



## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6161-N-03]

### Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program, and Other Programs Fiscal Year 2020; Revised

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

**ACTION:** Notice of Revised Fiscal Year (FY) 2020 Fair Market Rents (FMRs) and Discussion of Comments on FY 2020 FMRs.

**SUMMARY:** This notice updates the FY 2020 FMRs for six areas based on new survey data: Asheville, NC HUD Metro FMR Area (HMFA), Eugene-Springfield, OR Metropolitan Statistical Area (MSA), Portland, ME HMFA, Santa Maria-Santa Barbara, CA MSA, Worcester, MA HMFA, and Guam. Further, HUD responds to comments received on the FY 2020 FMRs.

**DATES:** Effective Date: The revised FY 2020 FMRs for these six areas are effective on **[Insert date that is 30 days after date of publication in Federal Register]**.

**FOR FURTHER INFORMATION, CONTACT:** Questions on how to conduct FMR surveys or concerning further methodological explanations may be addressed to Marie L. Lihn or Peter B. Kahn, Program Parameters and Research Division, Office of Economic Affairs, Office of Policy Development and Research, telephone 202-402-2409. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339 (toll-free).

Questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff.

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 (toll-free) or access the

information on the HUD USER website: <http://www.huduser.gov/portal/datasets/fmr.html>. The FY 2020 EXCEL files have been updated to include these revised FMRs and this data is included in our query system by FMR area. For informational purposes, the 50th percentile rents for all FMR areas are updated and published at <http://www.huduser.gov/portal/datasets/50per.html>.

## **SUPPLEMENTARY INFORMATION**

On August 30, 2019 HUD published the FY 2020 FMRs, requesting comments on the FY 2020 FMRs, and outlining procedures for requesting a reevaluation of an area's FY 2020 FMRs (84 FR 45789). This notice revises FY 2020 FMRs for six areas based on data provided to HUD. In addition to providing revised FY 2020 FMRs, this notice also provides responses to the public comments HUD received on the notice referenced above.

### **I. Revised FY 2020 FMRs**

The FMRs appearing in the following table supersede the use of the FY 2019 FMRs for the five areas requesting reevaluation and for Guam, which has been using FY 2020 FMRs. The updated FY 2020 FMRs are based on surveys conducted by the area public housing agencies (PHAs) and reflect the estimated 40th percentile rent levels trended to April 1, 2020.

The FMRs for the affected area are revised as follows:

2020 Fair Market Rent Area	FMR by Number of Bedrooms in Unit				
	0 BR	1 BR	2 BR	3 BR	4 BR
Asheville, NC HUD Metro FMR Area	\$1,039	\$1,045	\$1,255	\$1,717	\$2,203
Eugene-Springfield, OR MSA	\$773	\$893	\$1,176	\$1,696	\$1,989
Portland, ME HUD Metro FMR Area	\$1,072	\$1,167	\$1,516	\$1,982	\$2,413
Santa Maria-Santa Barbara, CA MSA	\$1,684	\$1,964	\$2,324	\$3,101	\$3,572
Worcester, MA HUD Metro FMR Area	\$1,013	\$1,100	\$1,398	\$1,742	\$1,894
Guam	\$952	\$1,043	\$1,374	\$1,982	\$2,412

The FY 2020 FMRs are amended and are available on the HUD USER website:

<http://www.huduser.gov/portal/datasets/fmr.html>. The FY 2020 Small Area FMRs (SAFMRs) for metropolitan areas with revised FMRs have also been updated commensurate with the metropolitan area revisions and may be found at

<https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html>.

## **II. Public Comments on FY 2020 FMRs**

A total of 20 comments were received and posted on regulations.gov, <https://www.regulations.gov/docket?D=HUD-2019-0070>. Of the 20 comments received, nine were reevaluation requests for nine FMR areas. HUD granted requests for reevaluation for 8 FMR areas, and rejected one request submitted by a tenant looking for affordable housing in Memphis, TN. HUD could not approve this request because the request was not made by housing agencies administering more than half of the vouchers in the FMR area as required by item 1 in the request for reevaluation procedures in the August 30, 2019 Federal Register notice. HUD discussed these requests for reevaluation in a posting available at

<https://www.huduser.gov/portal/datasets/fmr/fmr2020/Areas-where-FY2019-FMRs-Remain-in-Effect.pdf>.

Public housing agencies in the eight areas where HUD agreed to reevaluate the FY 2020 FMRs continued to use FY 2019 FMRs during the reevaluation period as mandated by the Housing Opportunities Through Modernization Act. Five of these eight areas have continued to use FY 2019 FMRs since January 10, 2020 because they provided valid survey data to revise the FY 2020 FMRs. FY 2020 FMRs became effective on January 13, 2020 for the three areas where local survey data was not submitted by the January 10, 2020 cut-off date. HUD published a list of the three FMR areas not providing data on January 13, 2020 stating that the FY 2020 FMRs become effective on January 13, 2020

(<https://www.huduser.gov/portal/datasets/fmr/fmr2020/FMR-Areas-Requesting-Re-evaluation-and-No-Data-Submission.pdf>). This notice provides the reevaluated FY 2020 FMRs for the five areas requesting reevaluation and for Guam.

### **General Comments**

Most of the comments not related to specific areas requesting a reevaluation discussed inaccuracies of the FMRs and a need for more current and local data. These comments and their responses are discussed in greater detail below.

**Comment:** Several commenters suggested that HUD should provide additional funding to PHAs who undertake local area surveys. One comment noted that the cost for address-based mail surveys is in the \$5,000 to \$10,000 range.

**HUD Response:** HUD reminds PHAs that paying for local area rent surveys is an eligible expense to be paid from on-going administrative fees or their administrative fee reserve account. The estimate of \$5,000 to \$10,000 per survey is incorrect. This value is apparently

based on a study conducted in 2012 for very small metropolitan areas with fewer than 20,000 rental units. Far fewer than 100 survey cases were acceptable at this time, but no longer because over time HUD has imposed a minimum 100 observation requirement to reduce year to year fluctuations in FMRs. The cost of the survey increases with the size of the FMR, the size of the rental market and the availability and cost of good rental market lists.

**Comment:** HUD's reliance on setting FMRs at the 40th percentile is flawed because this only works if there is a normal distribution of rental units. Sub-standard housing should be removed from the distribution when calculating a 40th percentile rent.

**HUD Response:** The purpose of using a percentile instead of an average is to account for abnormal distributions. HUD removes responses from the American Community Survey (ACS) when the respondent reports the unit does not have a complete kitchen or complete plumbing to address sub-standard units. In addition, HUD determines a "public housing cut-off rent" to eliminate the bottom end of the distribution of rental units from the ACS before the 40th percentile rent is calculated as a proxy to remove units with low rents that are likely in non-market transactions (e.g., rented from relatives), subsidized (ACS does not ask whether households receive rental subsidies), or are otherwise inadequate in some manner not measured by the ACS. HUD uses a consistent method to calculate this distribution cut off for each HUD region. HUD continues to explore alternatives for removing assisted units from the ACS responses before the 40<sup>th</sup> percentile rent is calculated for the purpose of calculating FMRs.

**Comment:** HUD needs to conduct its *own* analysis or research to address market anomalies and account for erratic fluctuations in FMRs between years and by bedroom size.

**HUD Response:** HUD did conduct research into different methods of calculating the trend factor and implemented metropolitan and regional forecasting into the calculation of the

trend factor in the FY 2020 FMRs.

To correct erratic fluctuations in FMRs year over year, HUD has implemented steps to attenuate the fluctuations found in the annually updated survey data. HUD has made methodology changes that call for averaging bedroom ratios over three years of data and averaging base rents over the same period when the data is limited. The statutory directive to use the most recent data available compels HUD to update the data behind each area's FMR calculation when new data is released. Consequently, FMRs will change from year to year in accordance with changes in the underlying survey data. HUD emphasizes that the primary data source for FMRs is a survey (ACS) and while surveyors do their best to select unbiased random samples of the population, sampling error persists within survey statistics.

**Comment:** Along with inadequate administrative fees, inadequate FMRs result in voucher underutilization nationwide. HUD's methodology for setting FMRs also often results in a reduction of choice and in many places relegates voucher holders to the poorest areas.

**HUD Response:** HUD's methodology for calculating FMRs has been revised to improve choice in metropolitan areas through the use of Small Area FMRs and in all FMR areas by the use of local or regional trend factors as opposed to one national trend factor. Outside the voucher program, however, especially for programs that only allow for the use of area-wide FMRs, the FMR may cover the cost of units with rent above the 40<sup>th</sup> percentile found in the poorest of areas.

**Comment:** HUD should create new administrative mechanisms to cope with inaccurate FMRs.

**HUD Response:** HUD does have procedures that provide flexibility in the voucher program that allow PHAs to keep payment standards constant when FMRs decline. For areas where rents increase more rapidly than what is captured by the most recent data available to

HUD in calculating FMRs, the department provides a mechanism for more recent data collected in a survey to be supplied to HUD. Lastly, HUD has eased the exception payment standard regulations in metropolitan areas to allow for the use of up to 110 percent of the Small Area FMR as an exception payment standard with no approval needed from HUD. The only requirement is for PHAs to notify HUD of their use of Small Area FMRs in this manner. New administrative procedures would have to be developed by the programs other than the Housing Choice Voucher program to allow for use of payment standards to provide additional flexibility. Each program required to use FMRs without similar flexibility to payment standards would have to amend its regulations to allow for flexible application of FMRs if statute permits.

**Comment:** Adjustments to FMRs must be followed by the commensurate adjustments in the Renewal Funding Inflation Factors (RFIF), particularly in the years following rapid growth and increase in the FMR.

**HUD Response:** HUD includes revised FMRs in that year's RFIFs. This gives those areas that provided new survey data with an increase in their RFIF in the first year over what they would have had under the FMRs without the revision. In subsequent years, while the survey is still effective, their FMRs will only increase by normal factors, and the RFIFs change accordingly.

**Comment:** Proper consideration is not being paid by HUD to rapidly escalating market rents; HUD should tie FMR calculations to the qualifier provided in Comprehensive Housing Market Analysis (CMHA) and other such publications. The qualifiers include economy, sales market and rental market and include categorical ranking and description that give more insight into local market conditions than older census survey data.

**HUD Response:** HUD's Comprehensive Housing Market Analysis (CHMA) and other

such publications are undertaken primarily to assess the demand for construction of new housing units over a three-year market horizon. Moreover, CHMAs are not conducted in all areas and are typically not annually updated. Finally, the area over which a CHMA is conducted is at the discretion of HUD's Field Economist organization and may not align with FMR area boundaries. This is to ensure the construction demand estimates provided in the CHMAs are targeted appropriately. These reasons make CHMAs a poor source of data for calculating FMRs. Finally, the FY 2020 appropriations statute directs HUD to undertake a research study to determine alternative methods for calculating FMRs in markets with rapidly rising rents. HUD is in the initial stages of beginning this research effort and expects to have the research completed sometime in 2021.

**Comment:** HUD should increase transparency of the FMR calculation, especially for FMR areas that are based on local rent surveys. Unless full transparency is provided into the calculations and methodology used in determining FMRs, the argument that HUD cannot use private data is invalid. HUD should publish a forecast at 6 months into the year of the trend factor, so agencies are given plenty of time to plan a rent survey or deal with other negative impacts to funding.

**HUD Response:** For the FY 2020 FMRs, HUD modified its Documentation System to provide better information for areas that receive an FMR based on current or past surveys.

**Comment:** HUD should continue to refine its methodology for calculating FMRs. A high priority should be placed on improving the data that is used to derive more accurate FMRs. HUD should explore "scraping" local rent data or purchase this data for access to rents in newer Class A properties. HUD should use more timely data when calculating FMRs. In addition, HUD needs to use data to exclude rent controlled units from FMR calculations. Other than

various private data sources, HUD could enter into an interagency agreement with the IRS to get information on monthly rent and size of units from landlord tax filings.

**HUD Response:** There is no other data on gross rents paid that is consistently collected on a nationwide basis, available to HUD, that is more current than the data we receive through the ACS. Proprietary rental data cannot be used as the basis for the FMR calculations because it is not consistently available for all areas and is not collected in such a way that it is statistically representative of the rental markets it covers. Some of these sources focus on rents for major apartment projects only. Additionally, rents for single family homes, which are at least 30 percent of the rental market in major metropolitan areas and a greater portion in rural areas, are typically compiled from internet-based ads, or the small subset of professionally managed single-family rental units and generally are not representative of the entire rental stock of single family homes. Online listings of rents are similar to newspaper ads which have been excluded as a source of rent data for FMRs since the mid-1980s due to a directive issued by HUD's Inspector General because they do not constitute a statistically representative sample of the rental market for an area.

HUD can only exclude rent control units if it has some basis for determining the scope of rents in an area that are governed by rent control.

The Federal Government invests a substantial amount of resources in collecting socio-economic data through the American Community Survey (ACS). Furthermore, the Census Bureau has statutory advantages in compelling responses to the ACS and receives significantly higher response rates than HUD could achieve if it was to undertake its own survey program. The IRS is prohibited by law from releasing taxpayer information such as rental income, even to other Federal agencies.

**Comment:** HUD should use the 2017 American Community Survey data to compare the gross rent by FMR area to the FY 2017 FMRs to determine accuracy of FMRs and report back to the industry.

**HUD Response:** HUD undertook an analysis such as this and reported the results in a recent report to Congress. Please see the section labeled “Accuracy of FMRs” in HUD’s report “Proposals To Update the Fair Market Rent Formula”, page 3, available at <https://www.huduser.gov/portal/sites/default/files/pdf/Proposals-To-Update-the-Fair-Market-Rent-Formula.pdf>. Between 2009 and 2016 for areas with sufficiently large ACS recent mover rental unit samples, the ACS-measured 40th percentile gross rents were within 90 to 110 percent of the published FMRs in 83.4 to 94.3 percent of cases. These results do not adjust for more recent improvements in the FMR estimation method.

### **III. Environmental Impact**

This Notice involves establishment of a rate and does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: March 5, 2020.

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Todd M. Richardson, General Deputy Assistant Secretary,  
Office of Policy Development and Research.

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