



FEDERAL REGISTER

Vol. 78

Thursday,

No. 192

October 3, 2013

Part VI

Department of Housing and Urban
Development

Final Fair Market Rents for the Housing Choice Voucher Program and
Moderate Rehabilitation Single Room Occupancy Program Fiscal Year
2014; Notice

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR–5725–N–02]

**Final Fair Market Rents for the Housing
Choice Voucher Program and
Moderate Rehabilitation Single Room
Occupancy Program Fiscal Year 2014**

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Final Fiscal Year (FY) 2014 Fair Market Rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 (USHA) requires the Secretary to publish FMRs periodically, but not less than annually, adjusted to be effective on October 1 of each year. This notice publishes the FMRs for the Housing Choice Voucher, the Moderate Rehabilitation, the project-based voucher, and any other programs requiring their use. Today's notice provides final FY 2014 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2014. The FY 2014 FMRs are based on 5-year, 2007–2011 data collected by the American Community Survey (ACS). These data are updated by one-year recent-mover 2011 ACS data for areas where statistically valid one-year ACS data are available. The Consumer Price Index (CPI) rent and utility indexes are used to further update the data from 2011 to the end of 2012. HUD continues to use ACS data in different ways according to the statistical reliability of rent estimates for areas of different population sizes and counts of rental units.

The final FY 2014 FMR areas are based on Office of Management and Budget (OMB) metropolitan area definitions as updated through December 1, 2009 and include HUD modifications that were first used in the determination of FY 2006 FMR areas. The February 28, 2013 OMB Area definition update has not been incorporated in the FMR process due to the timing of the release and the availability of ACS data. HUD will work toward incorporating these new area definitions into the Proposed FY 2015 FMR calculations; however, this is dependent on the availability of ACS data conforming to the new area definitions.

The final FY 2014 FMRs in this notice reflect several updates from FY 2013 to the methodology used to calculate FMRs. Specifically, HUD has updated the information used to calculate FMRs in Puerto Rico. Puerto Rico FMRs are now based on 2007–2011 Puerto Rico Community Survey (PRCS) data (the

PRCS is a part of the ACS program). Moreover, HUD is using Consumer Price Index data calculated specifically for Puerto Rico rather than using South Census Region CPI data. In response to comments on the proposed notice, HUD has also adjusted the FMRs for Puerto Rico based on validated information related to utility rates. HUD will continue to refine its methodology for incorporating validated utility rates into FMR calculations, as appropriate, in future notices. The remaining methodology used to calculate FMRs remains the same, including the use of the annually updated trend factor calculation methodology. This trend factor for the FY 2014 FMRs is based on the change in national gross rents from 2006 to 2011.

The FMR for Danbury, CT was updated to incorporate the results of a survey. This survey was not available in time for inclusion in the proposed FY 2014 FMRs and results in an increase.

DATES: *Effective Date:* The FMRs published in this notice are effective on October 1, 2013.

FOR FURTHER INFORMATION CONTACT: For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800–245–2691 or access the information on the HUD USER website <http://www.huduser.org/portal/datasets/fmr.html>. FMRs are listed at the 40th or 50th percentile in Schedule B. For informational purposes, 40th percentile recent-mover rents for the areas with 50th percentile FMRs will be provided in the HUD FY 2014 FMR documentation system at <http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr14> and 50th percentile rents for all FMR areas will be published at <http://www.huduser.org/portal/datasets/50per.html> after publication of final FY 2014 FMRs.

Questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff. Questions on how to conduct FMR surveys or concerning further methodological explanations may be addressed to Marie L. Lihn or Peter B. Kahn, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone 202–708–0590. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. (Other than the HUD USER information line and TDD numbers, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the USHA (42 U.S.C. 1437f) authorizes housing assistance to aid lower-income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different geographic areas. In the HCV program, the FMR is the basis for determining the “payment standard amount” used to calculate the maximum monthly subsidy for an assisted family (see 24 CFR 982.503). In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities. In addition, all rents subsidized under the HCV program must meet reasonable rent standards. HUD's regulations at 24 CFR 888.113 permit it to establish 50th percentile FMRs for certain areas.

Electronic Data Availability: This **Federal Register** notice is available electronically from the HUD User page at <http://www.huduser.org/datasets/fmr.html>. **Federal Register** notices also are available electronically from <http://www.gpoaccess.gov/fr/index.html>, the U.S. Government Printing Office Web site. Complete documentation of the methodology and data used to compute each area's final FY 2014 FMRs is available at <http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr14>. Final FY 2014 FMRs are available in a variety of electronic formats at <http://www.huduser.org/portal/datasets/fmr.html>. FMRs may be accessed in PDF format as well as in Microsoft Excel. Small Area FMRs based on final FY 2014 Metropolitan Area Rents are available in Microsoft Excel format at the same web address. Please note that these Small Area FMRs are for reference only, except where they are used by PHAs participating in the Small Area FMR demonstration.

II. Procedures for the Development of FMRs

Section 8(c) of the USHA requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. Section 8(c) states, in part, as follows:

Proposed fair market rentals for an area shall be published in the **Federal Register** with reasonable time for public comment and shall become effective upon the date of publication in final form in the **Federal Register**. Each fair market rental in effect under this subsection shall be adjusted to be

effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in this section.

HUD's regulations at 24 CFR part 888 provide that HUD will develop proposed FMRs, publish them for public comment, provide a public comment period of at least 30 days, analyze the comments, and publish final FMRs. (See 24 CFR 888.115.) For FY 2014 FMRs, HUD has considered all comments submitted in response to its August 5, 2013 (78 FR 47339) proposed FY 2014 FMRs and provides its responses later in this preamble.

In addition, HUD's regulations at 24 CFR 888.113 set out procedures for HUD to assess whether areas are eligible for

FMRs at the 50th percentile. Minimally qualified areas¹ are reviewed each year unless not qualified to be reviewed. Areas that currently have 50th percentile FMRs are evaluated for progress in voucher tenant concentration after three years in the program. Continued eligibility is determined using HUD administrative data that show levels of voucher tenant concentration. The levels of voucher tenant concentration must be above 25 percent and show a decrease in concentration since the last evaluation. At least 85 percent of the voucher units in the area must be used to make this determination. Areas are not qualified to be reviewed if they have been made a 50th-percentile area within the last three years or have lost 50th-percentile status for failure to de-concentrate within the last three years.

In FY 2013 there were 20 areas using 50th-percentile FMRs. Of these 20 areas, only one area, the Bergen-Passaic, NJ HMFA, has completed three years of program participation and is due for re-evaluation. Voucher tenant concentration in the Bergen-Passaic, NJ HMFA has decreased below what is required to be eligible for a 50th percentile FMR and the area has "graduated" from the 50th percentile program. Under current 50th percentile regulations, the Bergen-Passaic, NJ HMFA will be evaluated annually and may return to the program in the future.

In summary, there will be 19 50th-percentile FMR areas in FY 2014. These areas are indicated by an asterisk in Schedule B, where all FMRs are listed by state. The following table lists the FMR areas along with the year of their next evaluation.

FY 2014 50TH-PERCENTILE FMR AREAS AND YEAR OF NEXT REEVALUATION

Austin-Round Rock-San Marcos, TX MSA	2015	Sacramento—Arden-Arcade—Roseville, CA HUD Metro FMR Area.	2015
Fort Worth-Arlington, TX HUD Metro FMR Area	2015	Tucson, AZ MSA	2015
Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area.	2015	Virginia Beach-Norfolk-Newport News, VA-NC MSA	2015
Honolulu, HI MSA	2015	Baltimore-Towson, MD HUD Metro FMR Area	2016
Houston-Baytown-Sugar Land, TX HUD Metro FMR Area.	2015	Fort Lauderdale, FL HUD Metro FMR Area	2016
Las Vegas-Paradise, NV MSA	2015	New Haven-Meriden, CT HUD Metro FMR Area	2016
North Port-Bradenton-Sarasota, FL MSA	2015	Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	2016
Orange County, CA HUD Metro FMR Area	2015	Richmond, VA HUD Metro FMR Area	2016
Phoenix-Mesa-Glendale, AZ MSA	2015	West Palm Beach-Boca Raton, FL HUD Metro FMR Area.	2016
Riverside-San Bernardino-Ontario, CA MSA	2015		

III. Proposed FY 2014 FMRs

On August 5, 2013 (78 FR 47339), HUD published proposed FY 2014 FMRs with a comment period that ended September 4, 2013. HUD has considered all public comments received and HUD provides responses to these comments later in this preamble. HUD does not specifically identify each commenter, but all comments are available for review on the Federal Government's Web site for capturing comments on proposed regulations and related documents (Regulations.gov—<http://www.regulations.gov/%23docketDetail;D=HUD-2013-0073>).

IV. FMR Methodology

This section provides a brief overview of how the FY 2014 FMRs are computed. For complete information on

how FMR areas are determined, and on how each area's FMRs are derived, see the online documentation at <http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr14>.

The FY 2014 FMRs are based on current OMB metropolitan area definitions and standards that were first used in the FY 2006 FMRs. OMB changes to the metropolitan area definitions through December 2009 are incorporated. The February 28, 2013 OMB area definition update has not been incorporated in the FMR process due to the timing of the release and the availability of ACS data. HUD will work toward incorporating these new area definitions into the Proposed FY 2015 FMR calculations; however, this is dependent on the availability of ACS

data conforming to the new area definitions.

A. Base Year Rents

The U.S. Census Bureau provided special tabulations of 5-year ACS data collected between 2007 through 2011 to HUD in June 2013. For FY 2014 FMRs, HUD updates the base rents set in FY 2013 using the 2006–2010 5-year data with the 2007–2011 5-year ACS data.²

FMRs are historically based on gross rents for recent movers (those who have moved into their current residence in the last 24 months). However, due to the way the 5-year ACS data are constructed, HUD developed a new methodology for calculating recent-mover FMRs in FY 2012. As in FY 2013 FMRs, all areas are assigned as a base rent the estimated two-bedroom

¹ As defined in 24 CFR 888.113(c), a minimally qualified area is an area with at least 100 Census tracts where 70 percent or fewer of the Census tracts with at least 10 two-bedroom rental units are Census tracts in which at least 30 percent of the two bedroom rental units have gross rents at or below the two bedroom FMR set at the 40th percentile

rent. This continues to be evaluated with 2000 Decennial Census information. Although the 5-year ACS tract level data is available, HUD plans to implement new 50th percentile areas in conjunction with the implementation of new OMB area definitions.

² The only difference in survey data between the 2006–2010 5-year ACS data and the 2007–2011 5-year ACS data is the replacement of 2006 survey responses with survey responses collected in 2011. The 2007, 2008, 2009, and 2010 survey responses remain intact.

standard quality 5-year gross rent from the ACS.³ Because HUD's regulations mandate that FMRs must be published as recent mover gross rents, HUD continues to apply a recent mover factor to the standard quality base rents assigned from the 5-year ACS data. Calculation of the recent mover factor is described in section B below.

The 2011 ACS is not used as the base rent for 11 areas based on surveys conducted in 2012 and 2013 by HUD or by PHAs. The FY 2013 FMRs were revised for seven areas, based on surveys conducted in 2012 by the PHA (for Hood River, OR) and by HUD (for Cheyenne, WY, Odessa, TX, Burlington, VT, Mountrail County, ND, Ward County, ND, and Williams County, ND). Two surveys conducted by HUD in 2012 were not included in the revised FY 2013 FMR publications because HUD wanted to provide the opportunity to comment on the proposed decreases. The survey results for these areas (Flagstaff, AZ and Rochester, MN) replaced the base rent of the 2011 ACS for the proposed FY 2014 FMRs. The PHAs that administer programs in the Oakland, CA metropolitan area conducted a survey in 2013, and submitted results in time to replace the 2011 ACS base rent for the proposed FMRs. The Danbury, CT survey conducted by HUD was not completed in time to be included in the proposed FY 2014 publication, but is included in this final publication.

B. Recent Mover Factor

The calculation of the recent mover factor for FY 2014 is similar to the methodology used in FY 2013, with the only difference being the use of updated ACS data. As described below, HUD calculates a similar percentage increase as the FY 2013 factor using data from the smallest geographic area containing the FMR area where the recent mover gross rent is statistically reliable.⁴ The following describes the process for determining the appropriate recent mover factor.

In general, HUD uses the 1 year ACS-based two-bedroom recent mover gross rent estimate from the smallest geographic area encompassing the FMR area for which the estimate is statistically reliable to calculate the recent mover factor. HUD calculates

some areas' recent mover factors using data collected just for the FMR area. Other areas' recent mover factors are based on larger geographic areas. For metropolitan areas that are sub-areas of larger metropolitan areas, the order is subarea, metropolitan area, state metropolitan area, and state. Metropolitan areas that are not divided follow a similar path from FMR area, to state metropolitan areas, to state. In nonmetropolitan areas the recent mover factor is based on the FMR area, the state nonmetropolitan area, or if that is not available, on the basis of the whole state. The recent mover factor is calculated as the percentage change between the 5-year 2007–2011 standard quality two-bedroom gross rent and the 1 year 2011 recent mover two-bedroom gross rent for the recent mover factor area. Recent mover factors are not allowed to lower the standard quality base rent; therefore, if the 5-year standard quality rent is larger than the comparable 1 year recent mover rent, the recent mover factor is set to 1. The process for calculating each area's recent mover factor is detailed in the FY 2014 Final FMR documentation system available at: <http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr14>. This process produces an "as of" 2011 recent mover two-bedroom base gross rent for the FMR area.⁵

C. Updates From 2011 to 2012

The ACS-based "as of" 2011 rent is updated through the end of 2012 using the annual change in CPI from 2011 to 2012. As in previous years, HUD uses Local CPI data coupled with Consumer Expenditure Survey (CEX) data for FMR areas with at least 75 percent of their population within Class A metropolitan areas covered by local CPI data. HUD uses Census region CPI data for FMR areas in Class B and C size metropolitan areas and nonmetropolitan areas without local CPI update factors. Additionally, HUD is using CPI data collected locally in Puerto Rico as the basis for CPI adjustments from 2011 to 2012 for all Puerto Rico FMR areas. Following the application of the appropriate CPI update factor, HUD converts the "as of" 2012 CPI adjusted rents to "as of" December 2012 rents by

multiplying each rent by the national December 2012 CPI divided by the national annual 2012 CPI value. HUD does this in order to apply an exact amount of the annual trend factor to place the FY 2014 FMRs as of the mid-point of the 2014 fiscal year.

D. Trend From 2012 to 2014

As in FY 2013, HUD continues to calculate the trend factor as the annualized change in median gross rents as measured across the most recent 5 years of available 1 year ACS data. The national median gross rent in 2006 was \$763 and \$871 in 2011. The overall change between 2006 and 2011 is 14.15 percent and the annualized change is 2.68 percent. Over a 15-month time period, the effective trend factor is 3.365 percent.

E. Bedroom Rent Adjustments

HUD calculates the primary FMR estimates for two-bedroom units. This is generally the most common sized rental unit and, therefore, the most reliable to survey and analyze. Formerly, after each decennial Census, HUD calculated rent relationships between two-bedroom units and other unit sizes and used them to set FMRs for other units. HUD did this because it is much easier to update two-bedroom estimates annually and to use pre-established cost relationships with other bedroom sizes than it is to develop independent FMR estimates for each bedroom size. When calculating FY 2013 FMRs, HUD updated the bedroom ratio adjustment factors using 2006–2010 5-year ACS data using similar methodology to what was implemented when calculating bedroom ratios using 2000 Census data to establish rent ratios. The bedroom ratios used in the calculation of FY 2014 FMRs were unchanged from those calculated using 2006–2010 ACS data. The bedroom ratios for Puerto Rico were calculated for the FY 2014 FMRs using the 2006–2010 Puerto Rico Community survey. HUD will continue to use the same bedroom ratios until the 5-year ACS from 2011–2015 is released, probably in time for the FY 2018 FMRs.

HUD established bedroom interval ranges based on an analysis of the range of such intervals for all areas with large enough samples to permit accurate bedroom ratio determinations. These ranges are: Efficiency FMRs are constrained to fall between 0.59 and 0.81 of the two-bedroom FMR; one-bedroom FMRs must be between 0.74 and 0.84 of the two-bedroom FMR; three-bedroom FMRs must be between 1.15 and 1.36 of the two-bedroom FMR; and four-bedroom FMRs must be between 1.24 and 1.64 of the two-

³ For areas with a two-bedroom standard quality gross rent from the ACS that have a margin of error greater than the estimate or no estimate due to inadequate sample in the 2011 5-year ACS, HUD uses the two-bedroom state non-metro rent for non-metro areas.

⁴ For the purpose of the recent mover factor calculation, statistically reliable is where the recent mover gross rent has a margin of error that is less than the estimate itself.

⁵ The ACS is not conducted in the Pacific Islands (Guam, Northern Marianas and American Samoa) or the U.S. Virgin Islands. As part of the 2010 Decennial Census, the Census Bureau conducted a "long-form" sample surveys for these areas. The results gathered by this long form survey were expected to be available late in 2012; however, these data have not yet become available. Therefore, HUD uses the national change in gross rents, measured between 2010 and 2011 to update last year's FMRs for these areas.

bedroom FMR. (The maximums for the three-bedroom and four-bedroom FMRs are irrespective of the adjustments discussed in the next paragraph.) HUD adjusts bedroom rents for a given FMR area if the differentials between bedroom-size FMRs were inconsistent with normally observed patterns (*i.e.*, efficiency rents are not allowed to be higher than one-bedroom rents and four-bedroom rents are not allowed to be lower than three-bedroom rents). The bedroom ratios for Puerto Rico follow these constraints.

HUD further adjusts the rents for three-bedroom and larger units to reflect HUD's policy to set higher rents for these units than would result from using unadjusted market rents. This adjustment is intended to increase the likelihood that the largest families, who have the most difficulty in leasing units, will be successful in finding eligible program units. The adjustment adds 8.7 percent to the unadjusted three-bedroom FMR estimates and adds 7.7 percent to the unadjusted four-bedroom FMR estimates. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room occupancy units are 0.75 times the zero-bedroom (efficiency) FMR.

For low-population, nonmetropolitan counties with small or statistically insignificant 2006–2010 5-year ACS recent-mover rents, HUD uses state nonmetropolitan data to determine bedroom ratios for each bedroom size. HUD made this adjustment to protect against unrealistically high or low FMRs due to insufficient sample sizes.

V. Manufactured Home Space Surveys

The FMR used to establish payment standard amounts for the rental of manufactured home spaces (pad rentals including utilities) in the HCV program is 40 percent of the FMR for a two-bedroom unit. HUD will consider exceptions of the manufactured home space FMRs where public comments present statistically valid survey data of manufactured home space rent (including the cost of utilities) for the entire FMR area.

All approved exceptions to these rents based on survey data that were in effect in FY 2013 were updated to FY 2014 using the same data used to estimate the HCV program FMRs. This computation is compared to the new payment standard of 40 percent of the new two-bedroom FMR for the area, and if

higher, the exception remains and is listed in Schedule D. No additional exception requests were received in the comments to the FY 2014 FMRs and all areas with manufactured housing exception rents in FY 2013 continued to have exception rents for FY 2014.

VI. Small Area Fair Market Rents

Public housing authorities in the Dallas, TX HMFA, along with the Housing Authority of the County of Cook (IL), the City of Long Beach (CA) Housing Authority, the Chattanooga, (TN) Housing Authority, the Town of Mamaroneck (NY) Housing Authority, and the Laredo, (TX) Housing Authority continue to be the only PHAs managing their voucher programs using Small Area Fair Market Rents (SAFMRs). These FMRs are listed in the Schedule B addendum. The department is working to secure more housing authority participants in its Small Area FMR Demonstration program.

SAFMRs are calculated using a rent ratio determined by dividing the median gross rent across all bedrooms for the small area (a ZIP code) by the similar median gross rent for the metropolitan area of the ZIP code. This rent ratio is multiplied by the current two-bedroom rent for the entire metropolitan area containing the small area to generate the current year two-bedroom rent for the small area. In small areas where the median gross rent is not statistically reliable, HUD substitutes the median gross rent for the county containing the ZIP code in the numerator of the rent ratio calculation. For FY 2014 SAFMRs, HUD continues to use the rent ratios developed in conjunction with the calculation of FY 2013 FMRs based on 2006–2010 5-year ACS data.⁶

VII. Public Comments

A. Overview

A total of 59 comments were received and posted on the regulations.gov site (<http://www.regulations.gov/#/docketDetail;D=HUD-2013-0073>), which is also linked on the HUD User FMR page (<http://www.huduser.org/portal/datasets/fmr.html>). Most comments contested FMR reductions compared with the FY 2013 FMRs and some contested reductions in FMRs over several years. A majority of the

comments, assisted by a form letter provided by an advocacy organization, criticized the variability in FMRs from year-to-year for smaller metropolitan and nonmetropolitan areas and requested an analysis of the FY 2006 FMRs compared with the 2006 one-year data. Decreases of any level were opposed especially for certain HUD programs and other programs that use FMRs but do not allow flexibility in applying FMRs. Two PHAs from different FMR areas notified HUD of their intent to conduct surveys to adjust their rents and several areas requested HUD to conduct surveys of their areas. Several comments requested that HUD hold the FY 2014 FMRs harmless, that is they wanted the FMR to remain at the FY 2013 level, or some earlier level if it would otherwise be lower. In addition to, or instead of, implementing a hold harmless policy, several comments asked HUD to limit annual increases and decreases of FMRs to five percent, or at the very least impose a hard floor of five percent on decreases.

While HUD has been able to use such measures in constraining income limit increases and decreases, HUD is specifically precluded from incorporating these changes into the FMR methodology by the statutory language governing FMRs requiring the use of the most recent available data. As stated in previous FMR notices, HUD's Housing Choice Voucher program counsel reviewed the statutory language governing the calculation of FMRs to determine if the Department has the authority to institute caps and floors on the amount the FMRs could change annually. Based on this review, HUD's program counsel issued a legal opinion that HUD CANNOT impose floors or caps in changes in FMRs because this would violate the portion of the statute that directs HUD to use the most current data available. The legal opinion is that the statute needs to be changed in order for HUD to implement these types of caps and floors. No statutory changes regarding the use of the most recent available data have since been enacted; consequently, HUD does not have the authority to use a hold harmless policy or other policy which would permit HUD to impose caps and floors on FMR changes. HUD is required to use the most recent available data and FMRs must increase or decrease based on this data. Ignoring decreases or phasing decreases or increases in over several years would not fully implement FMRs based on the most recent available data. Comments formulated using the assistance of the aforementioned form letter also posed the question of whether

⁶ HUD has provided numerous detailed accounts of the calculation methodology used for Small Area Fair Market Rents. Please see our **Federal Register** notice of April 20, 2011 (76 FR 22125) for more information regarding the calculation methodology. Also, HUD's Final FY 2014 FMR documentation system available at (<http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr14>) contains detailed calculations for each ZIP code area in participating jurisdictions.

or not the statutory changes to FMR provisions requested by the Department in recent budget requests would address the Department's inability to implement limits on the amount of change in FMRs from year to year. Statutory changes proposed affecting FMRs in HUD's FY 2014 budget request do not include language that would give the department the flexibility to implement caps and floors on the FMRs. The statutory language HUD has included in the FY 2014 budget request is designed primarily to provide the Department with greater flexibility in the way FMRs are published each year.

Comments were received that oppose the current methodology used to define FMR areas. There was no specific request, as in past years, to use the area definitions last used for the FY 2005 FMRs, nor were there any recommendations as to how HUD should determine FMR areas. HUD has not incorporated the new metropolitan area definitions released by the Office of Management and Budget (OMB) on February 28, 2013 for the FY 2014 FMRs, but will begin to review how to incorporate these new area definitions. While HUD will work to incorporate these new area definitions into the Proposed FY 2015 FMRs, based on when the Census Bureau incorporates the new areas into its data collection and production, it is possible that HUD may not be able to incorporate the new metropolitan area definitions into FMRs until the FY 2016 FMRs are produced.

Several PHAs with lower proposed FY 2014 FMRs relative to FY 2013 or earlier FMRs requested that HUD conduct a survey of rents for their FMR areas. As stated in the proposed FY 2014 FMR Notice, HUD anticipates it will have no funds to conduct surveys in FY 2014. While one area provided data, most of this data could not be accepted as the basis for changing FMRs because it did not meet the threshold for representativeness and/or statistical reliability established for rental survey data to be used in FMR determinations. HUD may not use data from newspaper ads because these do not represent actual contracted rents, or rent reasonableness studies as these typically do not sample units randomly. Other data provided may be acceptable, but the sources and method of collection must be identified. Data must be collected randomly and cover the entire rental stock including single-family units, not just large apartment projects. Single family units and smaller apartment buildings are an important part of the rental market and cannot be ignored. HUD did receive notification that two PHAs in different metropolitan

areas are conducting their own surveys and have sought guidance from HUD on how to conduct the surveys. Any other PHAs interested in surveys to support changes in FMRs should review section VIII of this notice for further information regarding acceptable survey methodology.

For areas that are considering conducting their own surveys, HUD would caution them to explore all no-cost options as a means of alleviating problems they are having with low FMRs. HUD has experience conducting surveys in areas with low or no vacancy rates and this experience has shown that it is extremely difficult to capture accurate gross rent levels in tight markets. For that reason, HUD provides emergency exception payment standards up to 135 percent of the FMR for the Section 8 voucher program in areas impacted by natural resource exploration or in presidentially declared disaster areas. PHAs interested in applying for these emergency payment standards should contact their local HUD field office. Other programs that use FMRs will have to pursue similar strategies such as exception payment standards or hold harmless provisions within the statutory and regulatory framework governing those programs.

B. Issues Raised in Comments and HUD Responses

In accordance with 24 CFR 888.115, HUD has reviewed the public comments that have been submitted by the due date and has determined that there are no comments with "statistically valid rental survey data that justify the requested changes." The following are HUD's responses to all known comments received by the comment due date and a part of the notice record at <http://www.regulations.gov/#!docketDetail;D=HUD-2013-0073>.

Comment: FMRs should be held harmless at the FY 2013 levels. Several comments requested that FMRs not be allowed to decline from their FY 2013 level. Some of these comments asked HUD to delay implementation of FY 2014 FMRs for their area to allow local housing authorities to complete a rent survey, or until HUD completes a survey for them.

HUD Response: HUD cannot ignore the more current 2011 American Community Survey (ACS) data and allow FMRs to stay the same as they were for FY 2013, which were based on gross rents from the 2010 ACS, except for areas where there was a HUD-sponsored or PHA-sponsored survey. By statute (42 U.S.C. 1437f(c)(1)(B)) and regulation (24 CFR 888.113(e)), HUD is required to use the most current data

available. While rent surveys conducted either by HUD or a PHA would provide more current data than the ACS, these surveys take about two months to complete and can be quite expensive. HUD does not have the funds to conduct any surveys in 2014 and HUD cannot delay the implementation of FY2014 FMRs while new surveys are being conducted. Areas with relatively short-term market tightening are not easily measured by rent surveys. Based on past experience, HUD finds that an area must have rent increases or declines for a period of at least two years before changes can be accurately measured by surveys. Should the survey results show market conditions that are statistically different from the published FMRs, HUD will revise the Final FY 2014 FMRs. HUD recommends following the survey guidance available at <http://www.huduser.org/portal/datasets/fmr.html> for small metropolitan areas without consistent one-year ACS data and nonmetropolitan areas. For large areas with significant one-year ACS data, the requirement for completed recent mover surveys are greater; there must be about 200 2-BR (or 2-BR and equivalent 1-BR) recent mover surveys completed with a margin of error of plus or minus 5 percent. HUD will review the results of these private surveys and will revise the Final FY 2014 FMRs if warranted.

Comment: The Puerto Rico Community Survey should not be used because it is seriously deficient. A 2012 publication by the Census Bureau that analyzed the 2005–2009 Puerto Rico Community Survey (PRCS) discussed how 20 percent of the population of Puerto Rico is excluded from the survey.

HUD Response: The 2012 publication did show much lower coverage of the 2005–2009 PRCS compared with the 2005–2009 ACS, 79.5 percent compared with 94.2 percent; however, before FY 2014, the FMRs for Puerto Rico were based on a 2005 telephone survey of Puerto Rico, conducted by HUD, with even greater coverage issues than the 2009 PRCS. The FY 2014 FMRs are based on the 2007–2011 PRCS and 2011 PRCS data has much better coverage than the 2009 PRCS. Based on statistics published by the Census Bureau (available at: http://www.census.gov/acs/www/methodology/coverage_rates_data/index.php) the population coverage rate of the PRCS is up to 89.2 percent. While the Census does acknowledge that there would be serious data deficiencies with coverage rates below 70 percent, the PRCS has a sufficiently high coverage rate to alleviate this concern and moreover, the

survey coverage is well above the HUD survey conducted in 2005.

Comment: The FMR decreases do not reflect the reality of the rental market in Puerto Rico. The majority of rental units do not include utilities and utility rates have recently been substantially increased.

HUD Response: HUD has reviewed the utility data referenced in the comments for the entire island of Puerto Rico and has made changes to the FY 2014 Final FMRs. These data included average consumption amounts and the increase in the rates which made it possible for HUD to determine a utility adjustment for each FMR bedroom size

that would be applied uniformly across all areas, as the rate changes by these state-owned utilities are also being applied. The table below shows the fixed amount that is added to the proposed FY 2014 FMRs at each bedroom count level in all Puerto Rico FMR areas.

ADDITIONS TO PUERTO RICO PROPOSED FMRs TO ACCOUNT FOR RECENT UTILITY RATE INCREASES

	0-Bedroom	1-Bedroom	2-Bedroom	3-Bedroom	4-Bedroom
Utility Adjustment	\$20	\$25	\$35	\$40	\$50

HUD expects to phase out these increases over time as the utility rate increases are observed in Puerto Rico data, and will adjust FMRs as HUD refines its methodology for incorporating data on utility rates.

Comment: Market rents did not decrease in the past year and neither should FMRs. Several comments were received that stated that market rents did not decrease over the past year and so FMRs also should not decrease.

HUD Response: FMRs should not be considered a time series of rent data for each market in which FMRs are published. FMR data cannot justify claims that rents in a particular area are increasing, decreasing, or unchanged. The FMR process is designed to develop the best estimate of rents for a particular area using the timeliest available data covering the entire market area; this process does not take into account whether previous FMRs make sense in light of new data, and no attempt is made to revise past FMR estimates. Therefore, year-over-year FMR changes can sometimes seemingly conflict with perceived market trends.

Annual revisions to all of the underlying data used to estimate FMRs are now possible with the 5-year ACS data. Because of the nature of the ACS 5-year tabulations, however, 80 percent of the survey observations will remain the same from one year to the next. Also, many small FMR areas rely on update factors based on survey results from a larger, encompassing geographic area (for example, state-based update factors used for nonmetropolitan counties). Even if the base rent is not adjusted, therefore, the annual changes in FMRs do not necessarily reflect very recent changes in the housing market conditions for the smaller area but still represent HUD's best estimate of 40th-percentile gross rents in the FMR area.

Comment: FMR decreases do not reflect the annual or recent change in rents for an area. To seek changes in FMRs, some comments provided rent

reasonableness findings, or rent data from large apartment projects that show that the rents in their area increased in the past year, while the FY 2014 FMRs show a decline from the FY 2013 FMRs.

HUD Response: FMRs are estimated rents, and can change from year-to-year in ways that are different from market rent changes or economic activity. First, as one commenter noted, when economic activity decreases, rents don't necessarily decrease and some increased economic activity that might put pressure on rents cannot be measured in real time. HUD is required to use the most current data available. HUD is also precluded from using sources of data that are not statistically reliable. Rent reasonableness studies are not subject to the same constraints on statistical reliability and cannot be used to alter FMRs. Surveys of large apartment projects provide indications of where the market is going, but do not account for the majority of most markets made up of single family homes and small apartment buildings (2-4 units). Much of the apartment project data submitted by the commenter was for larger apartment projects and represented less than 20 percent of the rental market.

Comment: For the areas affected by Superstorm Sandy, the FY 2014 FMRs cannot go down; HUD should conduct a survey of the area. A commenter stated that lower income renters were disproportionately victims of the storm. Their already disadvantaged situation should not be made worse by a reduction in available assistance at a time when there is a demonstrated need for increased, not decreased, help.

HUD Response: While there are modest FMR decreases in areas impacted by Sandy, HUD can continue to allow for the successful operation of the HCV program through regulatory waivers provided in disaster areas, and through its emergency exception payment standard process. The modest decreases in the FMRs can be offset by emergency payment standards up to 135

percent, depending on current rental vacancy data and storm damage data. HUD developed the emergency payment standards as an alternative to conducting surveys which do not work well in areas where there has been loss of rental housing. Also, for FY 2014, there are no funds available for HUD-conducted surveys.

Comment: HUD should validate its FMR estimation methodology by comparing one-year ACS data with fiscal year FMRs for the same year, beginning with a comparison of 2006 one-year ACS rent data to the FY 2006 FMRs. This analysis would determine which aspects of HUD's discretionary methodology is less accurate and could help HUD modify its methodology to improve accuracy while adhering to the requirement to use the most recent data available. The up and down changes that occur with the final fair market rents cause a lot of problems and stress for the landlords, tenants and the PHA.

HUD Response: Because the integration of ACS data into the FMR estimation process has been gradual and evolving, and will continue to evolve to address issues like volatility in estimates arising from large sampling variation in smaller markets, there is not yet a basis for making the suggested comparison. FMR methodology and the underlying data have been relatively stable only between FY2013 and FY2014 FMRs. ACS data on recent-mover rents are not yet available for 2013 and 2014. Further, because the ACS only produces highly reliable estimates of the 40th percentile recent mover 2-bedroom rent in the largest metropolitan areas, the comparison would only be valid for large markets, and FMRs have not been particularly volatile in these markets. Finally, the logic of this comment suggests that HUD should change the FMR estimation process to a model-based forecast system derived from time-series-panel data on rents. Again, this methodology would only be valid for the largest

metropolitan FMR areas where a highly reliable recent mover rent can be derived from ACS data. It is not clear that the model would be feasible and accurate for smaller FMR areas, or how a model-based FMR estimate would accord with statutory language regarding FMR estimates.

Comment: The year-to-year volatility in FMRs has significant adverse impacts. A reduction of more than five percent in the published FMRs triggers a rent reasonableness analysis on the part of the PHA with jurisdiction over the area (Housing Choice Voucher Guidebook, directive 7420.10G). If the PHA's analysis finds that the rent being charged by a property owner is no longer reasonable, the owner will be required to reduce the rent. If the owner determines that this reduction will adversely affect the financial stability of the property, the owner will likely choose to leave the program, and the tenant will then have to move. Another consequence of a large reduction in FMRs is that owners may have to defer maintenance items because cash flows are no longer adequate to cover operating expenses.

Alternatively, higher FMRs force the PHA with jurisdiction over the area to increase their payment standards and serve far fewer families within the community. This is detrimental at a time when PHAs are already stretching the limited amount of funding received from HUD to help as many families as they can. Increased FMRs will increase the waiting list for the HCV program and will increase the homeless population for an area.

HUD Response: In estimating FMRs, HUD must carefully balance the use of the most local data available with possible volatility of FMRs from year to year. Most of the large changes in FMRs for smaller metropolitan and nonmetropolitan counties come from changes in the one-year ACS data. It is not clear how much of the variation is due to actual market movement and how much is variability in the ACS sample. HUD will examine possibly limiting the application of one-year ACS data based on the size of the margin of error of the estimate of recent mover rent. Members of the public should be aware, however, that changes in methodology designed to limit FMR volatility in future years may result in substantial volatility of FMRs in the year of implementation.

Comment: The decrease in the FMR for smaller bedroom sizes has a disproportionate impact on elderly, disabled and homeless programs.

HUD Response: HUD recognizes that the reduction in efficiency and one-

bedroom FMRs impacts these programs and is working to develop new tools or use existing ones that can alleviate program problems. PHAs may use Exception Payment Standards at 24 CFR 982.503 (c), or Success Rate Payment Standards 24 CFR 982.503(e) for certain bedroom sizes, to the extent allowed.

Comment: The reduction in the recent mover adjustment factor caused a reduction in FMRs.

HUD Response: While the recent mover adjustment factor cannot be below one, it can increase or decrease from year to year, just like the base rent for the FMR. FMRs cannot be held harmless for the reasons discussed in prior responses.

Comment: Small Area FMRs (SAFMRs) should not be used as the areas for the Difficult to Develop Areas. ZIP Codes cannot be used to delineate housing market because ZIP Codes were developed to facilitate mail delivery. The use of SAFMRs could cause rents to drop significantly and create a disincentive for investment, and put existing properties into an unsustainable revenue loss position. While HUD says it will impose a floor of 10 percent annually if rents decrease, this is still a substantial drop in revenue for the property.

HUD Response: The use of Small Area FMRs in the determination of Difficult to Develop Areas (DDAs) in the Low-Income Housing Tax Credit program is outside of the scope of this notice. However, HUD would like to point out that the proposed use of Small Area FMRs in the construction of DDAs was published for public comment in a **Federal Register** Notice on October 27, 2011 and that HUD further published a **Federal Register** notice on September 28, 2012 which contains HUD's responses to the comments received.

Comment: The Small Area FMR Demonstration program should have a better analysis than the three questions listed in an article in *Cityscape: A Journal of Policy Development and Research* regarding HUD's intent to evaluate the demonstration program.

HUD Response: The content of any analysis of the Small Area FMR Demonstration is beyond the scope of this notice. HUD will, however, consider any public input it receives regarding the design of the evaluation of the Small Area FMR demonstration program. In accordance with HUD's evidence-based policymaking philosophy, HUD will not require metropolitan housing authorities generally to use Small Area FMRs until the demonstration has been evaluated, and then only if the evaluation shows

that Small Area FMRs achieve the intended policy objectives.

Comment: Small Area FMRs should be estimated directly from the ZIP Code Tabulation Area (ZCTA) data published by the Census Bureau; the data and technology is available to determine FMRs without the use of the ratio method.

HUD Response: HUD cannot generate FMRs directly from the 5-year ZCTA data tables because recent mover rents cannot be determined from 5-year ACS data and ZCTA tabulations are only created from the 5-year data. HUD has maintained the ZCTA-to-metropolitan area rent relationships based on the 2006–2010 5-year ACS data to ensure stability of the Small Area FMR estimates. HUD uses the 2011 ACS data to estimate the metropolitan level rent that is used in conjunction with the rent ratio to determine the FY 2014 Small Area FMR for each ZIP Code area.

Comment: FMRs cannot decrease in economic growth areas; some of these areas cannot manage the voucher program even with modest FMR increases. Several comments, even pertaining to FMR areas with decreases below 5 percent, or with modest increases, pressed for higher FY 2014 FMRs. Some of these areas had very tight markets and some of these areas already used payment standards at 110 percent of the FMRs.

HUD Response: For rent data, the ACS provides the most current data, and the 5-year 2007–2011 data is the most current data available for FMR areas of all sizes. HUD must use the most current statistically reliable data available. None of the areas that found FMRs too low because of economic and population growth provided statistically valid data that could be used to update the proposed FY 2014 FMRs. To help manage the program during times of FMR decreases, PHAs operating the Housing Choice Voucher program may be able to use Success Rate Payment Standards 24 CFR 982.503(e), or request Exception Payment Standards for subareas within a FMR area (not to exceed 50 percent of the population) at 24 CFR 982.503 (c), or in severely disrupted rental markets, emergency payment standards.

Comment: Vacancy rates are low, making it impossible to absorb FMR decreases. Several comments stated that low or no vacancy rates in areas with increased economic activity require higher FMRs so that voucher tenants can compete for housing. In these areas, there is not sufficient rental housing and generally the 2011 rental data from the ACS does not reflect this situation.

HUD Response: When a market tightens rapidly, the FMRs cannot keep pace. The most accurate, statistically reliable data available to HUD is lagged by two years. Even if HUD conducts surveys of these areas, capturing the full scope of rent increases is difficult if the market condition has been occurring for less than two years; furthermore, it is challenging to get valid results for surveys of relatively small housing markets (under 1,000). Most of the areas suffering from very rapidly tightening market conditions meet one or both of these criteria. Areas with sustained extremely low vacancy rates require construction of additional units. Higher FMR levels will not necessarily encourage additional development. These areas will have to rely on the use of Exception Payment Standards for subareas within an FMR area (not to exceed 50 percent of the population) as described at 24 CFR 982.503 (c), or through the use of Success Rate Payment Standards available at 24 CFR 982.503(e) to alleviate market pressures, or in severely disrupted rental markets, emergency payment standards.

Comment: FY 2014 FMR decreases reduce the ability of families to find affordable housing. Several comments stated that decreases in FMRs would negatively affect tenants' ability to find affordable housing and therefore should not be implemented. The decrease in FMRs from FY 2013 to FY 2014 will reduce the availability of affordable housing in the area; landlords will be able to get higher rents from tenants that are not Section 8 voucher holders and so many will opt out of the program.

HUD Response: FMRs must reflect the most current statistically valid data and this means that FMRs cannot be held harmless when this data shows a decline. Most of the declines in the FMRs are based on lower 2011 rents, in a few cases the 2011 to 2012 CPI adjustment reflects a decline.

Comment: FMR reductions will lead to poverty concentration. Decreases in the FMR, whether by loss of a 50th percentile FMR status or by reductions in Small Area FMRs (SAFMRs) lead to poverty concentration and prevent tenants from moving to areas of opportunity.

HUD Response: HUD is required to increase or decrease FMRs (and SAFMRs are the FMRs for Dallas) based on the most currently available data that meets the statistical reliability tests. PHAs may use Exception Payment Standards to increase payment standards for higher rent parts of their FMR areas as a means to reduce poverty concentration. Areas that lost their 50th percentile FMR because they graduated

from the program or failed to show measurable poverty deconcentration can use higher payment standards as shown at 24 CFR 982.503 (f) to mitigate FMR decreases.

Comment: A significant increase in the FMR is detrimental to managing the HCV program. PHAs must already stretch the limited amount of funding received from HUD to help as many families as possible. A proposed increase will increase the waiting list for the HCV program and also increase the homeless population. The commenter assumes that new luxury apartments in the area may be responsible for the increase in the FMR.

HUD Response: HUD is required to increase or decrease FMRs based on the most currently available data that meets the statistical reliability tests. While the commenter assumes that new luxury apartments in the area may be responsible for the increase in the FMR, the ACS rent data, which is from 2011, excludes units built in the past two years, so units built since 2009 are not included in the data set.

Comment: A reduction in the FMRs puts HUD-financed projects and low-income housing tax credit projects at risk. If a current HUD Section 8 project uses rents at 110 percent of the FMR, a reduction in the FMR puts this project at risk. An FMR reduction could mean that LIHTC landlords will no longer accept Section 8 voucher tenants.

HUD Response: HUD is required to increase or decrease FMRs based on the most currently available data that meets the statistical reliability tests. PHAs may use the Exception Payment Standard to increase payment standards for higher rent areas and reduce poverty concentration. While there are no project-based exception areas, an area already at 110 percent of the FMR may be eligible for Success Rate Payment Standards or a portion of the FMR area may be granted exceptions above 110 percent, if warranted. PHAs interested in exploring this option are encouraged to review the FY 2014 Small Area FMRs published at <http://www.huduser.org/portal/datasets/fmr.html> in the section labeled "Small Area FMRs." The manner in which SAFMRs are calculated makes them ideal to be used as in the "median rent method" section of the exception payment standard regulations found at 24 CFR 982.503(c)(2)(A). While certain HUD and non-HUD programs are limited to the use of the FMR and not the potentially higher payment standard, we are working to resolve this issue with HUD programs and would suggest that non-HUD programs also make rule

changes to allow for flexibility during times of decreases in FMRs.

Comment: FY 2014 FMR decreases will require existing tenants to pay a greater share of their income on rents. Several comments stated that their current tenants will have to pay a greater share of their income on rents, with FMR decreases.

HUD Response: New tenants are not allowed to pay more than 40 percent of their income on rent. Existing tenants will not have to pay rent based on reduced FMRs until the second anniversary of their Housing Assistance Payment (HAP) contract. If tenant rent burden increases for an area, PHAs may use this as a justification for higher payment standards.

Comment: Disabled and difficult-to-place residents suffer a disproportionately greater impact from FMR decreases because they have fewer housing choice options. Disabled residents already have fewer units available to them, and reducing the FMR will further reduce their options. Difficult to place residents, because of history of late payments or other issues, will have fewer landlords willing to rent to them if the FMR is lower.

HUD Response: If an FMR decreases there may be fewer units available at or below the FMR. However, HUD must use the most current data available and rents may increase and decrease. The data used as the basis for FY 2014 FMRs is more current than what was available in the estimation of the 40th percentile FMRs for FY 2013, so while more units were available, those rents are being replaced with rents based on more current information. If a family has a member with a disability, a PHA may establish a higher payment standard for that family as a reasonable accommodation as discussed in 24 CFR 982.505(d).

Comment: Construction and/or preservation of affordable housing is threatened by FMR decreases. In areas where affordable housing construction is increasing, a reduction in the FMR will reduce the benefit of existing affordable housing projects and may prevent additional affordable housing construction. Several areas claim that there has been an increase in affordable housing production and that HUD's failure to include units built in the past two years ignores new affordable housing production, which in turn artificially reduces the FMR.

HUD Response: HUD has long eliminated rents from units built in the last two years from its calculation of the 40th percentile FMR. This is because new units typically receive a premium over other units of the same size in the

same area, and may skew the distribution of market rent. Maximum allowable rents in Low-Income Housing Tax Credit properties are set based upon 50- or 60-percent income limit levels, or if the payment standard is higher, this amount can be used for voucher holders. If the FMR is below the rent determined by the income limit levels, then generally the income limit rent is used. So if FMRs fall below the income limit rents, voucher holders would either pay more out of pocket for units or would be unable to use their voucher for these units. However, PHAs could use their authority to adjust payment standards where warranted, to increase FMRs so voucher holders can have access to these existing units. FMRs are used in the determination of High- and Low-Rent levels for HOME funded projects. However, when the income limit hold harmless policy was removed for the FY 2010 Income Limits, HUD instituted a specific hold harmless provision for HOME rents. A decrease in the FY 2013 FMR will not necessarily affect HOME rents or home project funding unless the FMR is lower than the held harmless income limit rent.

Comment: FMRs in nonmetro counties adjacent to metropolitan areas should be more like those in the neighboring metropolitan areas.

HUD Response: HUD will not make changes to metropolitan area composition until it incorporates the February 28, 2013 OMB new metropolitan area definitions, and it will begin its analysis of these areas with the FY 2015 FMRs. HUD relies on OMB guidance for determining metropolitan areas and plans to continue market area definitions based on income and rent differences of more than 5 percent.

Comment: Homelessness will increase in areas where the FY 2014 FMRs decreased. Several comments suggest that FMR decreases, even those under five percent, will reduce the ability of tenants to find units that meet housing quality standards and will increase homelessness, as fewer units are available at the lower FMR.

HUD Response: Where market conditions warrant, HUD encourages PHAs to use Exception Payment Standards and Success Rate Payment Standards to increase voucher holder's success in finding housing.

Comment: Decreases in FMRs will undo PHAs efforts to maintain a high success rate; program utilization will be reduced with lower FMRs.

HUD Response: Where market conditions warrant, HUD encourages PHAs to use Exception Payment Standards and Success Rate Payment

Standards to increase voucher holder's success in finding housing.

Comment: HUD should institute caps and floors to limit annual FMR changes to five percent. A five percent change in the FMR triggers a rent reasonableness study, which is costly for cash-strapped PHAs. HUD should have instituted the same cap and floor of five percent that it instituted for Income Limits with the FY 2010 Income Limits.

HUD Response: HUD is constrained by legal and regulatory language for its calculation of FMRs, and therefore cannot ignore the requirement to use the most current data by only implementing FMR changes in five percent increments. Statutory and regulatory changes are required before HUD would be able to implement any methodology changes to not fully use the most current rent data in setting FMRs. No such regulation or legislative requirement governs the calculation of income limits and prior to FY 2010, income limits were held harmless, that is, not allowed to ever decline. The change to incorporate caps and floors of up to five percent was a way to remove this hold harmless policy and create parity with increases and decreases.

Comment: The FY 2014 Small Area FMRs for Dallas do not affirmatively further fair housing. HUD's 2014 proposed SAFMRs will perpetuate racial segregation by increasing SAFMRs in the Black and other predominantly minority ZIP Codes while decreasing SAFMRs in many majority White ZIP Codes. The landlords for 9,609 of the 9,952 voucher holders in the less than 10-percent White Zip Codes will have an SAFMR increase averaging 10 percent more than the 2011 SAFMRs. The landlords in the 10 majority Black ZIP Codes will have an SAFMR increase averaging 12 percent over the 2011 SAFMRs. The landlords for only 343 of the 9,952 existing voucher participants in these ZIP Codes will have a decreased SAFMR that will average 1 percent less than the 2011 SAFMRs. HUD will decrease by 9 percent the SAFMRs for 2,622 of the voucher participants in those majority White ZIP Codes where SAFMRs decrease. This is 54 percent of participants in all majority White ZIP Codes. HUD's 2014 proposed SAFMRs will perpetuate the segregation of Black voucher participants into predominantly minority areas with conditions substantially inferior to the conditions in which White voucher participants are housed.

HUD Response: HUD must follow its statutory and regulatory requirements to update FMRs using the most current data available. This means that both

increases and decreases must be applied to the Dallas SAFMRs. A decrease that reflects more current data does not prevent HUD from affirmatively further fair housing. The data HUD uses in the calculation of FMRs (both metropolitan-wide and small area FMRs) are compiled across all survey respondents in a given area and are not segmented in any way by demographic traits.

Comment: The FMRs are too low and do not reflect market rents; HUD must conduct a survey of rents.

HUD Response: While rent surveys conducted either by HUD or a PHA would provide more current data, these surveys take about two months to complete and are quite expensive. HUD does not anticipate having the funds to conduct any surveys in FY 2014 and HUD cannot delay the implementation while any surveys are being conducted. Areas with relatively short-term market tightening are not easily measured by rent surveys. Based on past experience, HUD finds that an area must have rent increases or decreases for a period of at least two years before it can be measured.

Comment: HUD should publish 2000 decennial Census data to help PHAs determine exception payment standards.

HUD Response: Data from the 2010 ACS is much more current than the 2000 Decennial Census long form data. Moreover, with the calculation of Small Area FMRs for metropolitan areas, HUD is relying on the SAFMRs, published by ZIP Code, to help determine what portions of a metropolitan area may qualify for exception payment standards. This data for metropolitan areas only is already available to PHAs at http://www.huduser.org/portal/datasets/fmr/fmrs/index_sa.html&data=fy2014.

VIII. Rental Housing Surveys

In 2011, HUD solicited bidders to study the methodology used to conduct local area surveys of gross rents to determine if the Random Digit Dialing (RDD) methodology could be improved upon. The Department undertook this study due to the increasing costs and declining response rates associated with telephone surveys. Furthermore, the advent of the 1-year ACS limits the need for surveys in large metropolitan areas. Based on this research, the Department decided that its survey methodology should be changed with mail surveys being the preferred method for conducting surveys, because of the lower cost and greater likelihood of survey responses. These surveys, however, take almost twice as long to conduct as prior survey methods took,

and when response times are most critical, the Department may choose to conduct random digit dialing surveys as well, as the budget permits. Unfortunately, the anticipated budget does not permit any surveys to be conducted in FY 2014. The methodology for both types of surveys along with the survey instruments is posted on the HUD USER website, at the bottom of the FMR page in a section labeled Fair Market Rent Surveys at: <http://www.huduser.org/portal/datasets/fmr.html>.

Other survey methodologies are acceptable in providing data to support comments if the survey methodology can provide statistically reliable, unbiased estimates of the gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn to be statistically representative of the entire rental housing stock of the FMR area. Surveys must include units at all rent levels and be representative of structure type (including single-family, duplex, and other small rental properties), age of housing unit, and geographic location. The 2007–2011 5-year ACS data should be used as a means of verifying if a sample is representative of the FMR area's rental housing stock.

Most surveys cover only one- and two-bedroom units, which has statistical advantages. If the survey is statistically acceptable, HUD will estimate FMRs for other bedroom sizes using ratios based on the 2006–2010 5-year ACS data. A PHA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations, HUD may find it appropriate to relax normal sample size requirements.

HUD will consider increasing manufactured home space FMRs where public comment demonstrates that 40 percent of the two-bedroom FMR is not adequate. In order to be accepted as a basis for revising the manufactured home space FMRs, comments must include a pad rental survey of the mobile home parks in the area, identify the utilities included in each park's rental fee, and provide a copy of the applicable public housing authority's utility schedule.

As stated earlier in this Notice, HUD is required to use the most recent data available when calculating FMRs. Therefore, in order to re-evaluate an area's FMR, HUD requires more current rental market data than the 2011 ACS.

VIII. Environmental Impact

This Notice involves the establishment of fair market rent schedules, which do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR part 888, are proposed to be amended as shown in the Appendix to this notice:

Dated: September 27, 2013.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

Fair Market Rents for the Housing Choice Voucher Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. Metropolitan Areas—Most FMRs are market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental-housing units are in direct competition. HUD is using the metropolitan CBSAs, which are made up of one or more counties, as defined by the Office of Management and Budget (OMB), with some modifications. HUD is generally assigning separate FMRs to the component counties of CBSA Micropolitan Areas.

b. Modifications to OMB Definitions—Following OMB guidance, the estimation procedure for the FY 2014 Final FMRs incorporates the OMB definitions of metropolitan areas based on the CBSA standards as implemented with 2000 Census data updated through December 1, 2009, but makes adjustments to the definitions to separate subparts of these areas where FMRs or median incomes would otherwise change significantly if the new area definitions were used without modification. In CBSAs where subareas are established, it is HUD's view for programmatic purposes that the geographic extent of the housing markets are not yet the same as the geographic extent of the CBSAs, but may become so in the future as the social and economic integration of the CBSA component areas increases. Modifications to metropolitan CBSA definitions are made according to a formula as described below.

Metropolitan area CBSAs (referred to as MSAs) may be modified to allow for subarea FMRs within MSAs based on the boundaries of old FMR areas (OFAs) within the boundaries of new MSAs. (OFAs are the FMR areas defined for the FY 2005 FMRs. Collectively they include 1999-definition MSAs/Primary Metropolitan Statistical Areas (PMSAs), metro counties deleted from 1999-definition MSAs/PMSAs by HUD for FMR purposes, and counties and county parts outside of 1999-definition MSAs/PMSAs referred to as nonmetropolitan counties.) Subareas of MSAs are assigned their own FMRs when the subarea 2000 Census Base Rent differs by at least 5 percent from (*i.e.*, is at most 95 percent or at least 105 percent of) the MSA 2000 Census Base Rent, or when the 2000 Census Median Family Income for the subarea differs by at least 5 percent from the MSA 2000 Census Median Family Income. MSA subareas, and the remaining portions of MSAs after subareas have been determined, are referred to as HUD Metro FMR Areas (HMFAs) to distinguish these areas from OMB's official definition of MSAs.

The specific counties and New England towns and cities within each state in MSAs and HMFAs are listed in Schedule B.

2. Bedroom Size Adjustments

Schedule B shows the FMRs for zero-bedroom through four-bedroom units. The Schedule B addendum shows Small Area FMRs for all PHAs operating using Small Area FMRs. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the zero-bedroom FMR.

3. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each state. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by state.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one state can be identified by consulting the listings for each applicable state.

c. Two nonmetropolitan counties are listed alphabetically on each line of the non-metropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan county

are listed immediately following the county name.

BILLING CODE 4210-67-P