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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 2005;
Notice**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4967-N-01]

Section 8 Housing Assistance Payments Program—Contract Rent Annual Adjustment Factors, Fiscal Year 2005

AGENCY: Office of the Assistant Secretary for Policy Development and Research, 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 for specified programs. These factors apply to housing assistance payment contract anniversaries for calendar months commencing after the date of publication 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) survey and from HUD's Random Digit Dialing (RDD) rent change surveys.

DATES: *Effective Date:* January 14, 2005.

FOR FURTHER INFORMATION CONTACT: David Vargas, Acting Director, Office of Housing Voucher Programs, Office of Public and Indian Housing, (202) 708-2815, 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 schedules 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 1-800-877-8339 (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**, this data will be available electronically from the HUD data information page: <http://www.huduser.org>.

I. Methodology

AAFs are calculated using CPI data on rents and utilities for all metropolitan areas with metropolitan-area specific CPI estimates. AAFs for other areas are calculated using HUD RDD telephone and mail surveys. 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.

Areas Covered by CPI Surveys

For 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 2002 to 2003. 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.

Areas Not Covered by CPI Surveys

For areas without CPI surveys, HUD conducts multi-state regional telephone and mail RDD surveys of rents. A total of 20 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. For regional RDD survey areas, the "Highest Cost Utility Included" factor 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. The factor for the "Highest Cost Utility Excluded" (*i.e.*, paid separately by the tenant) was calculated in a similar manner, after subtracting the median values of each utility cost from the gross rents in the two years. The median utility cost values used for each utility type come from a base year period in the early 1990's with large regional samples that have been updated each year with CPI data. This was done because research has shown that tenants can be unreliable sources of information on utility dollar amounts, which means that use of tenant-reported utility costs would introduce large fluctuations in rent change estimates unrelated to real changes. Each year a modeled estimate for each type of utility cost is updated with CPI factors. These appropriate utility costs are then added to contract rents from regional surveys to produce a gross rent estimate.

Geographic Areas

The metropolitan areas that use the CPI are listed in the tables according to the metropolitan area. 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.

The AAFs shown in Schedule C use the same Office of Management and Budget (OMB) definitions of Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) that are used in the FY2005 Fair Market Rents. HUD modified six metropolitan area definitions to separate out peripheral counties with significantly different income and rent levels, as listed below:

Metropolitan area	Separated counties
<i>Chicago, IL</i>	DeKalb, Grundy and Kendall counties in IL.
<i>Cincinnati-Hamilton, OH-KY-IN</i>	Brown County, OH; Gallatin, Grant and Pendleton counties in KY; and Ohio County, IN.
<i>Dallas, TX</i>	Henderson County, TX.
<i>Flagstaff, AZ-UT</i>	Kane County, UT.
<i>New Orleans, LA</i>	St. James Parish, LA.

Metropolitan area	Separated counties
Washington, DC-VA-MD-WV	Berkeley and Jefferson counties in WV; and Clarke, Culpeper, King George and Warren counties in VA.

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.

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 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. The non-CPI metropolitan and nonmetropolitan counties of each state are listed after the metropolitan CPI areas (in those states that have such areas). 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.

II. Applying AAFs to Various Section 8 Programs

AAF established by this notice are used to adjust contract rents for units assisted in certain Section 8 housing assistance payments programs during the original (*i.e.*, pre-renewal) term of the Housing Assistance Payments (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 207.19(e). 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 the tenant-based certificate program. However, this program has been terminated. All tenancies in the tenant-based certificate program have been converted to the Housing Choice Voucher Program. AAFs are still used for adjustment of contract rent for outstanding HAP contracts under the project-based certificate program.

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 held harmless at 1.0; the corresponding AAF in Table 2 will also be held harmless at 1.0.

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 4, 2005.

Dennis C. Shea,

Assistant Secretary for Policy Development and Research.

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