



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

ASSISTANT SECRETARY FOR
PUBLIC AND INDIAN HOUSING

August 11, 2017

Dear PHA Executive Director:

The Small Area Fair Market Rent (FMR) Final Rule was published on November 16, 2016 (81 FR 80567) and became effective on January 17, 2017. Under the final rule, the use of Small Area FMRs is required in the administration of the HCV program for certain metropolitan areas beginning on October 1, 2017.

Under 24 CFR 888.113(c)(4), HUD may suspend the Small Area FMR designation for a metropolitan area when HUD by notice makes a documented determination that such action is warranted. **This letter serves as your notice that HUD has suspended the Small Area FMR designation for the metropolitan area(s) in which your public housing agency (PHA) has jurisdiction for a period of two years, until October 1, 2019.** As a result of this action, your PHA is not required to implement Housing Choice Voucher (HCV) program payment standards that are based on the Small Area FMRs for the designated metropolitan area(s) until the beginning of fiscal year 2020. In accordance with § 982.503(b)(1)(i), the PHA must revise the payment standard amount no later than 3 months following the effective date of the published FMR if a change is necessary to stay within the basic range. That date will be January 1, 2020, once the Small Area FMRs go into effect for the designated metropolitan areas on October 1, 2019.

HUD has suspended the Small Area FMR designation for 23 of the 24 metropolitan areas that were previously selected for mandatory use of the Small Area FMRs. The Small Area FMR designation remains in effect for the Dallas-Plano-Irving, Texas Metro Division, which is comprised of Collin County, Dallas County, Denton County, Ellis County, Hunt County, Kaufman County, and Rockwall County. PHAs administering the HCV program in the Dallas-Plano-Irving, Texas Metro Division have been using the Small Area FMRs since 2011 as a result of a legal settlement. The Dallas-Plano-Irving TX Metro Division remains a Small Area FMR designated metropolitan area in FY 2018 and 2019.

HUD's determination to suspend the Small Area FMR designation for your metropolitan area(s) is based on the following events determined by the Secretary:

- HUD's review of the Small Area FMR demonstration's interim findings. Since 2012, HUD has been conducting a Small Area FMR demonstration to determine the effectiveness of FMRs using ZIP codes areas as FMR areas. In April 2017, HUD received the interim findings from this demonstration. The interim findings suggest the need for further analysis of the benefits and costs of Small Area FMR, particularly with respect to the impact on rent burdens on participating families and the availability of units in the metropolitan area. Final findings from the demonstration are expected in July 2018. After reviewing the interim findings, HUD believes a policy change of this magnitude should be fully informed by the final report on the completed demonstration before HUD

requires the use of Small Area FMRs. Suspending the Small Area FMR designation until fiscal year 2020 gives HUD reasonable time to analyze the final findings of the demonstration, make any necessary adjustments, and develop guidance and technical assistance that is informed by the lessons learned from the demonstration before PHAs are required to revise their payment standards and accomplish all the other administrative changes to their operations necessitated by the mandatory use of Small Area FMRs.

- HUD's review of the public comments in response to the Reducing Regulatory Burden Federal Register Notice. On May 15, 2017, HUD published a Federal Register notice on "Reducing Regulatory Burden; Enforcing the Regulatory Reform Agenda Under Executive Order 13777" (82 FR 22344). The notice invited public comments to assist in identifying existing regulations that may be outdated, ineffective, or excessively burdensome. Comments were due on June 14, 2017. HUD has not yet completed its analysis of these public comments but is aware that several PHA industry groups have concerns about the Small Area FMR final rule and the timeline for implementation. Temporarily suspending the Small Area FMR designation until FY 2020 will allow HUD to be informed by the public comments on reducing regulatory burden for the HCV program as well as the Final Report on the Small Area FMR Demonstration before the use of Small Area FMRs is required. Furthermore, should HUD implement changes to reduce the regulatory burden on the HCV program over the course of the next two years, HUD will be able to take those programmatic changes into account when developing the guidance and technical assistance for PHAs required to use Small Area FMRs beginning in FY 2020.
- PHAs impacted by the required use of Small Area FMRs need guidance and technical assistance that has not yet been provided. HUD has been developing guidance and planning to provide technical assistance to assist PHAs that must implement the use of the Small Area FMRs as a result of the final rule. This effort has been complicated by several factors. As noted above, during the first few months of the new Administration, HUD has been focused on soliciting input and feedback from PHAs and other stakeholders on a variety of regulations and policies, including the Small Area FMR Final Rule. In addition, HUD received the Interim Report on the Small Area Demonstration on April 26, 2017, which contained several items that warrant further analysis as part of Phase II of the evaluation. HUD is concerned that developing and issuing the guidance and technical assistance without fully understanding and incorporating the lessons learned from the Demonstration will result in a product that does not adequately assist those PHAs that must make this the transition. Implementing comprehensive guidance that may become quickly outdated as the result of related regulatory burden reduction and reform efforts is likewise problematic. Suspending the Small Area Designation until Fiscal Year 2020 will allow HUD's guidance and technical assistance to reflect the lessons learned from the demonstration, as well as to incorporate any related regulatory changes impacting the HCV program that may be forthcoming in the next two years.

HUD is exercising its authority to suspend the Small Area FMR designation for your agency's metropolitan area(s) in accordance with the existing regulations at 24 CFR 888.113(c)(4), which was promulgated under the Small Area FMR Final Rule. This action is not

a suspension of the Small Area Final Rule or a regulatory waiver – all the regulatory provisions implemented under the Small Area FMR Final Rule, such as providing PHAs with the option to hold families under HAP contract harmless from payment standard reductions at 24 CFR 982.505(c)(3), remain in effect.

HUD recognizes that some PHAs have already taken actions to prepare for the implementation of Small Area FMRs for their programs and may still wish to proceed regardless of the fact the action is no longer required by HUD. The program regulations at 24 CFR 888.113(c)(3) provide that a PHA administering an HCV program in a metropolitan area not subject to the application of small area FMRs may opt to use Small Area FMRs by seeking approval from HUD's Office of Public and Indian Housing (PIH) through written request to PIH. PIH will expedite the approval process for the use of Small Area FMRs for PHAs impacted by this decision to suspend the Small Area FMR designation for their metropolitan areas.

The regulations at 888.113(i) provide for the transition of metropolitan areas designated as a 50th percentile FMR area for which the three-year period has not expired prior to January 17, 2017. Since HUD has suspended the Small Area FMR designation for your metropolitan area (Bergen-Passaic, NJ; San Diego-Carlsbad-San Marcos, CA) until October 1, 2019, the area will instead remain a 50th percentile FMR until the expiration of the three-year period in accordance with 888.113(i)(1)(ii). Your area will then transition to the SAFMRs from the 50th percentile rents effective October 1, 2019.

In the coming months, HUD expects to provide implementation guidance and training on all aspects of the rule, including the voluntary use of Small Area FMRs and options available to PHAs operating in areas previously subject to 50th percentile FMRs. In the meantime, please direct any questions to your local HUD field office or to SAFMR_Rule@hud.gov.

Sincerely,



Dominique Blom
General Deputy Assistant Secretary
for Public and Indian Housing