of the CBSA is
covered by the CPI city-survey. If more
than 75 percent of the CBSA is covered
by the CPI city-survey, the Contract
Rent AAF that is based on that CPI survey
is applied to the whole CBSA and to any
HUD-defined metropolitan area, called
“HUSD Metro FMR Area” (HMFA),
within that CBSA. If the CBSA is not
covered by a CPI city-survey, the CBSA
uses the relevant regional CPI factor.

Almost all non-metropolitan counties
use regional CPI factors.² For areas
assigned the Census Region CPI factor,
both metropolitan and non-metropolitan
areas receive the same factor.

Each metropolitan area that uses a
local CPI update factor is listed
alphabetically in the tables, by State and
and are shown with their corresponding
county definitions or as metropolitan
areas with local CPI surveys have
separate Contract Rent AAF schedules
and are shown with their corresponding
county definitions or as metropolitan
areas with local CPI surveys have
separate Contract Rent AAF schedules
and are shown with their corresponding
county definitions or as metropolitan
areas with local CPI surveys have
separate Contract Rent AAF schedules
and are shown with their corresponding

Area Definitions

To make sure that they are using
the correct Contract Rent AAFs, users
should refer to the Area Definitions
Table section at http://
www.huduser.org/portal/datasets/aaf.html/FY2011_AreaDef.pdf. For units
located in non-metropolitan areas with a
locally CPI survey, Contract Rent AAF
areas are listed separately. For units
located in areas without a local CPI
survey, the metropolitan or
non-metropolitan counties receive the
relevant regional CPI for that Census
Region.

The Area Definitions Table at http://
www.huduser.org/portal/datasets/aaf.html/FY2011_AreaDef.pdf lists areas
in alphabetical order by State. The
associated CPI region is shown next to
each State name. Areas whose Contract
Rent AAFs are determined by local CPI
surveys are listed first. All metropolitan
areas with local CPI surveys have
separate Contract Rent AAF schedules
and are shown with their corresponding
county definitions or as metropolitan
areas in the six New England States,
the listings are for counties or parts of
counties as defined by towns or cities.
The remaining counties use the CPI for
the Census Region and are not
specifically listed in the Area
Definitions Table at http://

Puerto Rico and the Virgin Islands use
the South Region Contract Rent AAFs.
All areas in Hawaii use the Contract
Rent AAFs identified in the Table as
“STATE: Hawaii,” which are based on
the CPI survey for the Honolulu
metropolitan area. The Pacific Islands
use the West Region Contract Rent
AAFs.

Accordingly, HUD publishes these
Annual Adjustment Factors for the
Section 8 Housing Assistance Payments
programs as set forth in the Contract
Rent AAF Tables posted at http://

³The formulas used to produce these factors can
be found in the Annual Adjustment Factors
overview and in the OMB documentation at

³There are four non-metropolitan counties that
continue to use CPI city updates: Ashabula County,
OH, Henderson County, TX, Island County, WA,
and Lenawee County, MI. BLS has not updated the
geography underlying its survey for new OMB
metropolitan area definitions and these counties,
are no longer in metropolitan areas, but they are
included as parts of CPI surveys because they meet
the 75 percent standard HUD imposes on survey
coverage. These four counties are treated the same
as metropolitan areas using CPI city data.

¹CPI indexes CUUSA103SEHA and
CUSRI0000SAH2 respectively.
Applications

Endangered Species Recovery Permit

0000–F5


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DEPARTMENT OF THE INTERIOR

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Reed R. Murray,

Hobble Creek Restoration of a Portion of Lower Water and Science; Environmental Office of the Assistant Secretary—Completion Act, Department of the Interior.

Dated: March 7, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

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