

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR-4589-N-04]

50th Percentile and 40th Percentile Fair Market Rents for Fiscal Year 2001

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Fair Market Rents
(FMRs) for Fiscal Year (FY) 2001.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually to be effective on October 1 of each year. FMRs are used (1) to establish payment standards for the Housing Choice Voucher program; (2) to determine initial contract rents in new commitments for Section 8 project-based assistance (currently available chiefly in the project-based voucher program); (3) to determine whether comparability applies to adjustment of contract rents during the term of existing HAP contracts for the former new construction, substantial rehabilitation and moderate rehabilitation programs; (4) as a limit on renewal rents for certain Section 8 projects (including mark-up-to-market projects); and (5) to determine maximum subsidy levels for HOME tenant-based rental assistance, and maximum rent levels in HOME multifamily rental housing. Other programs may also require the use of FMRs.

This notice sets final FMRs that reflect the 50th percentile rent levels for 39 areas, as determined by applying the criteria specified in HUD's interim rule amending the HUD regulation that establishes the methodology for setting FMRs for existing housing (24 CFR 888.113). The interim was published on October 2, 2000 (65 FR 58870), and became effective on December 1, 2000. To combine final Fiscal Year 2001 FMRs for all areas in one publication, this notice also re-publishes the 40th percentile rents for all other areas.

EFFECTIVE DATE: The 50th percentile FMRs published in this notice are effective on January 2, 2001. The 40th percentile FMRs were previously effective on October 1, 2000.

Electronic Data Availability: This **Federal Register** Notice is available electronically from the HUD news page: <http://www.hudclips.org/cgi/index.cgi>. **Federal Register** Notices also

are available electronically from the U.S. Government Printing Office web site:

http://www.access.gpo.gov/sv_docs/aces/aces140.html.

The data set of the 50th percentile FMRs is available electronically on the HUD web page: <http://www.huduser.org/datasets/pdrdatas.html>.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, telephone (202) 708–0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Marie L. Lihn, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0590, Extension 5866 (e-mail: Marie_L_Lihn@hud.gov). Hearing-or speech-impaired persons may use the Telecommunications Devices for the Deaf (TTY) by contacting the Federal Information Relay Service at 1–800–877–8339. (Other than the “800” TTY number, telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to help lower income families rent decent, safe, and sanitary housing. The amounts of the housing assistance payments are limited by “fair market rents” (FMRs) established by HUD for all areas, and for different size units (expressed as number of bedrooms in a unit). In the HUD voucher program, the FMR is used to determine the “payment standard” (the maximum monthly subsidy) for assisted families (see Section 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, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities. FMRs are estimates of rent plus the cost of utilities, except telephone. FMRs are housing market-wide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units in the FMR area. FMRs are set at either the 40th or 50th percentile rent—the dollar amount below which the rent for 40 or 50 percent of standard quality rental housing units falls. The 40th or 50th percentile rent is drawn

from the distribution of rents of all units that are occupied by recent movers. Adjustments are made to exclude public housing units, newly built units and substandard units.

50th Percentile FMRs

Raising FMRs for certain areas to the 50th percentile rent level as provided in the interim rule, effective December 1, 2000, is designed to give lower-income families who participate in the voucher program access to a broader range of housing opportunities throughout a metropolitan area. FMRs have been increased to the 50th percentile rent in those metropolitan areas where a FMR increase is most needed to promote residential choice, help families move closer to areas of job growth, and deconcentrate poverty. New paragraph (c) Of Section 888.113 provides as follows:

(c) Setting FMRs at the 50th percentile rent to provide a broad range of housing opportunities throughout a metropolitan area.

(1) HUD will set the FMRs at the 50th percentile rent for all unit sizes in each metropolitan FMR area that meets all of the following criteria at the time of annual publication of the FMRs:

- (i) The FMR area contains at least 100 census tracts;
- (ii) 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; and
- (iii) 25 percent or more of the tenant-based rental program participants in the FMR area reside in the 5 percent of the census tracts within the FMR area that have the largest number of program participants.

(2) If the FMRs are set at the 50th percentile rent in accordance with paragraph (c)(1) of this section, HUD will set the FMRs at the 50th percentile rent for a total of three years.

(i) At the end of the three-year period, HUD will continue to set the FMRs at the 50th percentile rent only so long as the concentration measure for the current year is less than the concentration measure at the time the FMR area first received an FMR set at the 50th percentile

rent. HUD will publish FMRs based on the 40th percentile rent for FMR areas that do not qualify for continued use of the 50th percentile rent.

(ii) For purposes of this section, the term “concentration measure” means the percentage of tenant-based rental program participants in the FMR area who reside in the 5 percent of the census tracts within the FMR area that have the largest number of program participants.

(iii) FMR areas that do not meet the test for continued use of FMRs set at the 50th percentile will be ineligible to use FMR set at the 50th percentile for a period of three years.

(iv) A PHA whose jurisdiction includes one or more FMR areas that are no longer eligible to use FMRs set at the 50th percentile may be eligible for a higher payment standard under Section 982.503 (f).

Schedule B of this document lists the FMRs for all areas. Schedule B includes FMRs set at the 50th percentile rent for 39 FMR areas in accordance with Section 888.113 (c), and at the 40th percentile rent for all other FMR areas.

In Schedule B, an asterisk identifies each of the 39 FMR areas for which HUD has determined 50th percentile FMRs. HUD has set 50th percentile FMRs for the following metropolitan FMR areas:

Albuquerque, NM

Atlanta, GA

Austin-San Marcos, TX

Baton Rouge, LA

Bergen-Passaic, NJ

Buffalo-Niagara Falls, NY

Chicago, IL

Cleveland-Lorain-Elyria, OH

Dallas, TX

Denver, CO

Detroit, MI

Fort Lauderdale, FL

Fort Worth-Arlington, TX

Grand Rapids-Muskegon-Holland, MI
Houston, TX
Kansas City, MO-KS
Las Vegas, NV-AZ
Miami, FL
Minneapolis-St. Paul, MN-WI
Newark, NJ
Norfolk-Virginia Beach-Newport News,
VA-NC
Oakland, CA
Oklahoma City, OK
Orange County, CA
Philadelphia, PA-NJ
Phoenix-Mesa, AZ
Richmond-Petersburg, VA
Sacramento, CA
Salt Lake City-Ogden, UT
San Antonio, TX
San Diego, CA
San Jose, CA
St. Louis, MO-IL
Tampa-St. Petersburg-Clearwater, FL
Tulsa, OK
Ventura, CA
Washington, DC-MD-VA
West Palm Beach-Boca Raton, FL
Wichita, KS

Manufactured Home Space FMRs Based on 50th Percentile Rent

Choice Voucher program are set at 40 percent of the applicable Section 8 existing housing program FMRs for two-bedroom units (section 888.113(e)). The manufactured home

space FMR for each of the 39 areas for which HUD has set 50th percentile FMR, is set a 40 percent of the two-bedroom 50th percentile FMR.

Consideration of Public Comment

In response to the October 6, 2000 proposed 50th percentile FMRs for 39 areas, HUD received six public comments. No rental housing survey information was submitted with any of the comments. Two comments specifically discussed the implementation of the provisions under the interim rule and were not related to FMR areas. The six comments received and responses are summarized below: *Comment:* The Housing Authority of the City of New Braunfels, Texas says its jurisdiction has high rents that are more comparable to Austin than San Antonio and that it has a very high turn-back rate for its Housing Choice Voucher program.

Response: The New Braunfels PHA does not appear to have taken advantage of its discretion to raise payment standards to 110 percent of the FMR. If the PHA were to continue to experience high turn-back rates, despite having increased its payment standard to 110 percent of the FMR, it could qualify for the success rate payment standard based on a 50th percentile rent. HUD also provides several additional mechanisms for obtaining exception payment standards above 110 percent of the 40th percentile FMR. (See 24 CFR 982.503.)

Comment: Two Public Housing Authorities (PHAs), The Housing Authority of the City of New Braunfels, Texas and the Oklahoma City Housing Authority request additional funding from HUD for their voucher programs. The New Braunfels PHA requests additional funding for a higher payment standard, the Oklahoma City PHA requests additional funding for the new 50th percentile FMRs.

Response: HUD's current procedures provide sufficient funding for PHAs to cover the increased costs resulting from higher payment standards or an FMR increase. Any additional costs resulting from the higher payment standard or higher FMR would be reflected in the PHA's costs per unit for the current year. Under HUD's renewal regulations (see 24 CFR 982.102), a PHA experiencing increased per-unit costs in year 1 will generally receive an increase in its funding in the following year in light of these higher per-unit costs. This enables PHAs to

increase payment standards where necessary to ensure the successful use of Housing Choice Vouchers.

Comment: Foothill-West Associates, the administrator of a senior apartment complex, notes that rents in Butte County, California have increased countywide by an average of 12–13 percent and requests a survey by HUD.

Response: HUD is currently developing a list of potential areas that will be surveyed during the upcoming winter and summer. Chico-Paradise MSA (Butte County) will be placed on this list as a potential candidate and its need for a survey will be evaluated in comparison with the needs of other FMR areas.

Comment: The Council of Large Public Housing Authorities finds that the proposed rule is too restrictive in that it limits increasing the FMRs to only 39 metropolitan market areas. CLPHA also is concerned that the proposed rule lacks transparency because HUD has not identified the sources of information used to determine eligibility and has not established a method to appeal the designation of ineligibility.

Response: These comments go to the merits of the interim rule that provides for increased FMRs and success rate payment standards, rather than to HUD's calculations of the 50th percentile rent in accordance with the rule.

Comment: The Dallas Housing Authority supports the efforts of HUD to increase FMRs.

Calculation Errors

This notice corrects the 3-bedroom FMR for Utica-Rome, NY and makes it \$626.

Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8

Rental Certificate Program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

Regulatory Flexibility Act

The undersigned, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities, because 50th percentile FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 Program.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (Section 8). Accordingly, the Fair Market Rent Schedules, which will not be codified in

24 CFR part 888, are amended as follows:

Dated: December 21, 2000.

Andrew M. Cuomo,

Secretary.

Fair Market Rents for the Housing Choice Voucher Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. *Metropolitan Areas*—FMRs are housing 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 FMRs shown in Schedule B incorporate OMB's most current definitions of metropolitan areas, with the exceptions discussed in paragraph (b). HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions.

b. *Exceptions to OMB Definitions*—The exceptions are counties deleted from several large metropolitan areas whose revised OMB metropolitan area definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown

by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the “Metropolitan FMR Areas” listing:

Metropolitan Area and Counties Deleted

Chicago, IL

DeKalb, Grundy and Kendall Counties

Cincinnati-Hamilton, OH-KY-IN

Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana

Dallas, TX

Henderson County

Flagstaff, AZ-UT

Kane County, UT

New Orleans, LA

St. James Parish

Washington, DC-MD-VA-WV

Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren Counties in Virginia

c. Nonmetropolitan Area FMRs— FMRs also are established for nonmetropolitan counties and for county equivalents in the counties in the United States, for nonmetropolitan parts of counties in the New England states and for FMR areas in Puerto Rico, the Virgin Islands and the Pacific Islands.

d. Virginia Independent Cities—FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these areas, including the independent cities, are as follows:

VIRGINIA NONMETROPOLITAN COUNTY
FMR AREA AND INDEPENDENT CITIES
INCLUDED WITH COUNTY

County	Cities
Allegheny	Clifton Forge and Covington.
Augusta	Staunton and Waynesboro.
Carroll .	Galax.
Frederick	Winchester.
Greensville	Emporia.
Henry	Martinsville.
Montgomery	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham	Harrisonburg.
Southampton	Franklin.
Wise	Norton.

2. Bedroom Size Adjustments

Schedule B shows the FMRs for 0-bedroom through 4-bedroom units. The FMRs for unit sizes larger than 4 bedrooms are calculated by adding 15 percent to the 4-bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4-bedroom FMR, and the FMR for a 6-bedroom unit is 1.30 times the 4 bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the 0 bedroom FMR.

3. FMRs for Manufactured Home Spaces

FMRs for manufactured home spaces in the Housing Choice Voucher program are 40 percent of the two-bedroom Housing Choice Voucher program FMRs, with the exception of the areas listed in Schedule D whose manufactured home space FMRs have been modified on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that are updated annually using the same data used to estimate the Housing Choice Voucher program FMRs. The FMR area definitions used for the rental of manufactured home spaces are the same as the area definitions used for the other FMRs.

4. 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 is 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.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

5. 50th Percentile FMRs

All 50th percentile FMRs are designated by an asterisk to differentiate them from the 40th percentile FMRs.

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