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Part II

Department of Housing and Urban Development

24 CFR Part 888

**Section 8 Housing Assistance Payments
Program-Contract Rent Annual
Adjustment Factors, Fiscal Year 2002;
Final Rule**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 888

[Docket No. FR-4715-N-01]

**Section 8 Housing Assistance
Payments Program—Contract Rent
Annual Adjustment Factors, Fiscal
Year 2002**

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of revised contract rent annual adjustment factors.

SUMMARY: This Notice announces revised Annual Adjustment Factors (AAFs) for adjustment of Section 8 contract rents on housing assistance payment contract anniversaries from October 1, 2001. The AAFs are based on a formula using data on residential rent and utility cost changes from the most current Bureau of Labor Statistics Consumer Price Index (CPI) survey and from HUD's Random Digit Dialing (RDD) rent change surveys.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT:

Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, can respond to questions relating to the Section 8 Voucher, Certificate, and Moderate Rehabilitation programs; Allison Manning, 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; and Beverly Miller, Director, Office of Multifamily Asset Management, Office of Housing (202) 708-3730 for questions relating to all other Section 8 programs. Lynn A. Rodgers, 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 schedules for specific areas or the methods used for calculating the AAFs. The mailing address for the above person is: 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 1-800-877-8339 (TTY). (Other than the "800" TTY number, the above-listed telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: This Notice explains how AAFs are applied to various Section 8 programs. The first section of the Notice identifies to which programs and under what circumstances AAFs apply. The second section explains when and how to apply the

statutory 1 percent reduction to AAFs. The third section describes the actual adjustment procedures. Next the Notice explains the content and applicability of the two AAF tables included in this Notice and provides detailed information on the geographical coverage of each AAF area. The Notice closes with a brief explanation of how HUD calculates AAFs.

I. Section 8 Programs That Use the AAFs

AAFs established by this Notice are used to adjust contract rents for units assisted in certain Section 8 housing assistance payments programs, during the term of the HAP contract. Two categories of Section 8 program use the AAFs:

Category 1—The Section 8 new construction and substantial rehabilitation programs and the moderate rehabilitation program.

Category 2—The Section 8 loan management (LM) and property disposition (PD) programs.

Category 3—The Section 8 project-based certificate program (for outstanding pre-conversion HAP contracts).

Each Section 8 program category uses the AAFs differently. The specific application of the AAFs is determined by the law, the HAP contract, and appropriate program regulations or requirements.

AAFs are not used in the following cases:

- *Renewal Rents* AAFs are not used to determine renewal rents after expiration of the original Section 8 project-based 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 based on the applicable state-by-state operating cost adjustment factor (OCAF) published by HUD; the OCAF is applied to the previous year's contract rent minus debt service.

- *Voucher Program* AAFs are not used for any purpose in the Section 8 voucher program.

- *Budget-based Rents* AAFs are not used for budget-based rent adjustments. Contract rents for projects receiving Section 8 subsidies under the loan management program (24 CFR part 886, subpart A) and for projects receiving Section 8 subsidies under the property disposition program (24 CFR part 886, subpart C) are adjusted, at HUD's option, either by applying the AAFs or by budget-based adjustments in accordance with 24 CFR 207.19(e).

Budget-based adjustments are used for most Section 8/202 projects.

- *Certificate Program* In the past, AAFs were used to adjust contract rent in the tenant-based certificate program (including manufactured home space rentals in the certificate program). However, this program has now been terminated. All tenancies have now been converted to the Voucher Program. AAFs are still used for adjustment of contract rent for outstanding HAP contracts under the project-based certificate program executed before conversion to the voucher 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.

II. Use of Reduced AAF

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 .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. Each AAF in Table 2 has been computed by subtracting 0.01 from the annual adjustment factor in Table 1.

III. Adjustment Procedures

This section of the notice is intended to provide a broad description of adjustment procedures. Technical details and requirements are described in HUD notices. The notices are 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 three program categories:

- The Section 8 new construction and substantial rehabilitation programs (including the Section 8 state agency program); and the moderate rehabilitation programs (including the moderate rehabilitation single room occupancy program).
- The Section 8 loan management (LM) Program (part 886, subpart A) and property disposition (PD) Program (part 886 subpart C).
- The project-based certificate [PBC] program (where the AHAP was entered prior to January 16, 2001).

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 (LM; Part 886, Subpart A) and Property Disposition Program (PD; 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 Project-Based Certificate Program

The following procedures are used to adjust contract rent for outstanding pre-conversion HAP contracts in the Section 8 Project-based Certificate 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.

AAF Tables

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.

AAF Areas

Each AAF applies to a specified geographic area and to units of all bedroom sizes. AAFs are provided:

- For the metropolitan parts of the ten HUD regions exclusive of CPI areas;
- For the nonmetropolitan parts of these regions; and
- For separate metropolitan AAF areas for which local CPI survey data are available.

With the exceptions discussed below, the AAFs shown in Schedule C use the

Office of Management and Budget's (OMB) most current definitions of metropolitan areas. HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for AAF areas because of their close correspondence to housing market area definitions.

The exceptions are for certain large metropolitan areas, where HUD considers the area covered by the OMB definition to be larger than appropriate for use as a housing market area definition. In those areas, HUD has deleted some of the counties that OMB had added to its revised definitions. The following counties are deleted from the HUD definitions of AAF areas:

Metropolitan Area and Deleted Counties

Chicago, IL: DeKalb, Grundy and Kendall Counties.

Cincinnati-Hamilton, OH-KY-IN:

Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana.

Dallas, TX: Henderson County.

Flagstaff, AZ-UT: Kane County, UT.

New Orleans, LA: St. James Parish.

Washington, DC-VA-MD-WV: Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren counties in Virginia.

Separate AAFs are listed in this publication for the above counties. They and the metropolitan area of which they are a part are identified with an asterisk (*) next to the area name. The asterisk indicates that there is a difference between the OMB metropolitan area and the HUD AAF area definition for these areas.

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 appropriate HUD regional Metropolitan or Nonmetropolitan AAFs are used.

The AAF area definitions shown in Schedule C are listed in alphabetical order by State. The associated HUD region is shown next to each State name. Areas whose AAFs are determined by local CPI surveys are listed first. All metropolitan CPI areas have separate AAF schedules and are shown with their corresponding county definitions or as metropolitan counties. Listed after the metropolitan CPI areas (in those states that have such areas) are the non-CPI metropolitan and nonmetropolitan counties of each State. In the six New England States, the

listings are for counties or parts of counties as defined by towns or cities.

Puerto Rico and the Virgin Islands use the Southeast 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 Pacific/Hawaii Nonmetropolitan AAFs. The Anchorage metropolitan area uses the AAFs based on the local CPI survey; all other areas in Alaska use the Northwest/Alaska Nonmetropolitan AAFs.

How Factors Are Calculated

For Areas With CPI Surveys:

(1) Changes in the shelter rent and utilities components were calculated based on the most recent CPI annual average change data.

(2) The "Highest Cost Utility Included" column in Schedule C was calculated by weighting the rent and utility components with the

corresponding components from the 1990 Census.

(3) The "Highest Cost Utility Excluded" column in Schedule C was calculated by eliminating the effect of heating costs that are included in the rent of some of the units in the CPI surveys.

For Areas Without CPI Surveys:

(1) HUD used random digit dialing (RDD) regional surveys to calculate AAFs. The RDD survey method is based on a sampling procedure that uses computers to select a statistically random sample of rental housing, dial and keep track of the telephone calls, and process the responses. RDD surveys are conducted to determine the rent change factors for the metropolitan parts (exclusive of CPI areas) and nonmetropolitan parts of the 10 HUD regions, a total of 20 surveys.

(2) The change in rent with the highest cost utility included in the rent was calculated using the average of the

ratios of gross rent in the current year RDD survey divided by the previous year's for the respective metropolitan or nonmetropolitan parts of the HUD region.

(3) The change in rent with the highest cost utility excluded (*i.e.*, paid separately by the tenant) was calculated in the same manner, after subtracting the median values of utilities costs from the gross rents in the two years. The median cost of utilities was determined from the units in the RDD sample which reported that all utilities were paid by the tenant.

Accordingly, the Department publishes these Annual Adjustment Factors for the Section 8 Housing Assistance Payments Programs as set forth in the following Tables:

Dated: November 6, 2001.

Mel Martinez,
Secretary.

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