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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5855-N-04]**

**Small Area Fair Market Rents in Housing Choice Voucher Program  
Values for Selection Criteria and Metropolitan Areas  
Subject to Small Area Fair Market Rents**

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

**ACTION:** Notice.

**SUMMARY:** On June 16, 2016, HUD sought comment on applying Small Area Fair Market Rents (Small Area FMRs) to certain metropolitan areas for administration of the Housing Choice Voucher (HCV) program based on certain selection criteria and selection values. Found elsewhere in this issue of the Federal Register is a final rule adopting the use of Small Area FMRs for the HCV program and the selection criteria. The final rule also requires HUD to set forth the values used to determine those metropolitan areas that are subject to Small Area FMRs through a Federal Register notice. This notice sets forth the values for the selection criteria and lists the metropolitan areas that will be subject to Small Area FMRs implemented in the Small Area FMRs final rule.

**DATES:** Effective: **[Insert date 60 days from the date of publication in the Federal Register]**.

**FOR FURTHER INFORMATION CONTACT:** For information about this rule, contact Peter B. Kahn, Director, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7<sup>th</sup> Street SW., Washington, DC 20410, telephone (202) 402-2409; email:

SAFMR\_Rule@hud.gov. The listed telephone number is not a toll-free number. Persons with

hearing or speech impairments may access this number through TTY by calling Federal Relay Service at 1-800-877-8339 (this is a toll-free number).

## **SUPPLEMENTARY INFORMATION:**

### **II. Background**

On June 2, 2015, at 80 FR 31332, HUD published an advance notice of final rulemaking (ANPR) entitled “Establishing a More Effective Fair Market Rent (FMR) System; Using Small Area Fair Market Rents (Small Area FMRs) in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs.” In this ANPR, HUD announced its intention to amend HUD’s FMR regulations applicable to the HCV program and sought public comment on the use of certain criteria for setting Small Area FMRs for the HCV program within certain metropolitan areas.

On June 16, 2016, at 81 FR 39218, HUD published a proposed rule that would require the use of Small Area FMRs in place of the 50th percentile rent to address high levels of voucher concentration. The proposed rule addressed the issues and suggestions raised by public commenters on the ANPR, and in response to public comments proposed new criteria for setting Small Area FMRs for the HCV program.

The proposed regulation provided, in 24 CFR 888.113(c), to set Small Area FMRs for metropolitan areas where at least 2,500 HCVs are under lease; at least 20 percent of the standard quality rental stock, within the metropolitan area, is in small areas (that is ZIP codes) where the Small Area FMR is more than 110 percent of the metropolitan FMR; and the measure of the percentage of voucher holders living in concentrated low-income areas relative to all renters within these areas over the entire metropolitan area exceeds 155 percent (or 1.55).

The proposed regulation also provided, in 24 CFR 888.113(c)(2), that “concentrated low-income areas” means those census tracts in the metropolitan FMR area with a poverty rate of 25 percent or more; or any tract in the metropolitan FMR area where more than 50 percent of the households earn incomes at less than 60 percent of the area median income (AMI) and are designated as Qualified Census Tracts in accordance with section 42 of the Internal Revenue Code (26 U.S.C. 42). Lastly, the proposed regulation provided, in 24 CFR 888.113(c)(3), that if a metropolitan area meets the criteria for application of Small Area FMRs to the area, all PHAs administering HCV programs in that area will be required to use Small Area FMRs.

In addition to setting forth new proposed criteria, HUD specifically requested comment on whether HUD should codify in regulatory text the selection parameters for Small Area FMRs or if they should be incorporated into each annual FMR notice, subject to public comment, to provide HUD, PHAs, and other stakeholders with flexibility to offer changes to the selection parameters. HUD also asked for comments on the criteria that HUD selected for determining which metropolitan areas should be impacted by the shift to a Small Area FMR instead of the current 50th percentile policy.

The final rule, found elsewhere in the Federal Register, responded to the public comments received on the questions posed by HUD and sets forth new selection criteria for HUD to use in determining which metropolitan areas would be impacted by the shift to a Small Area FMR and provides that the criteria values would be set by notice in the Federal Register. Specifically, HUD codified in the final rule the selection parameters in regulatory text for setting Small Area FMRs but provided that HUD would set the selection values through this Federal Register notice and that subsequent Small Area FMR Area designations will be specified through

Federal Register notice with opportunity for public comment as new Small Area FMR designations are made.

In response to comments, HUD also adds two new selection criteria to those provided in the proposed rule. First, HUD adds the vacancy rate of an area as a criterion to the selection parameters for Small Area FMRs and excludes metropolitan areas with a certain ACS vacancy rate from being designated a Small Area FMR area. Second, HUD adds a threshold for the voucher concentration ratio to better target communities where voucher concentration is most severe. Consequently, in addition to the voucher concentration ratio included in the proposed rule, the final rule also requires the numerator of this measure, the concentration of voucher holders within concentrated low income areas, to meet a minimum standard level.

### **III. Selection Values for Selecting Small Area FMRs**

Through this notice, HUD is setting the selection values to determine the first-set of metropolitan FMR areas subject to Small Area FMRs for use in the administration of tenant-based assistance under the HCV program. Metropolitan FMR areas that meet the following requirement will be subject to Small Area FMRs consistent with 24 CFR 888.113(c):

- (i) There are at least 2,500 HCV under lease;
- (ii) At least 20 percent of the standard quality rental stock, within the metropolitan FMR area is in small areas (ZIP codes) where the Small Area FMR is more than 110 percent of the metropolitan FMR;
- (iii) The percentage of voucher families living in concentrated low income areas relative to all renters within the area must be at least 25 percent;

(iv) The measure of the percentage of voucher holders living in concentrated low income areas relative to all renters within these areas over the entire metropolitan area exceeds 155 percent (or 1.55); and

(v) The vacancy rate for the metropolitan area is higher than 4 percent. The vacancy rate is calculated using data from the 1-year American Community Survey (ACS) tabulations, the vacancy rate is the number of Vacant For Rent Units divided by the sum of the number of Vacant For Rent Units, the number of Renter Occupied Units, and the number of Rented, not occupied units. The vacancy rate will be calculated from the 3 most current ACS 1 year datasets available and average the 3 values.

The metropolitan FMR Areas that meet these requirements are as follows:

Atlanta-Sandy Springs-Marietta, GA HUD Metro FMR Area  
Bergen-Passaic, NJ HUD Metro FMR Area  
Charlotte-Gastonia-Rock Hill, NC-SC HUD Metro FMR Area  
Chicago-Joliet-Naperville, IL HUD Metro FMR Area  
Colorado Springs, CO HUD Metro FMR Area  
Dallas-Plano-Irving, TX Metro Division  
Fort Lauderdale-Pompano Beach-Deerfield Beach, FL Metro Division  
Fort Worth-Arlington, TX HUD Metro FMR Area  
Gary, IN HUD Metro FMR Area  
Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area  
Jackson, MS HUD Metro FMR Area  
Jacksonville, FL HUD Metro FMR Area

Monmouth-Ocean, NJ HUD Metro FMR Area

North Port-Bradenton-Sarasota, FL MSA

Palm Bay-Melbourne-Titusville, FL MSA

Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA

Pittsburgh, PA HUD Metro FMR Area

Sacramento--Arden-Arcade--Roseville, CA HUD Metro FMR Area

San Antonio-New Braunfels, TX HUD Metro FMR Area

San Diego-Carlsbad-San Marcos, CA MSA

Tampa-St. Petersburg-Clearwater, FL MSA

Urban Honolulu, HI MSA

Washington-Arlington-Alexandria, DC-VA-MD HUD Metro FMR Area

West Palm Beach-Boca Raton-Delray Beach, FL Metro Division

Dated: November 1, 2016

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Katherine M. O'Regan,  
Assistant Secretary for Policy Development and Research

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