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Part III

**Department of
Housing and Urban
Development**

**Final Fair Market Rents for Fiscal Year
2010 for the Housing Choice Voucher
Program and Moderate Rehabilitation
Single Room Occupancy Program; Notice**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**
[Docket No. FR-5328-N-02]
**Final Fair Market Rents for Fiscal Year
2010 for the Housing Choice Voucher
Program and Moderate Rehabilitation
Single Room Occupancy Program**
AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Final Fair Market Rents (FMRs) for Fiscal Year (FY) 2010.

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. The primary uses of FMRs are to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment (HAP) contracts in the Moderate Rehabilitation Single Room Occupancy program (Mod Rehab), and to serve as a rent ceiling in the HOME rental assistance program. Today's notice provides final FY 2010 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2010. The FY 2010 FMRs are based on 2000 Census data updated with more current survey data. For FY 2010, FY 2009 FMRs are updated using 2007 American Community Survey (ACS) data, and more recent Consumer Price Index (CPI) rent and utility indexes. HUD continues to use ACS data in different ways according to how many two-bedroom standard-quality and recent-mover sample cases are available in the FMR area or its Core-Based Statistical Area (CBSA). Revised 2007 FMRs based on Census and ACS data have been updated with CPI data through the end of 2008 and then trended to April 2010, the mid-point of FY 2010.

DATES: *Effective Date:* The FMRs published in this notice are effective on October 1, 2009.

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 at the following link on the HUD Web site: <http://www.huduser.org/datasets/fmr.html>. FMRs are listed at the 40th or 50th percentile in Schedule B. An asterisk before the FMR area name identifies a 50th percentile area. Any

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 further methodological explanations may be addressed to Marie L. Lihn or Lynn A. Rodgers, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone number (202) 708-0590. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339. (Other than the HUD USER information line and TTY 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 areas. In the Housing Choice Voucher 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 Housing Choice Voucher program must meet reasonable rent standards. The interim rule published on October 2, 2000 (65 FR 58870), established 50th percentile FMRs for certain areas.

Electronic Data Availability: This **Federal Register** notice is available electronically from the U.S. Government Printing Office Web site, <http://www.gpoaccess.gov/fr/index.html>. Complete documentation of the methodology and data used to compute each area's Final FY 2010 FMRs is available at <http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr10>.

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.

The Department'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).

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. Areas that currently have 50th percentile FMRs are evaluated for progress in voucher tenant deconcentration 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 holder 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. For FY 2009, there were 14 areas that were designated as 50th percentile areas. Ten current 50th percentile FMR areas were not evaluated this year because they have not completed three years of program participation. These 10 areas, listed below, will complete their three-year program period and be evaluated to determine if they remain 50th percentile FMR areas in the proposed FY 2012 FMR publication.

**FY 2009 50TH-PERCENTILE FMR
AREAS NOT SLATED FOR ELIGIBILITY
EVALUATION AND CONTINUING WITH
50TH-PERCENTILE FMRs IN FY
2010**

Albuquerque, NM MSA.
Bradenton-Sarasota-Venice, FL MSA.
Chicago-Naperville-Joliet, IL HMFA.
Denver-Aurora, CO MSA.
Hartford-West Hartford-East Hartford, CT HMFA.
Houston-Baytown-Sugar Land, TX HMFA.
Kansas City, MO-KS, HMFA.
Milwaukee-Waukesha-West Allis, WI MSA.
Richmond, VA HMFA.
Tacoma, WA HMFA.

The remaining four current 50th percentile FMR areas had been in the program for a three-year period and were reviewed to determine if deconcentration had occurred. A list of these four areas is shown below.

**FY 2009 50TH-PERCENTILE FMR
AREAS REVIEWED FOR ELIGIBILITY
AS FY 2010 50TH-PERCENTILE FMR
AREAS**

Dallas, TX HMFA.
Fort Lauderdale, FL HMFA.
San Diego-Carlsbad-San Marcos, CA MSA.
West Palm Beach-Boca Raton, FL HMFA.

Two of the four current 50th percentile areas eligible for review fail to qualify for the 50th percentile FMR program for FY 2010. One of these areas, San Diego-Carlsbad-San Marcos, CA MSA, no longer qualifies for the 50th-percentile FMR program because the area no longer meets the voucher holder concentration standards set out in the 50th percentile FMR program, at 24 CFR 888.113. Based on current tenant data, less than 25 percent of the tenant-based rental program participants reside in the 5 percent of census tracts in the metropolitan area with the largest number of program participants. This area will be reviewed annually to see if its concentration changes to above 25 percent so it can be reinstated as a 50th percentile area. The San Diego-Carlsbad-San Marcos, CA MSA could re-qualify as 50th percentile FMR areas as early as the FY 2011 FMRs.

As noted in the publication of proposed FY 2010 FMRs, the Dallas, TX HMFA failed to deconcentrate over the three-year period. Under current regulations, the Dallas, TX HMFA is not eligible for participation in the 50th percentile FMR program until FY 2013. The Dallas, TX HMFA will be reviewed in time for the proposed FY 2013 FMRs to determine if they can meet 50th percentile FMR criteria.

Two of the four areas reviewed will continue to use 50th percentile FMRs for another three-year period. These two areas will not be re-evaluated until FY 2013.

**FY 2009 50TH-PERCENTILE FMR
AREAS EVALUATED AND CONTINUING
WITH 50TH-PERCENTILE FMRs IN
FY 2010**

Fort Lauderdale, FL HMFA.
West Palm Beach-Boca Raton, FL HMFA.

For FY 2010, five areas that were not designated as 50th percentile FMRs in FY 2009 were evaluated to determine if they met all of the qualifications for designation this year. All five of these areas are 50th percentile areas effective October 1st for a three-year period beginning with the FY 2010 FMRs. These areas are listed in the table below.

**AREAS REVIEWED FOR ELIGIBILITY AS
FY 2010 50TH-PERCENTILE FMR
AREAS**

Baltimore-Towson, MD MSA.
Grand Rapids-Wyoming, MI HMFA.
New Haven-Meriden, CT HMFA.
Philadelphia-Camden-Wilmington, PA-NJ-DE-
MD MSA.
Washington-Arlington-Alexandria, DC-VA-MD
HMFA.

In total, 17 areas will have 50th percentile FMRs in FY 2010, including 10 areas that will be evaluated for FY 2012, two areas that passed review and will be re-evaluated for FY 2013, and five areas that did not have 50th percentile FMRs in FY 2009, and will also be evaluated for FY 2013. Included in these five newly-designated 50th percentile FMR areas is Washington, DC, which was not considered a 50th percentile FMR area in the proposed publication because the reporting rate for the area was less than 85 percent. Additional data was provided by the DC Housing Authority, the analysis was completed, and all 50th percentile criteria were met.

III. Proposed FY 2010 FMRs

On August 4, 2009 (74 FR 38716), HUD published proposed FY 2010 FMRs. As noted in the preamble to the proposed FMRs, the FMRs for FY 2010 reflect the use of both one-year and three-year 2007 ACS data to update June 2006 rent estimates for each area. In addition, the FY 2010 FMRs include all changes made to metropolitan area definitions made by the Office of Management and Budget (OMB), as of November 2008.

During the comment period, which ended September 2, 2009, HUD received 10 public comments on the proposed FY 2010 FMRs. None of the comments received included the data needed to support FMR changes. Several of these comments expressed that proposed FY 2010 FMRs are incorrect for their respective market areas. The comments received are discussed in more detail later in this notice.

IV. FMR Methodology

The FY 2010 FMRs are based on current OMB metropolitan area definitions that were first used in the FY 2006 FMRs. The changes OMB made to the Metropolitan Area Definitions in November 2008 are incorporated. This means that there are five Metropolitan Statistical Area (MSA) name changes that reorder, add, or delete a primary city name. Additionally, three micropolitan areas were re-defined as metropolitan areas: Cape Girardeau-

Jackson, MO-IL MSA, Manhattan, KS MSA, Mankato-North Mankato, MN MSA. The area definitions based on 2000 Census data have the advantages of providing more relevant commuting interchange standards, and more current measures of housing market relationships than those based on 1990 Census data and used prior to the FY 2006 FMRs.

At HUD's request, the Census Bureau prepared a special publicly releasable census file that permits almost exact replication of HUD's 2000 Base Rent calculations, except for areas with few rental units. This data set is located on HUD's HUD USER Web site at <http://www.huduser.org/datasets/fmr/CensusRentData/>.

**A. Data Sources—2000 Census and
American Community Survey**

As in all post-FY 2006 FMR publications, FY 2010 FMRs start with base rents generated using Census 2000 long form survey data. They are updated with American Community Survey (ACS) data and Bureau of Labor Statistics Consumer Price Index (CPI) data. FY 2010 FMRs are FY 2009 FMRs updated by replacing the CPI data used for FY 2009 FMRs with ACS 2007 survey data and updated CPI data. Specifically, the FY 2009 rent (as of date: April, 2009) is deflated to June 2006 by dividing it by 18 months of CPI data representing June 2006 through December 2007 inflation, and the usual 15 month trend factor. This June 2006 rent is the best and most recent rent estimate available using only ACS survey and eliminating all other update data. It is this rent that is updated with additional ACS data and new CPI data.

In order to preserve additional information gathered by HUD through random digit dialing (RDD) surveys, areas surveyed after June 2007 are updated separately, the details of which can be found at the Web site listed above.

**B. Updates from 2006 to 2007—2007
ACS**

ACS survey data continues to be applied to areas based on the type of area (CBSA, metropolitan sub-area, or non-metropolitan county), the amount of survey data available, and the reliability of the survey estimates. Both one- and three-year ACS 2007 data are used to update June 2006 rents. All areas are updated with the change from 2006 to 2007 in State or metropolitan one-year standard quality median rents. In a methodological update from previous years' estimates intended to minimize fluctuations in rents due to survey error, these rent changes are

tested for statistical significance¹ before being applied to 2006 rents. Any state or metropolitan level change that is not statistically significant is not applied, that is the updated 2007 rent is the same as the 2006 rent. Metropolitan level rent changes are used for CBSA areas and sub-areas that have more than 200 standard quality cases in 2006 and 2007. All other areas are updated with state level rent changes. For sub-areas, State and CBSA change factors continue to be selected based on which factor brings the sub-area rent closer to the CBSA-wide rent. Sub-areas which have 200 or more local standard quality survey observations are updated with their local area update factor.

$$Z = \frac{EST_1 - EST_2}{\sqrt{(SE_1^2 + SE_2^2)}}$$

After all areas have been updated with a standard quality median rent change, local areas with estimates that reflect more than 200 one-year recent mover cases are evaluated further. If the updated rent is outside the confidence interval of the ACS recent mover estimate, the updated rent is replaced with the ACS recent mover rent estimate. In areas without 200 or more one-year ACS recent mover observations, but with 200 or more three-year ACS recent mover observations, the three year estimate² is used if it is statistically different from the updated 2007 rent based on the standard quality median rent change. This process creates a June 2007 rent.

C. Updates From 2007 to 2008

ACS 2007 data updates the June 2006 rents used in the FY 2009 FMRs forward by 12 months to June 2007. Six months of 2007 and 12 months of 2008 CPI rent and utilities price index data are used to update the June 2007 rents to the end of 2008. Local CPI data are used for FMR areas with at least 75 percent of their population within Class A metropolitan areas covered by local CPI data. Census region CPI data are used for FMR areas in Class B and C size metropolitan areas and nonmetropolitan areas without local CPI update factors.

¹ The change is considered statistically significant if $Z > 1.645$ where (see equation above) and EST_1 = ACS 2007. Estimate, EST_2 = ACS 2006 Estimate, SE_1 = Standard Error of Estimate 1 and SE_2 = Standard Error of Estimate 2.

² The recent mover estimate from the three year data includes all those who moved in the most recent 24 month period. That means that no 2005 survey data are included in this three-year recent mover classification and the likelihood of having a valid (with 200 or more cases) three-year recent mover rent is lower for these estimates.

D. Updates From 2008 to 2010

The national 1990 to 2000 average annual rent increase trend of 1.03 is applied to end-of-2008 rents for 15 months, to derive the proposed FY 2010 FMRs.

The area-specific data and computations used to calculate proposed FY 2010 FMRs and FMR area definitions can be found at <http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr10>.

E. Large Bedroom Rents

FMR estimates are calculated for two-bedroom units. This generally is the most common size of rental units, and therefore the most reliable to survey and analyze. After each decennial census, rent relationships between two-bedroom units and other unit sizes are calculated and used to set FMRs for other units. This is done because it is much easier to update two-bedroom estimates and to use pre-established cost relationships with other bedroom sizes than it is to develop independent FMR estimates for each bedroom size. This was last done using 2000 Census data. A publicly releasable version of the data file used that permits derivations of rent ratios is available at <http://www.huduser.org/datasets/fmr/CensusRentData/index.html>. Rent ratio derivations are also shown in the FMR documentation system at <http://www.huduser.org/datasets/fmr/fmrs/index.asp?data=fmr10>.

The rents for three-bedroom and larger units continue to reflect HUD's policy to set higher rents for these units than would result from using normal 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 bonuses of 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.

A further adjustment was made using 2000 Census data in establishing rent ratios for areas with local bedroom-size intervals above or below what are considered to be reasonable ranges or where sample sizes are inadequate to

accurately measure bedroom rent differentials. HUD's experience has shown that highly unusual bedroom ratios typically reflect inadequate sample sizes or peculiar local circumstances that HUD would not want to utilize in setting FMRs (e.g., luxury efficiency apartments that rent for more than typical one-bedroom units). Bedroom interval ranges were established based on an analysis of the range of such intervals for all areas with large enough samples to permit accurate bedroom ratio determinations. The ranges used were: Efficiency units are constrained to fall between 0.65 and 0.83 of the two-bedroom FMR; one-bedroom units must be between 0.76 and 0.90 of the two-bedroom unit; three-bedroom units must be between 1.10 and 1.34 of the two-bedroom unit; and four-bedroom units must be between 1.14 and 1.63 of the two-bedroom unit. Bedroom rents for a given FMR area were then adjusted if the differentials between bedroom-size FMRs were inconsistent with normally observed patterns (i.e., efficiency rents were not allowed to be higher than one-bedroom rents and four-bedroom rents were not allowed to be lower than three-bedroom rents).

For low-population, nonmetropolitan counties with small census recent-mover rent samples, census-defined county group data were used in determining rents for each bedroom size. This adjustment was made to protect against unrealistically high or low FMRs due to insufficient sample sizes. The areas covered by this estimation method had less than the HUD standard of 200 two-bedroom census-tabulated observations.

V. Public Comments

A total of 10 public comments were received on the proposed FY 2010 FMRs. Two of the comments filed were concerned with HUD's presentation of proposed FMR data. These comments requested that HUD publish both the current proposed and most recent final FMRs together in a spreadsheet. The concept of comparing proposed rents to current effective rents is relevant so HUD has added this comparison to its on-line documentation system to provide interested users with a comparison of current year proposed rents to final rents from the previous year. This functionality will only be available in the proposed FMR documentation systems.

Several commenters expressed concern with either increases or decreases in their FMRs. HUD will shortly be issuing guidance on cost-related issues in the housing voucher

program including the setting of payment standards. However, as a reminder, whether there is a decrease or an increase in the FY 2010 FMR, a PHA is not required to decrease or increase the dollar amount of their payment standards unless the FMR results in the payment standard being outside the basic range of 90-to-110 percent of the FMR.

A comment from the Housing Authority of the City of Reno stated that proposed FY 2010 FMRs are too high. The Reno comment claims that no increase in its FMR is needed and asks HUD to hold its FMRs at the FY 2009 level. Reno includes an analysis that states that the three-percent annual trend factor is the cause of the increase in Reno's FMR from FY 2009 to FY 2010, and requests that HUD revise its trend factor downward. However, the actual source of the increase comes from the nearly 6-percent increase in ACS measured 2 bedroom rents between 2006 and 2007. No data were submitted by the Housing Authority to support their claim that FMRs are too high in the area, but because the increase in the FMR for Reno is based on an update factor using standard quality, not recent mover, ACS data between 2006 ACS and 2007 ACS HUD will conduct a RDD survey in the area to see if more current rents support a lower FMR.

A real estate management firm serving customers in New Bedford, MA commented that FMRs are too low for their professionally managed and maintained communities; therefore, their communities will not be able to accommodate voucher tenants. The comment specifically requested that HUD not conduct a RDD survey. Absent sufficient data reflecting rent levels that exist in the entire FMR area, HUD has no mechanism for adjusting FMRs in this area.

The Oklahoma City Housing Authority commented that the proposed 3.5 percent decrease in FMRs for the Oklahoma City, OK MSA is not justified. They cite a 3-percent increase in aggregate rental rates per square foot between 2007 and 2008 as quoted from a full-service commercial real estate firm as the basis for the objection. The decrease in the proposed FY 2010 FMR for Oklahoma City, OK is driven by a 1-year 2007 ACS recent-mover survey result that measured a statistically significant drop in two-bedroom unit rents between 2006 and 2007. This 2007 ACS result qualifies as the new basis for the Oklahoma City FMR. Activity in the rental market subsequent to 2007 is measured by 18 months of CPI rent and utility indexes and the traditional trend factor. These indexes lend credence to

the quoted increases in rental rates. From mid-2007 to the end of 2007 this CPI measured increase was approximately 2 percent and from the end of 2007 to the end of 2008, this increase was approximately 5 percent. However, because the 2007 ACS survey result indicates that the base rent in Oklahoma City was too high in 2007, this downward adjustment is necessary.

The Lafayette Housing Authority disagrees with HUD's decision to increase FMRs for the Lafayette, IN HUD Metro FMR Area "when funding for the HCV program continues to lag so far behind that we must continue to decrease the number of households we can assist." The 1.4 percent increase in the FMR for Lafayette is based on measured increases in rent and utility indexes in the CPI and is the most current data available for the area.

The Minot Housing Authority serving Ward County, North Dakota filed a comment that FMRs are too low in the area. The Minot area has experienced an extremely low vacancy rate due to increased energy exploration and production in the area. Additionally, a substantial expansion of personnel at the Minot Air Force Base will place additional strain on the housing market of the area. Minot is currently using a success rate payment standard to increase its FY 2009 FMRs, but claims that increased payment standards are still needed. HUD will survey this area and will publish a revision to the FMRs once the study is completed and if statistically different rent results are obtained.

The Department of Housing for the Commonwealth of Puerto Rico submitted a comment stating that FMRs throughout the entire Commonwealth are too low. They base this assertion on the claim that CPI measures of rent and utility increases measured for the South Census region do not accurately reflect the price changes experienced in Puerto Rico. Between 2000 and 2006, the Department of Labor and Human Resources of the Government of Puerto Rico created a CPI measure for Puerto Rico in consultation with officials from the U.S. Department of Commerce's Bureau of Labor Statistics. HUD was not aware of this activity so previous FMRs have not included this Puerto Rico specific CPI data. HUD will incorporate consideration of this new CPI index into its FMR Process Review.

The National Association of Housing and Redevelopment Officials (NAHRO) submitted a general comment not specific to any FMR area. In their comment, NAHRO recommends multiple topics for future improvement of both the FMR and the Income Limit

methodology. Briefly, these topics include: (1) HUD's implementation of the OMB area definitions in FY 2006; (2) use of tenant data when developing Annual Adjustment Factors; (3) continuation of HUD's Hold Harmless policy for Income Limits (Comments referencing HUD's Hold Harmless policy should be referred to Docket No. FR-5323-N-01 published on September 14th); (4) enhancements to the methodology for identifying sub-standard housing units in the ACS; (5) the relationship between quality of the rental housing stock and FMRs, (6) determination of 50th percentile FMR areas; (7) improvements in HUD's RDD methodology; (8) the impact of HUD's definition of "recent movers" and "stayers" on FMRs; and (9) exception payment standards. In the preamble to the proposed FY 2010 FMR notice, HUD solicited topics for inclusion in future FMR notices regarding reforms and changes to the FMR methodology. HUD will incorporate this list of topics into future discussions dealing with FMR reform.

A comment filed by the National Association of Home Builders (NAHB) made four specific requests: (1) Conduct RDD surveys in the areas with a decrease of more than 5 percent; (2) incorporate language into proposed and final FMR notices concerning the adjustments made by HUD to control for the presence of inadequate and subsidized units; (3) explain the way that a particular area becomes eligible for 50th percentile FMRs; and (4) the loss of the 50th percentile FMR designation in the Dallas, TX HUD Metro FMR Area.

FY 2010 proposed FMRs include two areas that experience more than a 5 percent decline in FMRs. One is San Diego, CA, whose decline is a result of the loss of the 50th percentile, and the other is Ann Arbor, MI. HUD is required by law to use the most recent, reliable data available in estimating FMRs. Limiting either increases or decreases would be counter to the current law. FMRs for both of these areas are based on local ACS survey results; conducting an RDD would use scarce resources to produce less reliable data than that available from the ACS. In addition, no comments were filed by any party within either of the two areas.

NAHB has requested additional language be added to FMR publications concerning adjustments made to source data to account for sub-standard and subsidized units. In response to a similar comment from NAHB last year HUD published a document outlining the procedure for these adjustments. A link to this document is available within

the FY 2010 on-line documentation wherever the adjustments are made to the underlying data distributions and not just in determining the 2000 Census Base rent as reported by NAHB. HUD believes that the on-line documentation system is the best venue for discussing methodological details and believes that interested parties will be able to find the explanation at the appropriate location within the on-line system.

HUD continues to provide specific details regarding the 50th percentile status for all areas meeting the eligibility requirements for inclusion in this program. In response to the NAHB request that HUD include information regarding "success rate payment standards" HUD reiterates here that all of the rules and conditions for becoming eligible for and for maintaining eligibility of 50th percentile status are given in 24 CFR 888.113 and 24 CFR 982.503, including the rules applying to the success rate payment standard.

Finally, with regard to the loss of 50th percentile standing for the Dallas, TX HUD Metro FMR area, NAHB recommends that HUD "look further into the circumstances of areas that stand to lose the 50th percentile designation because of failure to materially deconcentrate in three years." Furthermore, NAHB suggests that there may be instances where an additional year is warranted. Current program regulations do not allow for an additional year of eligibility for areas that do not deconcentrate over the three-year period.

VI. Manufactured Home Space Surveys

The FMR used to establish payment standard amounts for the rental of manufactured home spaces in the Housing Choice Voucher program is 40 percent of the FMR for a two-bedroom unit. HUD will consider modification of the manufactured home space FMRs where public comments present statistically valid survey data showing the 40th percentile manufactured home space rent (including the cost of utilities) for the entire FMR area. For FY 2010, HUD received no comments or data concerning manufactured home space rents.

All approved exceptions to these rents that were in effect in FY 2009 were updated to FY 2010 using the same data used to estimate the Housing Choice Voucher program FMRs if the respective FMR area's definition remained the same. If the result of this computation was higher than 40 percent of the benchmarked two-bedroom rent, the exception remains and is listed in Schedule D. The FMR area definitions used for the rental of manufactured

home spaces are the same as the area definitions used for the other FMRs. Areas with definitional changes that previously had exceptions to their manufactured housing space rental FMRs are requested to submit new surveys to justify higher-than-standard space rental FMRs if they believe higher space rental allowances are needed.

VII. HUD Rental Housing Survey Guides

For the supporting data, HUD recommends the use of professionally conducted RDD telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of approximately \$35,000. Areas with 2,000 or more program units usually meet this cost criterion, and areas with fewer units may meet it if actual rents for two-bedroom units are significantly different from the FMRs proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of \$5,000 or less.

PHAs in nonmetropolitan areas may, in certain circumstances, conduct surveys of groups of counties. HUD must approve all county-grouped surveys in advance. PHAs are cautioned that the resulting FMRs will not be identical for the counties surveyed. Each individual FMR area will have a separate FMR based on the relationship of rents in that area to the combined rents in the cluster of FMR areas. In addition, PHAs are advised that counties where FMRs are based on the combined rents in the cluster of FMR areas will not have their FMRs revised unless the grouped survey results show a revised FMR above the combined rent level.

PHAs that plan to use the RDD survey technique should obtain a copy of the appropriate survey guide. Larger PHAs should request HUD's survey guide entitled "Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments." Smaller PHAs should obtain the guide entitled "Rental Housing Surveys: A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments." These guides, in Microsoft Word format, are available from HUD USER at HUD's Web site at the following address: <http://www.huduser.org/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 by structure type (including single-family, duplex, and other small rental properties), age of housing unit, and geographic location. The decennial census should be used as a means of verifying if a sample is representative of the FMR area's rental housing stock.

Most surveys of FMR areas cover only one- and two-bedroom units. If the survey is statistically acceptable, HUD will estimate FMRs for other bedroom sizes using ratios based on the decennial census. 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.

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR Part 888, are amended as follows:

Dated: September 23, 2009.

Raphael W. Bostic,

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*—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. The FY2010 FMRs reflect a change in metropolitan area definitions. HUD is using the

metropolitan Core Based Statistical Areas (CBSA), which are made up of one or more counties, as defined by the OMB, with some modifications. HUD is generally assigning separate FMRs to the component counties of CBSA Metropolitan Areas.

b. *Modifications to OMB Definitions*—Following OMB guidance, the estimation procedure for the FY2010 FMRs incorporates the current OMB definitions of metropolitan areas based on the CBSA standards as implemented with 2000 Census data, 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 sub-areas are established, it is HUD's view 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 Metropolitan Statistical Areas or MSAs) may be modified to allow for sub-area 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 FY2005 FMRs. Collectively, they include 1999 definition MSAs/PMSAs, metropolitan 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.) Sub-areas of MSAs are assigned their own FMRs when the sub-area 2000 Census Base Rent differs by at least 5 percent from the MSA 2000 Census Base Rent (*i.e.*, by at most 95 percent or at least 105 percent), or when the 2000 Census Median Family Income for the sub-area differs by at least 5 percent from the MSA 2000 Census Median Family Income. MSA sub-areas, and the remaining portions of MSAs after sub-areas 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 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 rents for manufactured home spaces FMRs are listed alphabetically in Schedule D.

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 nonmetropolitan county listings.

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