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Part IV

Department of Housing and Urban Development

**Section 8 Housing Assistance Payments
Program—Contract Rent Annual
Adjustment Factors, Fiscal Year 2007;
Notice**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5031-N-03]

Section 8 Housing Assistance Payments Program—Contract Rent Annual Adjustment Factors, Fiscal Year 2007

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Revised Contract Rent Annual Adjustment Factors.

SUMMARY: This notice announces revised Annual Adjustment Factors (AAFs) that are applied to Section 8 contract rents for specific programs. These factors are applied at Housing Assistance Payment (HAP) contract anniversaries for those calendar months commencing after the effective date of this notice. The AAFs are based on residential rent and utilities time-series cost indices from the Bureau of Labor Statistics Consumer Price Index (CPI) surveys.

DATES: *Effective Date:* February 1, 2007.

FOR FURTHER INFORMATION CONTACT:

David Vargas, Senior Advisor, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, (202) 708-0477 can respond to questions relating to the Section 8 Voucher, Certificate, and Moderate Rehabilitation programs; Mark Johnston, Office of Special Needs Assistance Programs, Office of Community Planning and Development, (202) 708-1234 for questions regarding the Single Room Occupancy Moderate Rehabilitation program; Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, (202) 708-3000, for questions relating to all other Section 8 programs. Marie L. Lihn, Economic and Market Analysis Division, Office of Policy Development and Research (202) 708-0590, is the contact for technical information regarding the development of the factors for specific areas or the methods used for calculating the AAFs. Mailing address for above persons: Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Hearing- or speech-impaired persons may contact the Federal Information Relay Service at (800) 877-8339 (TTY). (Other than the "800" TTY number, the above-listed telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In addition to being published in the **Federal Register**, these data will be available electronically from the HUD data information page: <http://www.huduser.org/datasets/aaf.html>.

I. Methodology

AAFs are calculated using CPI data on rents and utilities for all metropolitan areas that are specifically surveyed for the CPI. AAFs for other areas use the more general CPI for rents and utilities calculated for the four Census Regions, Northeast, South, Midwest, and West. AAFs are rent change factors. Two types of AAFs are calculated. One type is a gross rent change factor that should be used when the primary utility (normally heating) is included in the rent. The other type is a shelter rent (i.e., rents without utilities) factor that should be used when the primary utility is not included in rent. Decennial census data are used to establish the relationship between gross rents and shelter rents.

CPI Surveys

For specific metropolitan areas where CPI surveys are conducted, changes in the shelter rent and utilities components are calculated based on the most recent CPI annual average change data. In this publication, the rent and utility CPIs for metropolitan areas are based on changes in the index from 2004 to 2005. The "Highest Cost Utility Included" column in Schedule C is calculated by weighting the rent and utility change factors using the corresponding components of gross rent in a particular area as calculated in the 2000 Census. The "Highest Cost Utility Excluded" column in Schedule C is calculated by eliminating the utility portion of the gross rent change factor.

For areas not covered by a specific metropolitan CPI surveys, HUD uses the CPI surveys for the Northeast, South, Midwest, or West region, as appropriate. Rent and utility change factors are calculated from 2004 to 2005. For areas assigned Census Region CPI factors, both metropolitan and non-metropolitan areas received the same factor.

Geographic Areas

The current and former metropolitan areas that use specific CPI factors are listed alphabetically in the tables, according to the metropolitan area where appropriate. Each AAF applies to a specified geographic area and to units of all bedroom sizes. AAFs are provided:

- For separate metropolitan areas, including counties that are currently designated as non-metropolitan, but are part of the metropolitan area defined in the local CPI survey.
- For the four Census Regions for those metropolitan and non-metropolitan areas that are not covered by the local CPI surveys.

The AAFs shown in Schedule C use the same Office of Management and

Budget (OMB) metropolitan area definitions, as revised by HUD, that are used in the FY2007 Fair Market Rents.

Area Definitions in Schedule C

To make certain that they are using the correct AAFs, users should refer to the area definitions section at the end of Schedule C. For units located in metropolitan areas with a local CPI survey, AAFs are listed separately. For units located in areas without a local CPI survey, the metropolitan or nonmetropolitan counties receive the regional CPI for that Census Region.

The AAF area definitions shown in Schedule C are listed in alphabetical order by state. The associated CPI division is shown next to each state name. Areas whose AAFs are determined by local CPI surveys are listed first. All metropolitan areas with local CPI surveys have separate AAF schedules and are shown with their corresponding county definitions or as metropolitan counties. In the six New England states, the listings are for counties or parts of counties as defined by towns or cities. The remaining counties use the CPI for the Census Region and are not specifically listed on Schedule C or the area file.

Puerto Rico and the Virgin Islands use the South Region AAFs. All areas in Hawaii use the AAFs identified in the Table as "STATE: Hawaii," which are based on the CPI survey for the Honolulu metropolitan area. The Pacific Islands use the West Region AAFs.

II. Applying AAFs to Various Section 8 Programs

AAFs established by this notice are used to adjust contract rents for units assisted in certain Section 8 housing assistance payments programs during the initial (i.e., pre-renewal) term of the HAP contract. Three categories of Section 8 programs use the AAFs:

Category 1—The Section 8 New Construction and Substantial Rehabilitation programs and the Section 8 Moderate Rehabilitation program.

Category 2—The Section 8 Loan Management (LM) and Property Disposition (PD) programs.

Category 3—The Section 8 Project-based Certificate (PBC) program.

Each Section 8 program category uses the AAFs differently. The specific HAP contract, program regulation, program requirement, or law determines the application of the AAFs. Restrictions to the use of AAF are discussed below:

Renewal Rents. AAFs are not used to determine renewal rents after expiration of the original Section 8 HAP contract (either for projects where the Section 8 HAP contract is renewed under a

restructuring plan adopted under 24 CFR part 401; or renewed without restructuring under 24 CFR part 402). In general, renewal rents are determined by applying a state-by-state operating cost adjustment factor (OCAF) published by HUD.

Budget-based Rents. AAFs are not used for budget-based rent adjustments. For projects receiving Section 8 subsidies under the LM program (24 CFR part 886, subpart A) or under the PD program (24 CFR part 886, subpart C), contract rents are adjusted, at HUD's option, either by applying the AAFs, or by budget-based adjustments in accordance with 24 CFR 886.112 and 24 CFR 886.132. Budget-based adjustments are used for most Section 8/202 projects.

Certificate Program. In the past, AAFs were used to adjust the contract rent (including manufactured home space rentals) in both the tenant-based and project-based certificate programs. The tenant-based certificate program has been terminated and all tenancies in the tenant-based certificate program have been converted to the Housing Choice Voucher Program, which does not use AAFs to adjust rents. All tenancies remaining in the project-based certificate program continue to use AAFs to adjust contract rent for outstanding HAP contracts.

Moderate Rehabilitation Program. Under the Section 8 Moderate Rehabilitation program (both the regular program and the single room occupancy program), the public housing agency (PHA) applies the AAF to the base rent component of the contract rent, not the full contract rent. For the other covered programs, the AAF is applied to the whole amount of the pre-adjustment contract rent.

III. Adjustment Procedures

This section of the notice provides a broad description of procedures for adjusting the contract rent. Technical details and requirements are described in HUD notices, issued by the Office of Housing and the Office of Public and Indian Housing.

Because of statutory and structural distinctions among the various Section 8 programs, there are separate rent adjustment procedures for the three program categories:

Category 1: Section 8 New Construction, Substantial Rehabilitation, and Moderate Rehabilitation Programs

In the Section 8 New Construction and Substantial Rehabilitation programs, the published AAF factor is applied to the pre-adjustment contract rent. In the Section 8 Moderate Rehabilitation program, the published

AAF is applied to the pre-adjustment base rent.

For category 1 programs, the Table 1 AAF factor is applied before determining comparability (rent reasonableness). Comparability applies if the pre-adjustment gross rent (pre-adjustment contract rent plus any allowance for tenant-paid utilities) is above the published FMR.

If the comparable rent level (plus any initial difference) is lower than the contract rent as adjusted by application of the Table 1 AAF, the comparable rent level (plus any initial difference) will be the new contract rent. However, the pre-adjustment contract rent will not be decreased by application of comparability.

In all other cases (i.e., unless the contract rent is reduced by comparability):

- The Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- The Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 2: The Loan Management Program (24 CFR Part 886, Subpart A) and Property Disposition Program (24 CFR Part 886, Subpart C)

At this time, rent adjustment by the AAF in the Category 2 programs is not subject to comparability. (Comparability will again apply if HUD establishes regulations for conducting comparability studies under 42 U.S.C. 1437f(c)(2)(C).) Rents are adjusted by applying the full amount of the applicable AAF under this notice.

The applicable AAF is determined as follows:

- The Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
- The Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 3: Section 8 Certificate Project-Based Certificate Program

The following procedures are used to adjust contract rent for outstanding HAP contracts in the Section 8 PBC program:

- The Table 2 AAF is always used. The Table 1 AAF is not used.
- The Table 2 AAF is always applied before determining comparability (rent reasonableness).
- Comparability always applies. If the comparable rent level is lower than the rent to owner (contract rent) as adjusted by application of the Table 2 AAF, the comparable rent level will be the new rent to owner.

IV. When To Use Reduced AAFs (From AAF Table 2)

In accordance with Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), the AAF is reduced by 0.01:

- For all tenancies assisted in the Section 8 Project-Based Certificate program.
- In other Section 8 programs, for a unit occupied by the same family at the time of the last annual rent adjustment (and where the rent is not reduced by application of comparability (rent reasonableness)).

The law provides that:

Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. 42 U.S.C. 1437f(c)(2)(A).

To implement the law, HUD publishes two separate AAF Tables, contained in Schedule C, Tables 1 and 2 of this notice. The difference between Table 1 and Table 2 is that each AAF in Table 2 is 0.01 less than the corresponding AAF in Table 1. Where an AAF in Table 1 would otherwise be less than 1.0, it is set at 1.0, as required by statute; the corresponding AAF in Table 2 will also be set at 1.0, as required by statute.

V. How To Find the AAF

The AAFs are contained in Schedule C, Tables 1 and 2 of this notice. There are two columns in each table. The first column is used to adjust contract rent for units where the highest cost utility is included in the contract rent, i.e., where the owner pays for the highest cost utility. The second column is used where the highest cost utility is not included in the contract rent, i.e., where the tenant pays for the highest cost utility.

The applicable AAF is selected as follows:

- Determine whether Table 1 or Table 2 is applicable. In Table 1 or Table 2, locate the AAF for the geographic area where the contract unit is located.

- Determine whether the highest cost utility is or is not included in contract rent for the contract unit.

- If highest cost utility is included, select the AAF from the column for "highest cost included." If highest cost

utility is not included, select the AAF from the column for "utility excluded."

Accordingly, HUD publishes these Annual Adjustment Factors for the Section 8 Housing Assistance Payments programs as set forth in the Tables.

Dated: January 25, 2007.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

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