

Small Area Fair Market Rent (SAFMR) Proposed Rulemaking



**U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

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Questions? Email: SAFMRWebinar@hud.gov

The Challenge

HCV Access to Low-Poverty Neighborhoods

- In 2010, only **1 in 5 (20%)** families with children used HCV in a low-poverty neighborhood (<10% poverty).¹

HUD's Fair Market Rent (FMR) Setting Policy

- FMRs for entire Metro areas (usually several metro counties).
- 40th percentile gross rent for typical rentals over entire area.
- PHAs can set payment standards between 90-110% of FMR.
- This may not be adequate to cover the higher rents in lower poverty areas.

¹ Center on Budget and Policy Priorities (2014) "Creating Opportunity for Children: How Housing Location Can Make a Difference"

Current Policy: 50th Percentile

First Attempt: 50th Percentile Rule (2000)

- Goal: address metros with high concentrations of HCVs.
- Experience suggest this has not been successful.
 - Limited “graduation” of MSAs out of program.

Issues:

- 50th percentile may be insufficient to access significant share of lower poverty neighborhoods.
- It also increases purchasing power in *high poverty* neighborhoods.

Proposed Solution: SAFMRs

Solution: Small Area Fair Market Rents

Relying on ACS data, PD&R has developed a methodology for setting FMRs at the ZIP Code level, to create a more effective means of deconcentrating voucher holders.

This permits FMRs (and thus associated voucher payment standards) to be higher in low poverty/high rent neighborhoods, and lower in high poverty/low rent neighborhoods.

HUD mandated use of SAFMRs via settlement in Dallas in 2010, and began a SAFMR demonstration in 5 PHAs in 2012.

Proposed SAFMR Areas

The following 31 metro areas (in 17 states) would be required to use SAFMRs if they were implemented today. (Final list of areas required to use SAFMRs may change by time of any final rule.)

California:

Sacramento--Arden-Arcade--Roseville, CA
San Diego-Carlsbad-San Marcos, CA
San Jose-Sunnyvale-Santa Clara, CA
Oakland-Hayward-Berkeley, CA
Oxnard-Thousand Oaks-Ventura, CA

Colorado

Colorado Springs, CO

Connecticut

Hartford-West Hartford-East Hartford, CT

District of Columbia

Washington-Arlington-Alexandria, DC-VA-
MD

Florida

Fort Lauderdale-Pompano Beach-Deerfield
Beach, FL
West Palm Beach-Boca Raton-Delray
Beach
Tampa-St. Petersburg-Clearwater, FL
Jacksonville, FL
North Port-Bradenton-Sarasota, FL
Palm Bay-Melbourne-Titusville, FL

Georgia

Atlanta-Sandy Springs-Marietta, GA

Hawaii

Honolulu, HI

Illinois

Chicago-Joliet-Naperville, IL

Indiana

Gary, IN

Mississippi

Jackson, MS

North Carolina

Charlotte-Gastonia-Rock Hill, NC-SC

New Jersey

Bergen-Passaic, NJ
Monmouth-Ocean, NJ

New York

Nassau County-Suffolk County, NY
New York, NY

Pennsylvania

Philadelphia-Camden-Wilmington, PA-NJ-
DE-MD
Pittsburgh, PA

Texas

Dallas-Plano-Irving, TX
Fort Worth-Arlington, TX
San Antonio-New Braunfels, TX

Virginia

Virginia Beach-Norfolk-Newport News, VA-
NC

Washington

Tacoma-Lakewood, WA.

Details of the Proposed Rulemaking

1. Remove 50th Percentile Rule (24 CFR 888.113(c)) and replace with an SAFMR Based Rule:

Area Selection Criteria (areas must meet all 3):

- A. HUD Metropolitan FMR Area with 2,500+ HCVs
- B. 20%+ of areas rental units are in ZIPs with SAFMRs greater than 110% of Metro FMR
- C. Voucher holders 55%+ more likely to live in Concentrated Areas of Low Income (LIHTC Qualified Census Tracts) relative to all renters within the metro area.
 - 1. Calculate % of HCV Tenants living in Concentrated Areas of Low Income (Count of HCV Tenants in Low Income Areas / Count of HCV Tenants in Metro Area)
 - 2. Calculate % of renter occupied units in concentrated areas of low income (Count of Renter Occupied Units in concentrated areas of low income / Count of Renter Occupied Units in Metro Area)
 - 3. Divide the result from step 1 by the result in step 2 – this is the likelihood of a voucher tenant to live in a concentrated area of low income relative to all renters

Ex: (1) 50% of voucher holders live in concentrated low income areas; (2) 30% of metro area's renter occupied units are in concentrated low income areas. (3) Consequently, HCV tenants are 67% more likely $[(50 / 30) - 1]$ to live in a concentrated area of low income than are renters in general.

Details of the Proposed Rulemaking

- 2. Update 24 CFR 888.113 (d), (e), (f), (g) to reflect current data sources used and current terminology used in calculating FMRs**
- 3. Amend 24 CFR 982**
 - Remove references to the 50th percentile when setting Payment Standards
 - Change the FMR decrease threshold from 5 percent to 10 percent in requiring rent reasonableness reviews for SAFMR areas, request for comment on whether this should be extended to all
- 4. Request for Comments:**
 - HUD is happy to review all comments on the proposed rule
 - Request for comment on 13 specific Topic Areas

Advanced Notice of Proposed Rulemaking (ANPR)

- In June, 2015, HUD published an Advanced Notice of Proposed Rulemaking
 - Outlined HUD's desire to expand the use of Small Area FMRs beyond the current demonstration sites
 - Solicited Public Comment on SAFMRs generally, and on 8 specific topic areas
 - HUD received 78 comments which helped inform the Proposed Rule

Changes in Response to ANPR Comments

- **COMMENT: SAFMRs would increase administrative burden**
 - HUD proposes limits to application of SAFMRs to reduce burdens among small PHAs and apply SAFMRs only where problem is most severe and SAFMRs offer viable solution.
- **COMMENT: HUD should address the consequence for voucher tenants who choose not to move from units where the SAFMR is below the current metro FMR**
 - Application of lower payment standards remains delayed until 2nd annual recertification, exception payment standards as reasonable accommodation remain available, HUD seeks further public comment on additional tenant protection mechanisms.
- **COMMENT: How SAFMRs should be used related to PBV**
 - SAFMRs would apply only to future PBV arrangements, existing and pipeline PBV projects would continue under metro FMRs.

Changes in Response to ANPR Comments

- **COMMENT: SAFMRs should be voluntary**
 - PHAs not in SAFMR areas may voluntarily adopt SAFMRs.
- **COMMENT: Poverty should not be the sole criteria for selecting areas**
 - Criteria for SAFMR area selection include minimum number of vouchers in area, above-average availability of units in higher-rent areas, and above average concentration of voucher tenants in high-poverty / low-income areas compared to rental units overall.
- **COMMENT: ZIP Codes may still be too large of areas and not constitute Housing Markets**
 - Additional flexibilities for applying exception payment standards, even at sub-ZIP Code levels, are included in the proposed rule.

Comment Requests for Proposed Rule

- *Should HUD provide for PBVs that are in the pipeline to continue using metropolitan FMRs even if the area is designated as a Small Area FMR area?*
- *Additionally, should HUD require newly proposed PBVs post Small Area FMR designation to use Small Area FMRs?*

Comment Requests for Proposed Rule

- *HUD is specifically seeking comment on how to reduce the administrative burden on PHAs and simplify the transition to Small Area FMRs.*
- *HUD request comments regarding whether 10 percent is the right trigger for program-wide rent reasonableness redetermination, whether HUD should limit this proposal to Small Area FMR decreases, and whether it should revise the trigger for program-wide rent reasonableness redeterminations at all.*
- *HUD also requests comments on what other changes would reduce the potential administrative burden and complexity for PHAs impacted by the implementation of Small Area FMRs?*

Comment Requests for Proposed Rule

- *Are there specific groups within the general population of voucher holders for whom this policy change would be particularly burdensome?*
- *What are the ways in which this policy change could create a disproportionate burden on certain groups like elderly and disabled voucher holders?*
- *HUD seeks comment on whether there are certain situations or any specific groups of voucher recipients within the general population, such as persons with disabilities or elderly voucher recipients, where an alternate policy should apply that should exempt them from having their voucher level change as a result of this policy due to specific hardships they may encounter by having to choose between staying in their current area and receiving a smaller voucher or moving to a new area for the sake of obtaining a larger voucher?*
- *HUD seeks comment on what additional policies or requirements the final rule should include that would mitigate the impact of significant and abrupt decreases in the FMRs for certain ZIP code areas on families currently under HAP contract in those impacted areas.*

Comment Requests for Proposed Rule

- *HUD is seeking comment on whether the selection parameters should be codified or should be incorporated into each annual proposed FMR notice to provide HUD, PHAs, and other stakeholders with flexibility, in any given fiscal year, to offer changes to these selection parameters and have the opportunity to comment before any changes to the parameters are made.*
- *HUD seeks comment on whether the final rule should limit the potential decline in the FMR for a ZIP code area resulting from the implementation of Small Area FMRs in order to ensure that sufficient housing opportunities remain available to voucher holders?*
 - *If so, HUD seeks recommendations on specific policies or requirements that should be included in the final rule to achieve the desired outcome.*

Comment Requests for Proposed Rule

- *HUD is specifically seeking comment on whether the payment standard protection provision should be eliminated in order to phase out the use of 50th percentile rents for deconcentration purposes.*
- *HUD would also appreciate comments as to whether or not the current SEMAP deconcentration standard is appropriate as the basis for PHAs requesting HUD to approve payment standards based on 50th percentile rents under existing § 982.503(f).*
- *HUD is specifically seeking comment on these proposed policies, as well as suggestions for alternative approaches or other recommendations on how best to phase-out 50th percentile rent FMRs for impacted metropolitan areas and transition the area to either the Small Area FMRs or the standard metropolitan-wide 40th percentile FMRs.*

Comment Requests for Proposed Rule

- *HUD seeks public comment as to whether or not other HUD rental assistance programs would benefit from using Small Area FMRs in their operations.*
- *HUD is seeking comment on the criteria that HUD selected for determining which metropolitan areas should be impacted by the shift to a small area FMR instead of the current 50th percentile policy. Did HUD use the correct criteria in making these choices?*
- *What other criteria should HUD be using to select metropolitan areas that will be impacted by this rule change and why are those criteria important?*

Comment Requests for Proposed Rule

- *Given the costly nature of moving a manufactured home, HUD is seeking comment on whether or not current voucher holders using their voucher for a manufactured home space should be exempt from SAFMRs at their current address?*
- *HUD is seeking public comment to determine if there are other amendments HUD should make to the Exception Payment Standard Regulations to better facilitate the approval process of Exception Payment Standards.*

Comment Requests for Proposed Rule

- *HUD seeks comment on what additional data or dissemination strategies would be helpful to the public to assess the impact of the implementation of the Small Area FMR proposed rule.*

Comments and Questions

Comments may be submitted from 6/16/2016 – 8/15/2016 as follows:

- Through the Federal eRulemaking Portal at www.regulations.gov
- By Mail:

Regulations Division

Office of General Counsel

Department of Housing and Urban Development

451 7th Street, SW, Room 10276

Washington, DC 20410-0500

Questions may be submitted to SAFMR_Rule@hud.gov