

## Methodology for Determining Emergency Exception Payment Standards

HUD sets Fair Market Rents (FMRs) for each metropolitan area defined by the Office of Management and Budget (OMB) as well as for each non-metropolitan county<sup>1</sup>. HUD publishes one set (0 bedrooms – 4 bedrooms) of FMRs for each FMR area.

Public Housing Authorities (PHAs) who operate the housing choice voucher (HCV) program use the FMR as the basis for setting their payment standard. The basic range for payment standards is 90% to 110% of the FMR. PHAs also have the authority to set multiple payment standards within their jurisdictions, if warranted by market conditions.

Furthermore, HUD has regulations (24 CFR 982.503c) that allow for PHAs to request exception payment standards outside the basic range. These exception payment standards are typically used to accommodate cases where the prevailing rents in a subpart of the FMR area are significantly different than the FMRs in place for the entire area. By regulation, an exception area, or aggregation of multiple exception areas in an FMR area, may not cover an area that contains over 50 percent of the FMR area population.

HUD is mandated by law to set FMRs using the most recent data available. Even with the availability of the American Community Survey (ACS), there is a lag between the most current data available and real-time rental market conditions. For example, FY 2012 FMRs, effective from October 1, 2011 through September 30, 2012, are based on ACS collected through 2009 and augmented with CPI data through the end of 2010 and then trended to the mid-point of 2012. Markets which experience significant shocks (such as natural disasters or natural resource exploration) may fall into the category of non-functioning rental housing market where the FMRs may be insufficient yet the normal data sources do not capture the conditions on the ground.

In 2006, HUD's Office of Economic Affairs drafted a methodology to set emergency payment standards in areas suffering the effects of natural disasters (either through the destruction of housing units or the influx of displaced households) for the Federal Emergency Management Agency (FEMA)<sup>2</sup>. The following is a modification of the FEMA methodology for HUD to use in setting emergency payment standards when there has been a shock to a rental market and there is no market-based data to use to set a new FMR.

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<sup>1</sup> In some cases, HUD subdivides OMB defined metropolitan areas. In these cases, HUD publishes FMRs for each subdivided area.

<sup>2</sup> FEMA's disaster assistance program does not have the same payment standard flexibility as PHAs operating the HCV program; therefore, FEMA needed a mechanism for adjusting the basis of disaster assistance payments based on the FMR.

The methodology described below puts forth potential rental assistance payment standard adjustments relative to HUD FMRs that would be applied to non-functioning housing market areas affected by increased exploration for natural resources (the FEMA model will work for area affected by disasters). “Market area” means any area identified by HUD to which a single FMR schedule applies. These include MSAs, parts of MSAs called “HUD Metro FMR Areas” or “HMFAs,” and nonmetropolitan counties.

The methodology developed for FEMA tries to estimate the post disaster vacancy rate as a function of pre-disaster vacancies, the number of units lost, and the number of displaced households. The methodology being developed assumes that no housing units have been lost and will focus on estimating the number of additional households looking for housing due to the increased economic activity in the FMR area.

### **Information Needs:**

**Pre-Shock Rental Housing Stock ( $RS_0$ )** – SOURCE: most recent ACS data on renter occupied, vacant-for-rent, and vacant-for-sale-or-rent housing unit counts in the affected area.

**Estimated Households Requiring Housing (RH)** – SOURCE: HUD estimates of additional families seeking housing units. This step requires data on the number of active wells in the FMR area as well as an estimate of the anticipated number of wells to be drilled in the FMR area. HUD will then estimate the number of full time equivalent housing units to determine the current conditions of the rental housing market.

### **Other terms:**

**Post Shock Vacancy Rate Estimate ( $VR_{ps}$ )** – Estimate of vacancy rate after absorbing increased households

We define Housing Payment Standard Adjustments by the Post Shock Vacancy Rate Estimate (i.e. what does the housing market look like after accounting for the absorption of the increased households). The following items detail how the Post Shock Vacancy Rate Estimate should be calculated:

The Post Shock Vacancy rate Estimate ( $VR_{ps}$ ) is calculated in the following way. Divide the number of Increased Households (RH) by the number of Available Rental Units ( $RS_0$ ). Subtract this amount from 1 to calculate the Post-Shock rental vacancy rate ( $VR_{ps}$ ). The equation for this calculation is  $1 - (RH/RS_0)$ .

Now that the Post Disaster Vacancy Rate has been estimated, use the following table to determine the Emergency Payment Standard.

If VRps is:	Then <b>EMERGENCY</b> Payment Standard is:	<b>Comment</b>
≤ 0%	FMR*1.35	<b>Non-functional</b> rental market. Equilibrium rents unlikely to be reached for a considerable period of time. Frequent future assessments required.
> 0 and < 2.5%	FMR*1.25	<b>Extremely tight</b> rental market. Frequent monitoring of rental market warranted.
≥ 2.5% and ≤ 5%	FMR*1.20	<b>Tight but functioning</b> rental market. Normal monitoring should suffice.
> 5%	FMR	<b>Normal</b> market, no adjustment necessary.

HUD's intent is for these emergency payment standards to remain in effect until HUD is able to complete a thorough market analysis of the affected areas or if new data capturing the increased economic activity in the area and the related housing demand increases becomes available. Should HUD implement changes to the actual FMRs in affected areas, these emergency payment standards should be rescinded.

## **Instructions for Requesting Exception Payment Standards for Areas Impacted by Natural Resource Exploration**

HUD is aware that regional natural resource drilling activities may have impacted rent for housing units in certain areas of the country. Some PHAs may be interested in requesting exception payment standards in areas affected by natural resource exploration. This document serves to provide additional information to assist PHAs in requesting waivers from HUD regulations (24 CFR 982.503(c)) that allow for PHAs to request exception payment standards outside the basic range.

### **Background**

Exception payment standards are typically used to accommodate cases where the prevailing rents in a subpart of the Fair Market Rent (FMR) area are significantly different than the FMRs in place for the entire area. By regulation, an exception area, or aggregation of multiple exception areas in an FMR area, may not cover an area that contains over 50 percent of the FMR area population. The department understands that resource exploration activities may create a housing market shock that may have an impact on an entire FMR market area. Therefore, PHA's may need to request a waiver to implement the payment standard over an exception area that contains greater than 50 percent of the area population.

Traditionally, HUD sets FMRs using the most recent data available. Even with the availability of the American Community Survey (ACS), there is a lag between the most current data available and real-time rental market conditions. For example, FY 2012 FMRs, effective from October 1, 2011 through September 30, 2012, are based on ACS data collected through 2009 and augmented with CPI data through the end of 2010 and then trended to the mid-point of 2012. Markets which experience significant shocks (such as natural disasters or natural resource exploration) may fall into the category of non-functioning rental housing market where the FMRs may be insufficient, yet the normal data sources do not capture the conditions on the ground. Therefore, PHA's may need to request a waiver to implement an alternate methodology for justifying an exception payment area.

### **Alternate Methodology**

HUD's Office of Policy Development and Research (PD&R) has developed a methodology for HUD to use in setting emergency payment standards when there has been a shock to a rental market and there is no market-based data to use to set a new FMR. The methodology puts forth potential rental assistance payment standard adjustments relative to HUD FMRs that would be applied to non-functioning housing market areas affected by increased exploration for natural resources. The methodology tries to estimate the post-shock rental housing vacancy rate as a function of pre-shock rental housing market vacancies. The methodology will

focus on estimating the number of additional households looking for housing due to the increased economic activity in the FMR area.

The methodology estimates the number of additional housing units demanded by workers and/or their families drawn to the area by drilling activity. To establish this estimate the methodology requires data on the number of active wells in the FMR area as well as an estimate of the anticipated number of wells to be drilled in the FMR area. Both types of information are needed because the drilling phase of natural resource exploration is more labor intensive and has a relatively shorter duration than the extraction phase typically has. HUD will then estimate the number of full time equivalent housing units to determine the current conditions of the rental housing market.

### **Waiver Processing**

Notice PIH 2009-41 provides instructions for submitting requests for regulatory waivers in compliance with the Department of Housing and Urban Development (HUD) Reform Act of 1989. Waivers are relief from strict regulatory compliance upon a finding of good cause, subject to statutory limitations and waiver procedures pursuant to 24 CFR 5.110.

The PHA must provide a basis for good cause to approve the waiver and submit that documentation in writing. If the PHA proposes to have an exception payment area that contains over 50 percent of the FMR area population, the PHA request should state the portion of the market area which it intends to apply the exception payment standard. The PHA should specifically request to waive the applicable portions of 24 CFR 982.503(c)(1), to allow a larger exception payment area. If the PHA proposes to use the alternate methodology, the request should specifically state that the PHA proposes to use exception payment standards that are established in accordance with the PD&R-developed methodology in lieu of the methodology outlined in 24 CFR 982.503(c)(2) and (3). The PHA must also include data on oil and gas drilling activity in the market area from the applicable state regulatory body (e.g., the Texas Railroad Commission, Pennsylvania Department of Environmental Protection) or other reliable source.