

August 5, 2022

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

Submitted electronically to <http://www.regulations.gov>.

**Re: Proposed Changes to the Methodology Used for Calculating Fair Market Rents
[Docket No. FR-6334-N-01]**

Dear Sir or Madam:

On behalf of the undersigned organizations, please find our comments on the above-referenced Notice of Proposed Changes to the Methodology Used for Calculating Fair Market Rents (FMRs). Our organizations represent a diverse group of housing providers, including private property owners, managers, lenders and public housing authorities (PHAs) who provide rental housing for families and individuals across the country. We thank you for the opportunity to provide our industries' perspectives on the above-referenced Notice. We strongly support the Housing Choice Voucher (HCV) program, which provides rental assistance and choice to over two million households who live in privately-owned housing.

In the *Federal Register* notice, HUD is soliciting comments on how to alter the methodology to calculate FMRs to compensate for the lack of the normal 1-year ACS estimates for 2020 due to the COVID-19 pandemic. We look forward to working with you to better address the intricacies associated with local real estate markets.

Background

Section 8 of the United States Housing Act (42 U.S.C. 1437f) authorizes housing assistance to aid lower-income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different geographic areas. FMRs are used across a variety of HUD programs. For example, in the Housing Choice Voucher (HCV) program, the FMR is the basis for determining the "payment standard amount" used to calculate the maximum monthly subsidy for an assisted family. HUD also uses the FMRs to determine initial renewal rents for some expiring project-based Section 8 contracts, rent ceilings for rental units in both the HOME Investment Partnerships program and for other purposes.

In general, the FMR for an area is the amount that a resident would need to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities. HUD's FMR calculations represent HUD's best effort to estimate the 40th percentile gross rent paid by recent movers into standard quality units in each FMR area. In addition, all rents subsidized under the HCV program must meet reasonable rent standards.

Since FY 2008, HUD has used data from the Census Bureau's 1-year American Community Survey as the source for estimates of 40th percentile gross rents paid by recent movers. Currently, HUD uses 5-year ACS estimates, combined with metropolitan and regional CPI-based inflation adjustments, to establish the base rents. Rent comprises 40 percent of the core CPI price index, and CPI is heavily weighted to address rent changes. In a typical year, HUD then uses 1-year ACS estimates to calculate a Recent-Mover factor and applies that to the base rents. The final step is to trend the result forward to the current year with a CPI-based inflation adjustment.

On July 29, 2021, the Census Bureau announced that it would not release standard 1-year estimates from the 2020 American Community Survey (ACS) because of the impacts of the COVID-19 pandemic on data collection.

HUD thus needs an alternate way to calculate the recent mover factors. HUD is proposing to calculate them as an average of a factor calculated from 5-year ACS data, and a factor calculated from a combination of six different private data sources (RealPage average effective rent per unit, Moody's Analytics REIS average gross revenue per unit, CoStar Group average effective rent, CoreLogic, Inc. single-family combined 3-bedroom rent index, ApartmentList Rent Estimates, and Zillow Observed Rent Index).

HUD is further soliciting comments on using the same six private data sources, in combination with the CPI, to trend the data forward to the current year, rather than using the CPI exclusively for this purpose.

The proposed changes would apply only to FY 2023 FMRs.

Comments

Fair Market Rents are required to be statistically valid, and to balance timeliness, accuracy, transparency and soundness of approach.

We are generally skeptical of the utility of private data sources for calculating FMRs, due primarily to the high cost and lack of transparency of data from private sources, which make it impossible for industry stakeholders to evaluate the data. Among other things, using private data precludes stakeholders from checking to see if the data are consistent across time and location, and if they are representative of the population in question rather than collected based on the company's anticipated ability to sell them. Measures of statistical reliability such as margins of error are also not usually available.

Incorporating the new sources of private data also involves a tremendous amount of work and effort to compensate for a loss of data which is only temporary.

For these reasons, we recommend that HUD continue to use the CPI alone (i.e., not combined with private data sources) to trend FMRs to the current year, and to calculate Recent-Mover factors without using private data sources—unless HUD is able to demonstrate persuasively that use of the private data sources will produce a superior result.

Relatively simple ways to calculate Recent-Mover factors in the temporary absence of 1-year ACS data are readily available without resorting to a complicated procedure and introducing new sources of data.

One method would be to take the Recent-Mover rent from the previous year, 2019 (i.e., the rent obtained by applying the 2019 Recent-Mover factor to the 2019 base rent) and adjust it forward to 2020 using a CPI-based inflation factor.

A second method would be to calculate base rents from the 2016-2020 5-year ACS estimates in the usual way, apply a Recent-Mover factor calculated from the 5-year data, then compensate for the tendency of 5-year Recent-Mover factors to be lower with data from the previous year. In other words, multiply the 2020 Recent-Mover rent by the ratio of the 1-year Recent-Mover factor to the 5-Year Recent-Mover factor from the previous year.

As indicated above, we would be willing to accept HUD's proposed method of incorporating private data into FMRs for 2023, rather than the simpler alternatives we are recommending, if HUD can analyze the private data sufficiently to prove that it tends to produce a significantly more accurate estimate of market-based rents. However, HUD acknowledges that, "the nature of the proprietary data does not allow HUD the same level of visibility into its soundness of methodology and samples as CPI." Given the lack of transparency and representative sampling frames typical of private data sources, however, we are skeptical such an analysis is possible.

Conclusion

Thank you for your consideration. Please feel free to contact Paul Emrath, Ph.D. pemrath@nahb.org or Michelle Kitchen mkitchen@nahb.org if you have questions about these recommendations.

Sincerely,

Council for Affordable and Rural Housing
Institute of Real Estate Management
Manufactured Housing Institute
National Affordable Housing Management Association
National Apartment Association
National Association of Home Builders of the United States
National Association of Housing Cooperatives
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