

CHAPTER 7

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CHAPTER 7. EXISTING HOUSING FAIR MARKET RENTS, GROSS RENTS, RENT  
ADJUSTMENTS

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7-1. CHAPTER OVERVIEW. This Chapter covers the Field Office responsibility for insuring that Public Housing Agencies (PHAs) administering a Section 8 Existing Housing Program remain within the Fair Market Rent (FMR) and rent reasonableness limitations when entering into HAP Contracts. Field Offices are also responsible for reviewing FMRs and developing recommendations for revisions when necessary for program administration.

7-2. DEFINITIONS.

a. Fair Market Rents (FMRs) are ceiling rents and are intended to reflect the median gross rents charged for available standard units in the applicable county or Standard Metropolitan Statistical Area (SMSA). (See Exhibit 7-1, for detailed information on the FMR methodology.) FMRs include the cost of utilities (except telephone), ranges and refrigerators, all maintenance, management, and other services normally provided in privately owned, existing, decent, safe, and sanitary rental housing of modest quality.

(1) Fair Market Rents for each SMSA and non-SMSA county are published at least annually in the Federal Register, first for public comment and then for effect.

(2) Separate FMRs are established for various unit sizes (number of bedrooms). There is no distinction made by structure type.

b. Fair Market Rents for Recently Completed Housing are 75 percent of the Section 8 New Construction FMRs.

c. Fair Market Rents for Mobile Home Spaces are published at least annually in the Federal Register. These FMRs are based on the rents charged for privately owned mobile home spaces of modest quality. Separate FMRs are established for single-wide and double-wide spaces and do not include the cost of utilities.

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7-3. REVISION OF FAIR MARKET RENT SCHEDULES.

a. Field Office Evaluation of Public Comments and Recommendations for Revising FMR Schedules.

- (1) The Economic and Market Analysis Division (EMAD), in conjunction with the Housing Director, is responsible for reviewing FMRs and preparing the Field Office recommendation for FMR revisions. These recommendations may be based on public comments received in response to the Federal Register publication, or an independent finding by the Field Office.
- (2) Upon request, EMAD should provide guidance to Public Housing Agencies (PHAs) preparing comments about the proposed FMRs published in the Federal Register.
- (3) All recommendations for FMR revisions must include documentation showing the current median rent for standard units in the area, or the actual rate of change in the rents experienced during the specified period. Recommendations must be supported by appropriate analytical data such as:
  - (a) Evidence that significant changes in rents have been experienced in the rental market which differ from those changes measured by the Consumer Price Index (CPI) factors used to update the Annual Housing Survey based median rent.
  - (b) Local housing market studies or comprehensive rental market surveys that indicate the current median rent levels for standard units of various sizes in the designated FMR area. These should indicate that the sample represents all structure types (including single-family detached units), ages of structures and geographic locations within the FMR area.

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(4) In analyzing public comments or initiating Field Office recommendations for FMR revisions, EMAD should:

- (a) Ascertain that local rental market surveys are representative of the standard rental inventory of the Fair Market Rent area.\*
- (b) Consult with other appropriate Field Office staff such

as: (1) appraisers, (2) housing management officers, and (3) relocation staff.

- (c) Consult with local government and industry sources such as: (1) PHAs administering the Section 8 Existing Housing Program, (2) agencies engaged in relocation, and (3) private rental agents and property management firms.

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b. Field Office Submission of Evaluations and Recommendations.

(1) Form HUD-52508, Field Office Recommendation for Revising Fair Market Rent Schedules (Appendix 10-1), shall be used to record the Field Office evaluation of public comments and initiate recommendations for FMR revisions.

(2) A memorandum of recommendation, including a brief summary of the Field Office analysis and data, shall be attached to Form HUD-52508.

(3) Three copies of the Form HUD-52508 and attachments shall be prepared. One copy shall be retained in the Field Office, and two copies forwarded to the Regional Economist. The Field Office should attach a copy of each public comment for the Regional Office review and files.

(4) The Field Office copy of Form HUD-52508, memorandum of recommendation, public comments, and all supporting data and analyses shall be made part of the permanent Field Office file. These records will be useful in identifying data sources and evaluating market trends when developing future recommendations for FMR revision.

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c. Regional Office Review and Recommendations for Revising FMR Schedules.

(1) The Regional Economist shall review all Field Office analyses and recommendations for FMR revisions to insure that they are consistent with established guidelines and are adequately documented. Based on this review, the Regional Economist shall recommend approval, disapproval, or modification of the Field Office recommendation.

(2) The Regional Office recommendation shall be recorded on Form HUD-52508. One copy and attachments shall be retained in the Regional Office and one copy with attachments forwarded

to Headquarters EMAD for review and approval.

#### 7-4. INITIAL RENT APPROVALS.

a. Rent Reasonableness Limitation. The maximum Contract Rent for any unit to be leased is the amount that the PHA documents and certifies is: (1) reasonable in relation to rents currently being charged for comparable units in the private unassisted market, and (2) not in excess of rents currently being charged for most of the owner's comparable unassisted units. A suggested procedure for satisfying this requirement is in Chapter 6, Handbook 7420.7.

b. FMR Limitation. The maximum initial gross rent for any unit to be leased may not exceed the published FMRs. However, this amount may be exceeded by up to 20 percent under special circumstances (see paragraphs 7-5 and 7-6.)

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#### 7-5. EXCEPTIONS TO FAIR MARKET RENTS ON A UNIT-BY-UNIT BASIS.

a. Initial Gross Rents Exceeding FMRs By Up to 10 Percent. A PHA may approve initial gross rents on a unit-by-unit basis which exceed the FMRs by up to 10 percent for units which, by virtue of size, amenities or location, or in order to expand housing opportunities for low-income families, or to obtain units which have been made accessible to the handicapped, are determined to warrant exception rents. This authority may be exercised for not more than 20 percent of the units authorized by the ACC.

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b. A PHA may request that the Field Office extend the PHAs authority to approve exception rents for more-than 20 percent of its units on a unit-by-unit basis. PHA requests shall include an explanation of the special circumstances which warrant the higher rents.

(1) Field Office Review.

(a) The Housing Director or Service Office Supervisor shall arrange for an on-site staff review of a sample of PHA approved units at rents exceeding the FMRs to verify that use of the 10 percent exceptions is justified.

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(b) If the PHA is making use of the 10 percent authority to achieve the program objectives stated in paragraph 7-5a, the Housing Director or Service Office Supervisor shall recommend approval of an

extension of the PHA's 10 percent authority.

(c)Field Office approval shall be limited to an additional 10 percent of the units extending the PHA's authority to a maximum of 30 percent of the units authorized by the ACC.

(2)Field Office Approval.

The Housing Director or Service Office Supervisor shall forward a letter for the Area Manager's signature advising the PHA of Field Office approval or disapproval. If the PHA request is denied, the letter should indicate the reason for the Field Office decision.

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\* c. Initial Gross Rents Exceeding FMRs By Up to 20 Percent.

(1)A PHA may request that the Field Office approve an initial gross rent on a unit-by-unit basis which exceeds the FMR by up to 20 percent. The PHA request must demonstrate that:

(a)leasing of the unit is necessary to meet the unique needs of a particular family (e.g., in order to broaden housing opportunities or to serve handicapped families or individuals).

(b)the gross rent for the unit does not exceed 120 percent of the applicable FMRs, and

(c)a comparable unit is not available within 110 percent of the FMR.

(2)Field Office Approval. The Assisted Housing Management Branch (AHMB), in consultation with the Valuation Branch, shall review each request and recommend approval or disapproval.

(a)In making this determination the AHMB should take into consideration how the PHA has used its authority to approve gross rents exceeding the published FMRs by 10 percent or less.

(b)The AHMB shall prepare a letter for the Area Manager's signature advising the PHA of Field Office approval or disapproval. If the PHA request is denied, the letter should indicate the reason for the Field Office decision.

7-6. EXCEPTIONS TO FAIR MARKET RENTS ON A UNIT SIZE BASIS.

a. Gross Rents Exceeding FMRs by up to 20 Percent Within a Designated Municipality, County, Similar Locality, or Neighborhood. A PHA may request HUD Field Office approval for an increase in maximum gross rents for all units of a specific unit size (number of bedrooms) if justified for a municipality, county or similar locality within a FMR area pursuant to Section 882.106(a)(3) or within a specified neighborhood pursuant to Section 882.106 (a)(4) when warranted by special circumstances. The special circumstances may include:

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- \* (1) implementation of a Housing Assistance Plan,
- (2) operation of the program in a high cost suburban submarket of an SMSA,
- (3) the limited availability of units of a specific size (larger units) or structure type (e.g., detached or town-house construction), or
- (4) prevention of displacement of lower-income families in revitalization areas.

b. Exception rents shall not be granted for major portions of a FMR area but shall be restricted only to those selected submarkets where they are needed. A major portion of a FMR area would include more than 50 percent of the population of the FMR area.

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c. Documentation. The PHA request for approval of gross rents exceeding FMRs by up to 20 percent must be supported by a PHA statement describing the special circumstances warranting higher rents in the designated locality or neighborhood for the specific unit sizes and documentation demonstrating:

(1) the need for higher rents, including the submission of information on current rent levels and program experience in the suggested format in Appendix 10-2 or a similar display of data.

- (2) the requested rents are consistent with rents charged for available unassisted units of comparable size in the designated locality.

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d. Field Office Approval

(1) Within 30 calendar days, the EMAD shall review each PHA request for approval of gross rents exceeding FMRs by up to 20 percent. If the request is justified, EMAD shall prepare a letter for the Area Manager's signature advising the PHA of Field Office approval of specific exception rent levels. Maximum gross rents exceeding the FMRs shall not be approved unless the average rents being charged for available standard units of similar unit size or structure type in the municipality, county, or similar locality exceed the FMRs.

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(2) If the PHA request for higher rents is not justified, EMAD shall prepare a letter to the PHA indicating the reason for the Field Office decision.

(3) A copy of the letter to the PHA shall be provided to the AHMB. Copies of the letter to the PHA, the EMAD justification, and the PHA documentation shall be sent to the Regional Economist and to the Assistant Secretary for Policy Development and Research (PD&R), Office of Economic Affairs, Attention: EMAD.

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e. Regional Office Monitoring.

(1) The Regional Economist shall review each Field Office approval action under paragraph 7-6a, including the PHA documentation and the EMAD justification, to ascertain that the action was in conformance with the policies and procedures set forth above, and that the action was adequately documented and justified.

(2) Any discrepancies observed in the application of the policies and procedures related to the approval of these exception rents shall be brought to the immediate attention of the Field Office to reduce the possibility of their being repeated.

(3) If the Regional Economist concludes in the course of reviewing Field Office approval actions that the approval of exception rents was not adequately documented or justified or that the number of exceptions being approved is excessive, the Regional Economist may recommend to the Regional Administrator that the Field Office be notified that further approvals require Regional Office concurrence. A copy of the EMAD recommendation shall be sent to the Assistant Secretary for PD&R, Attention: EMAD. If a Field Office approval authority is so restricted, each subsequent Field Office recommendation for exception rents shall be

forwarded to the Regional Office for concurrence until such time as the Regional Administrator removes the approval restriction.

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f. Relationship of Approved Exception Rents to Subsequent FMR Publications.

(1) The PHA may not use maximum gross rents for units of a given size in a locality or neighborhood that exceed the rents approved by the Field Office pursuant to subparagraph d. above unless:

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(a) revised FMRs, which are higher than the approved exception rents, are published in the Federal Register for effect,

(b) the PHA uses its 10 percent exception rent authority as it applies to revised FMRs.

(c) the PHA obtains Field Office approval of exception rents based on revised FMRs.

(2) If the revised FMRs are lower than the maximum gross rents approved by the Field Office pursuant to this paragraph, the PHA has authority to approve gross rents up to the previously approved maximum gross rents provided that such rents do not exceed 120 percent of the revised FMR.

(3) Example. The PHA received Field Office approval for maximum gross rents of \$240 (20% above the published FMR of \$200) for 3 bedroom units. A revised FMR of \$230 for 3 bedroom units is published. The PHA may approve initial maximum gross rents of \$240. However, the PHA may approve higher gross rents in accordance with the circumstances previously discussed under paragraph 7-6f(1) as follows:

(a) \$253 (10% authority)

(b) \$276 (Requires Field Office approval of 20% exception)

(4) When revised FMRs are published, the Field Office should notify PHAs of the effect on prior Field Office approvals of maximum gross rents exceeding the FMRs. EMAD should prepare a letter for the Area Manager's signature to the PHA providing this information.

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7-7. ANNUAL AND SPECIAL ADJUSTMENTS TO CONTRACT RENTS.



(b)Contract rent includes only the highest cost utility (tenant pays \$20 for gas for cooking):

\$240 (contract rent) x 1.122 = \$269 (adjusted contract rent)

\$260 (gross rent) \$289 (adjusted gross rent)

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(c)Contract rent includes no utilities (tenant pays \$60 for utilities):

\$200 (contract rent) x 1.074 = \$215 (adjusted contract rent)

\$260 (gross rent) \$275 (adjusted gross rent)

NOTE:All computations shall be rounded to the nearest whole dollar amount. For examples \$209.49 is rounded to \$209 and \$209.50 is rounded to \$210.

b.Revisions to the Section 8 Annual Adjustment Factors. The Annual Adjustment Factors are published for a small number of SMSAs and the four Census Regions. In certain instances, application of the regional adjustment factors may not be appropriate in regard to certain areas and may result in rents which are substantially lower than the rents charged for comparable unassisted units. Under these circumstances, the Field office may establish revised Annual Adjustment Factors in a particular area using the following procedure:

(1)The PHA shall submit its request to the AHMB. The PHA request must demonstrate that the rents of comparable unassisted rental housing have increased at a substantially greater rate than the Annual Adjustment Factors and shall include identification of the area and its boundaries, and evidence that the area constitutes the largest contiguous area in which substantially the same rent levels prevail. A PHA may submit detailed operating cost data showing change over a 12 month period for a representative sample of units in the area. Where the PHA is unable to obtain adequate

rent or cost data to document its request for revised adjustment factors, the Field Office may utilize other data, such as surveys done by local rent boards or data on unsubsidized FHA insured rental projects.

(2)The AHMB, in consultation with EMAD, shall review the PHA's request. If the request is approved, the AHMB shall prepare a letter for the Area Manager's signature giving notice to all affected PHAs (and Owners for other Section 8 programs) in the designated area. This shall include publication of  
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\* the revised adjustment factors in local newspapers of general circulation. The revised adjustment factor will be used for all applicable Section 8 projects in the designated area. If the Field Office denies the request, the PHA shall be notified of the reason for the Field Office decision. The AHMB shall send copies of any new adjustment factors to the Office of Public and Indian Housing (HG), Office of Multifamily Housing Programs (HM), and Office of Economic Affairs (TE), Attention: Economic and Market Analysis Division, all in Headquarters.

(3)The revised Annual Adjustment Factors shall be effective until superseded by the subsequent publication of revised adjustment factors in the Federal Register. In no case will an annual adjustment factor be applied to contract rents more than once during a 12 month period.

c.Special Adjustment to Contract Rents. An owner of a unit under HAP Contract may submit a request for a special adjustment to the PHA. The owner's request must demonstrate that actual and necessary expenses of owning and maintaining the unit have resulted from substantial general increases in real property taxes, utility rates, or assessments and utilities not covered by regulated rates and have not been adequately compensated for by annual adjustments. If the PHA agrees that the owner's request is warranted, the PHA shall forward the request to the Field Office for approval.

(1)The PHA shall submit its recommendation to approve the owner's request, a copy of the lease, the owner's financial statement and any other required documentation to the Field Office, Attention: Assisted Housing Management Branch. The PHA recommendation must indicate whether approval of the owner's request will result in material differences between the contract rents and rents charged for comparable unassisted units.

(2)The Field Office shall review the request in accordance with the following:

(a)The AHMB shall determine, in consultation with EMAD and the Valuation Branch, whether any part of the requested increase was reflected in the latest annual adjustment to the owner's contract rent or any other special adjustments approved since the latest annual adjustment.

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(b)The AHMB shall determine, in consultation with the Loan Management Branch (if necessary), if the requested increase is due to substantial general increases in real property taxes, utility rates, assessments, or utilities not covered by regulated rates, which affected or will affect other rental properties in the locality.

(c)If a special adjustment is requested based on:

1An increase in utility rates, the AHMB shall determine if the higher utility rates were considered in the establishment of the contract rent.

2A substantial general increase in the tax rate or assessment, and not the result of a higher assessment due to improvement of the particular unit, the AHMB must determine if the increased tax rate or assessment was considered in the establishment of the contract rent.

(3) The AHMB shall prepare a letter to the PHA, with a copy to the owner, for the Deputy Director for Housing Management's signature. If the request is denied or reduced, the letter shall briefly indicate the reason. In addition, this letter should indicate the effective date of an approved increase (i.e., the first day of the month following implementation of the increase in real property taxes or utility rates, provided that the owner had the legal right to terminate tenancy as of that date).

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d. Annual and special adjustments shall be permitted without regard to the FMR limitations, but are subject to rent reasonableness limitations and shall not result in material

differences between rents charged for assisted and comparable unassisted units.

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EXHIBIT 7-1

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Methodology for Establishing Fair Market Rents  
for Section 8 Existing Housing

Section 8(c)(1) of the U.S. Housing Act of 1937 requires that Fair Market Rents (FMRs) be established by the Secretary periodically but not less than annually. Proposed FMRs must be published in the Federal Register with reasonable time for public comment and rents generally become effective 30 days after date of publication in final form in the Federal Register.

Fair Market Rents are intended to reflect the median gross rents charged for available standard units. FMRs are established for all Standard Metropolitan Statistical Areas (SMSAs) and non-SMSA counties. Initially the FMRs for non-SMSA counties are established on the basis of Census County Groups consisting of a block of two or more counties with a population of over 250,000 grouped together to provide valid statistical data.

FMRs are based on median rents derived from Annual Housing Survey (AHS) data of units meeting Section 8 existing housing program standards and rented by recent movers. The AHS median rents are updated by use of rent adjustment factors developed from the rent, and the fuel and utility components of the Consumer Price Index (CPI). AHS data is available for 60 SMSAs and for the four Census Regions. Twenty-five of the SMSAs covered by the AHS also are covered by specific CPI data; the median rents of the remaining SMSAs and the non-SMSA counties are updated by the use of Census Region CPI data.

For those areas where the Regional CPI data is used for calculating the FMRs, the following two-step procedure is used: (1) the AHS median rent for each Census Region is updated by use of the CPI data for the Census Region, and (2) the rents for individual SMSAs and Census County Groups are determined from the updated AHS median rents for each Census Region by applying the ratio of individual SMSA or Census County Group rent to Census Region rent as indicated by the most recent decennial Census data.

For all areas, the FMRs first are calculated for 2 bedroom units on the basis of the SMSA and Regional AHS data for units of that size, and then the FMRs for other unit sizes are calculated on the basis of the percentage relationships indicated for various unit sizes by the National AHS data.

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EXHIBIT 7-1

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The final step in establishing FMRs for effect is the consideration of local housing market data and related comments received from the public in response to the publication of proposed rents in the Federal Register. The procedures for considering public comments and Field Office recommendations are covered in Chapter 7.

In establishing updated FMRs from year to year, the most recent AHS and CPI data available normally will be used as described above. Modified procedures may be used from time to time as warranted by special circumstances, such as unavailability of more recent data, access to additional data in regard to various market factors or geographical areas, sudden changes in market conditions, or changes in program objectives or other factors. Any modifications in the procedures to be used for any year will be described in the Federal Register publication of the proposed Fair Market Rents for that year.

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