



U.S. Department of Housing and Urban Development Office of Public and Indian Housing

SPECIAL ATTENTION OF:

Public Housing Agency Directors
Public Housing Hub Office Directors
Public Housing Field Office Directors

NOTICE PIH 2018-01 (HA)

Issued: January 17, 2018

This notice remains in effect until amended,
superseded, or rescinded

Subject: Guidance on Recent Changes in Fair Market Rent (FMR), Payment Standard, and Rent Reasonableness Requirements in the Housing Choice Voucher Program

- (1) **Purpose.** This Notice provides guidance on the regulatory provisions implemented under the Small Area FMR (SAFMR) Final rule (FR-5855-F-03, “Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs; Final Rule,” published in the *Federal Register* on November 16, 2016). The effective date of the Final rule is January 17, 2017.

In addition to affecting how FMRs are calculated in certain designated metropolitan statistical areas (MSAs), the final rule makes changes to payment standard and rent reasonableness requirements that apply to all public housing agencies (PHAs) administering the Housing Choice Voucher (HCV) program, regardless of whether the PHAs operate in an area where SAFMRs have been adopted.

- (2) **Background.** In the administration of the HCV program, SAFMRs (i.e., FMRs established at the ZIP code–area level) replace the 50th percentile FMRs previously required in metropolitan areas with high concentrations of voucher families. SAFMRs are intended to provide families residing in such areas with access to low-poverty areas by providing rental assistance at a level that makes the higher rents in such areas affordable to them. For HCV-assisted families who reside in metropolitan areas where the use of SAFMRs is mandatory, PHAs are required to use SAFMRs in establishing families’ payment standards.

HUD published a final rule¹ in the *Federal Register* on November 16, 2016, establishing the SAFMR selection parameters and naming 24 metropolitan areas that met the selection criteria and were designated for mandatory use of SAFMRs commencing on October 1, 2017. The final rule became effective on January 17, 2017. On August 10, 2017, HUD

¹ “Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs,” 81 Fed. Reg. 221 (November 16, 2016).

exercised the authority under 24 CFR 888.113(c)(4)(iii) to suspend the SAFMR designation for 23 of the 24 designated areas that would have gone into effect on October 1, 2017, until October 1, 2019 (the start of FY 2020). On December 23, 2017, the U.S. District Court for the District of Columbia entered a preliminary injunction, voiding that suspension. This means that the mandatory use of SAFMRs is now in effect for all 24 designated SAFMR areas, which are listed in Appendix A to this notice. PHAs operating in these metropolitan areas must act as quickly as is reasonably feasible to implement the use of SAFMRs by revising any payment standard that is not within the basic range of the SAFMR for the applicable ZIP code area. PHAs are expected to have completed the implementation as expeditiously as possible and no later than April 1, 2018. Any PHA that does not believe it will be able to complete the SAFMR implementation before April 1, 2018, should immediately contact the Office of Public Housing in the local HUD field office for assistance. (MTW agencies should contact the MTW office.)

The final rule also made several regulatory changes to the HCV program with respect to payment standards and rent reasonableness determinations that apply to all PHAs, regardless of whether they operate within a metropolitan area designated for SAFMRs, choose voluntarily to adopt use of the SAFMRs, or choose not to do so.

HUD is issuing this guidance now to help PHAs better understand their options under the final rule. HUD is likely to amend and extend this guidance once it has received and evaluated the complete results of the Small Area FMR Demonstration Evaluation.

In addition to developing this guidance, HUD has established a set of Frequently Asked Questions (FAQ) specific to SAFMRs. To access the FAQs please click the following link: <https://www.hudexchange.info/programs/public-housing/small-area-fair-market-rents/>. Questions may be sent to SAFMRs@hud.gov.

(3) Categories of PHAs. This notice refers to four categories of PHAs:

- (a) “Designated SAFMR PHAs” refers to PHAs that directly administer HCV assistance for any family that resides in a designated SAFMR area (i.e., a metropolitan area where the use of SAFMRs is required). Appendix A lists designated SAFMR areas as of FY 2018.
- (b) “Opt-in SAFMR PHAs” refers to PHAs that are not required to use SAFMRs in a particular area within their jurisdiction but choose voluntarily to do so.
- (c) “Non-SAFMR PHAs” refers to PHAs that are not required to use SAFMRs and choose not to do so.
- (d) “PHAs” refers to any PHA with an HCV program, regardless of SAFMR status.

In the final rule and in this Notice, the term FMR is used collectively to include ZIP code-based SAFMRs, metropolitan area FMRs (MAFMRs), and nonmetropolitan county FMRs.

(4) Changes Affecting All HCV PHAs. The final rule implements a number of HCV provisions that apply to all PHAs.

- (a) Decreases in FMRs. The final rule amends 24 CFR §888.113(b), governing the establishment of 40th percentile FMRs. Based on this amendment, the following standards apply:
- In areas where MAFMRs are in use, any decline in the MAFMR from one year to the next will not exceed 10 percent.
 - In areas where HUD has not required the use of SAFMRs, the SAFMRs for a ZIP Code area will be no lower than 90 percent of the higher of (1) the previous year's SAFMRs for that ZIP Code area or (2) the previous year's MAFMRs.
 - For a HUD-designated SAFMR area (where use of the SAFMRs is required within the metropolitan area by all PHAs), the SAFMRs for a ZIP code area will be no lower than 90 percent of the previous year's SAFMRs for that ZIP code area. In the year that a metropolitan area first transitions to a HUD-designated area, the SAFMRs will also be no lower than 90 percent of the previous year's MAFMRs. However, in all subsequent years following the transition to the HUD-designated SAFMR area, the relationship between the SAFMRs and the MAFMRs will no longer be relevant. The only applicable restriction from that point forward is that the SAFMRs will be no lower than 90 percent of the previous year's SAFMRs for that ZIP code area.
- (b) Rent reasonableness. The final rule changes the percentage decrease in FMRs that triggers the need for a rent reasonableness determination from 5 to 10 percent (see 24 CFR §§982.507(a)(2)(ii), 983.302(a)(2), and 983.303(b)(1)). A rent reasonableness determination will be required only when the decrease in the FMRs from the previous year is exactly 10 percent. (An FMR will never decrease by more than 10 percent from the previous year's FMR, regardless of whether a PHA is voluntarily using SAFMRs, is operating in a designated SAFMR area, or is not using SAFMRs. This outcome results from HUD's decision, described above, to establish SAFMRs at a level that will not decrease by more than 10 percent from the prior year's MAFMR levels.)
- A PHA is still required to redetermine rent reasonableness before any increase in rent to owner and/or if directed by HUD.
- (c) Revisions to payment standard amounts and schedules. The final rule provides that all PHAs must revise and implement their payment standard amount and schedule, if a revision is necessary to stay within the basic range, no later than 3 months following the effective date of the change in the FMR (see 24 CFR §982.503(b)(1)(ii)). For example, if a published FMR that went into effect on October 1, 2018, pushed a PHA's payment standards to 89 or 111 percent of the

FMR, then the PHA would have until January 1, 2019, to revise and implement its payment standard amounts to bring them back within the basic range.

Pursuant to this change, a new payment standard schedule may go into effect on or after the effective date of the published FMR, but no later than 3 months following the effective date of the published FMR. The following scenarios apply:

- (i) For reexaminations of income with an effective date prior to the effective date of the new payment standard schedule, the old payment standard schedule will be used.
- (ii) For reexaminations of income that are effective on or after the effective date of the new payment standard schedule, the new payment standard will be used.
- (iii) The payment standard employed for a newly issued voucher will depend on the effective date of the HAP contract. If the effective date of the HAP contract is before the effective date of the new payment standard schedule, then the old payment standard schedule is used. If the effective date of the HAP contract is on or after the effective date of the new payment standard schedule, then the new payment standard schedule is used.

In order to assure that families are informed about the effect of payment standard changes, HUD recommends that PHAs provide both the old and the new payment standard schedules to families who have been issued a voucher and whose search term will extend beyond the effective date of the new payment standard schedule.

- (d) Exception payment standards. The final rule establishes the following exception payment standard provisions:
 - (i) *Non-SAFMR PHAs.* PHAs that are not using SAFMRs have two options for establishing exception payment standards:
 - (I) MAFMR-based exception payment standards (24 CFR §982.503(c)(2)). As was the case prior to the implementation of the final rule, a non-SAFMR PHA may adopt an exception payment standard above 110 percent up to 120 percent of the published FMR for an area upon approval from the local HUD field office. The final rule changes the parameters used by the local HUD field office in evaluating the request. Prior to the rule, the field office would determine whether the request is justified using either (1) the median rent method or (2) the 40th or 50th percentile rent method. The final rule now allows use of either (1) the median rent method or (2) the 40th or SAFMR method, in accordance with revised 24 CFR §982.503(c)(2)(ii). This change reflects the fact that the 50th percentile rent method is no longer in effect. (Note that 50th percentile FMRs remain in effect for the purpose of determining success rate payment standards.)

- (II) SAFMR-based exception payment standards (24 CFR §982.503(b)(1)(iii)). A non-SAFMR PHA may establish an exception payment standard for a ZIP code area of up to and including 110 percent of the SAFMR determined by HUD for that ZIP code area. Regardless of the level of the exception payment standard compared to the MAFMR, the PHA must simply send an email to SAFMRs@hud.gov to notify HUD that it has adopted an exception payment standard based on the SAFMR. In other words, HUD no longer approves or disapproves the exception payment standard amount under this method, nor does the limitation at 24 CFR §902.982(c)(5), governing the total population of HUD-approved exception areas, apply to exception payment standard areas established for a ZIP code area pursuant to this authority.

A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area, for both its HCV and, if applicable, PBV program. For the PBV program, this means that the rent to owner may not exceed the new exception payment standard amount, provided the rent is still reasonable (24 CFR §983.301(b)).

A PHA that adopts an exception payment standard area must revise its briefing materials to make families aware of the exception payment standard and the area that it covers.

- (ii) *Designated SAFMR PHAs and Opt-in SAFMR PHAs.* HUD will issue a separate *Federal Register* notice proposing conditions and procedures under which a PHA using SAFMRs may request HUD approval to establish an exception payment standard that exceeds 110 percent of the SAFMR. The requirements at 24 CFR §982.503(c) do not apply to such requests.
- (iii) *Reasonable accommodation requests.* Per 24 CFR §982.505(d),² any PHA may, without HUD approval, establish an exception payment standard of up to and including 120 percent of the FMR if required as a reasonable accommodation for a family that includes a person with a disability. The Small Area FMR rule further clarified that a PHA may request HUD approval to establish a payment standard that exceeds 120 percent of the FMR if necessary as a reasonable accommodation for such a family.
- (e) Decrease in the payment standard amount during the HAP contract term. The Housing Opportunity Through Modernization Act of 2016 (HOTMA) amended the United States Housing Act of 1937 to provide that no PHA is required to reduce a family's payment standard based on a reduction in the FMR. Prior to this

² "Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs; Final Rule," 81 *Federal Register* 12354, March 8, 2016.

change, if the amount on the PHA's payment standard schedule decreased during the term of the HAP contract, the PHA was required to use the lower payment standard to calculate the family's HAP beginning on the effective date of the family's second regular reexamination following the effective date of the decrease in payment standard. The final rule amends the voucher program regulations at 24 CFR §982.505(c)(3) to reflect the change made by HOTMA, providing PHAs with three options for applying a decrease in the payment standard amount to families under HAP contract on the effective date of the decrease in the payment standard amount. Specifically, a PHA may adopt one of the policies listed below if there is a decrease to the payment standard schedule during the term of a family's HAP contract:

- (i) *Hold harmless — no reduction in subsidy.* A PHA may continue to use the existing higher payment standard for the family's subsidy calculation for as long as the family continues to receive the voucher assistance in that unit.
- (ii) *Gradual reduction in subsidy.* A PHA may gradually reduce the payment standard amount used to calculate the family's subsidy, phasing in the reduction. The initial reduction in payment standard cannot take place before the effective date of the family's second regular reexamination following the effective date of the decrease in payment standard. Phased-in reductions may proceed annually from the second regular reexamination until the payment standard amount for the family meets the normally applicable payment standard amount on the PHA's voucher payment standard schedule.
- (iii) *No change in policy.* A PHA may continue to use the lower payment standard to calculate the family's HAP beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard.

A PHA's Administrative Plan must indicate how it will handle decreases in the payment standard amount for families under HAP contract. Whatever the policy, the PHA must apply it uniformly to all families. A PHA may establish different policies for designated areas within its jurisdiction (for example, for different ZIP code areas), but within each designated area, the policy must be applied uniformly to all families under HAP contract.

If a PHA chooses to reduce the payment standard for a family under HAP contract, the initial reduction in payment standard cannot take place before the effective date of the family's second regular reexamination following the effective date of the decrease in payment standard. Per 24 CFR §982.516(a), PHAs must conduct a reexamination of family income and composition at least annually. The requirement to conduct an annual reexamination is in effect even if the PHA implements a streamlined income determination for fixed-income families, as is currently permitted under 24 CFR §982.516(a). Even if the PHA conducts a full

income recertification only every three years, it will review the family's payment standard annually as part of the streamlined annual reexamination, and the decrease in payment standard will take effect in the second calendar year after the effective date of the payment standard reduction.

A family that will be affected by a payment standard reduction must receive notice. A PHA must provide such notice in writing 12 months before the effective date of the reduced payment standard amount. This notice is required for any reduction in payment standard, even if the PHA chooses to reduce the payment standard gradually. Appendix B to this Notice provides PHAs with tips for strengthening their written notices to such families.

(5) Adoption of SAFMRs: Designated SAFMR PHAs and Opt-In PHAs. The elements of the final rule that pertain only to designated SAFMR PHAs and opt-in PHAs are presented below, followed by a listing of factors that apply to all SAFMR adopters.

- (a) Designated SAFMR PHAs Only. As discussed in section 4(c) above, section 982.503(b)(1)(i) provides that a PHA must revise the payment standard amount no later than 3 months following the effective date of the published FMR if a change is necessary to stay within the basic range. For a PHA that directly administers HCV assistance to families in metropolitan areas where the adoption of SAFMRs is mandatory, the PHA has no later than 3 months from the effective date of the FMRs to adopt payment standards within the basic range of the SAFMRs. In other words, the PHA must adjust the payment standard for any ZIP code area where the current payment standard falls outside of the basic range of the SAFMR for that ZIP code area.

HUD recommends that any agency that is required to adopt SAFMRs review the SAFMRs for the fiscal year prior to mandatory adoption to estimate the effect of moving from MAFMRs to SAFMRs. For example, if a large number of families residing in the PHA's jurisdiction will experience a decrease in subsidy at the second regular reexamination following the effective date of the mandatory use of the SAFMRs, PHAs will want to consider whether to adopt the *hold harmless* or *gradual reduction in subsidy* options described in paragraph (4)(e) of this Notice.

Since designated SAFMR agencies are required to adopt SAFMRs, they need not amend their Administrative Plans to indicate that they will be doing so. However, all PHAs (including designated SAFMR agencies) must state in its Administrative Plan how it will handle decreases in the payment standard amount for families under HAP contract, even if the agency will not adopt any of the discretionary policies, such as the hold harmless or gradual reduction in subsidy options mentioned above.

- (b) Opt-in PHAs. An agency that administers vouchers in a metropolitan area where the adoption of SAFMRs is *not* required may request approval from HUD voluntarily to adopt SAFMRs.

In evaluating whether to opt in, an agency must compare the applicable SAFMRs and MAFMRs to:

- (i) consider whether adoption of SAFMRs is likely to have an adverse effect on the availability of rental housing that is both affordable and available to program participants and applicants;
- (ii) estimate the effect on families of SAFMR adoption and consider whether to adopt the *hold harmless* or *gradual reduction in subsidy* options described in paragraph (4)(e) of this Notice;
- (iii) identify any areas where the difference between the MAFMR and the (lower) SAFMR is exactly 10 percent and opt-in will therefore trigger the need for rent reasonableness determinations;
- (iv) consider whether to apply SAFMRs to its PBV program, if applicable, in which case PBV-assisted projects may also be subject to a rent reasonableness determination (see paragraph (4)(b)(ii), above).

An agency that chooses to adopt SAFMRs must submit a written request to its local HUD Office of Public Housing via SAFMRs@hud.gov, stating that it has completed the evaluation in paragraph (5)(b), above. The request must indicate the PHA's proposed effective date of SAFMR implementation.

If HUD approves the request, the PHA must then amend its Administrative Plan, stating in its plan that it will operate according to SAFMRs and also identifying any policies it has adopted with respect to SAFMRs (e.g., applying SAFMRs to its PBV program, adopting tenant protections as described in paragraph (4)(e)).

A PHA that opts in to SAFMRs may opt out, returning to the use of MAFMRs, via revision of its Administrative Plan and notification to its local HUD field office (again at SAFMRs@hud.gov), after taking into consideration any disruptions to its program, families, and owners that may result.

- (c) All SAFMR adopters. The items presented below apply to all SAFMR adopters, whether they are designated PHAs or opt-in PHAs.

- (i) *Exception payment standards.* Exception payment standards that were approved prior to the adoption of SAFMRs may remain in effect, subject to the conditions in the approval letter. In some cases, the amounts previously approved may now fall within the SAFMR basic range and will therefore no longer be exceptions. Any amounts that remain above the basic range must be maintained unless, following the adoption of SAFMRs, an agency subsequently elects to reduce its payment standards or otherwise seeks to establish a higher payment standard (but, see paragraph (4)(d)(ii), above), in which case another waiver must be requested and approved before the new, higher payment standard may be adopted.

- (ii) *Establishing payment standards within the basic range and payment standard groupings.* As is the case for any FMR area, the payment standard amount for the ZIP code area must be within the basic range (90 to 110 percent) of the SAFMR for the ZIP code area (unless an exception payment standard is in effect for the area). As discussed in paragraph (4)(c) above, the PHA is required to revise its payment standard amount and schedule if the payment standard amount for the ZIP code area is outside of the basic range (unless the payment standard is an exception payment standard or a payment standard below the basic range that was previously approved by HUD). If the payment standard amount for the ZIP code area is within the basic range, the PHA may revise its payment standard amounts at any time for the ZIP code area, provided the revised payment standard amount remains within the basic range.

The PHA establishes the payment standard amounts for the ZIP code area for a unit size at any level between 90 percent and 110 percent of the published SAFMR for that unit size. The percent of the SAFMR that the payment standard equals may vary between different unit sizes and from ZIP code area to ZIP code area. For example, in lieu of establishing a unique payment standard for each ZIP code area within its jurisdiction, a PHA may use this flexibility to establish payment standards for “grouped” ZIP code areas, provided the payment standard in effect for each grouped ZIP code area is within the basic range of the SAFMR for each ZIP code area in the group. So, for example, a PHA could establish a payment standard schedule that falls within the basic range for a group of ZIP code areas and identify that group of ZIP code areas as Group A, another as Group B, and so on.

Exhibit 1: Example of Payment Standard Groupings of ZIP Code Areas				
ZIP Code	SAFMR	Basic Range	Payment Standard	Group
90012	\$1,490	\$1,341-1,639	\$1,440	A
90013	\$1,630	\$1,467-1,793	\$1,630	B
90014	\$1,810	\$1,629-1,991	\$1,630	B
90015	\$1,180	\$1,062-1,298	\$1,100	C
90016	\$1,340	\$1,206-1,474	\$1,440	A
90017	\$1,090	\$981-1,199	\$1,100	C

Adopting groups, as illustrated above, may help to minimize the administrative burden of managing multiple payment standard areas.

- (iii) *Applicability of SAFMRs to the project-based voucher (PBV) program.* No PHA is required to use SAFMRs for its PBV program. Thus, a PHA that operates under SAFMRs must determine whether to apply MAFMRs or SAFMRs to its PBV program.

A PHA that chooses to apply SAFMRs to its PBV program must adopt such a policy in its Administrative Plan and must apply SAFMRs uniformly for all projects within its jurisdiction for which notice of owner selection under 24 CFR §983.51(d), regarding owner proposal selection procedures, was made after the effective dates of the agency's adoption of both SAFMRs and a revised Administrative Plan. For any project where the notice of owner selection was made prior to either or both of these effective dates, the PHA and owner may agree mutually to apply SAFMRs to the project. If the rent to owner will increase as a result of this mutual agreement, then the rent increase shall go into effect no earlier than the first anniversary of the HAP contract and must comply with the requirements of 24 CFR §983.302(b), regarding rent increases.

For any PBV project to which SAFMRs have been applied, an owner and PHA may not subsequently choose to apply the MAFMR, even if the PHA changes its policy so that SAFMRs will no longer apply to its PBV program.

In considering whether to adopt SAFMRs for its PBV program, HUD recommends that a PHA compare the HAP contract rents of *current* PBV-assisted projects (if any) within their jurisdiction with what the rents would be under a SAFMR regime. Consider the examples below:

Exhibit 2: Example of Higher PBV Maximum Rent to Owner under SAFMRs				
ZIP Code	MAFMR	Maximum Rent to Owner	SAFMR	Maximum Rent to Owner
90010	\$1,545	\$1,700	\$2,130	\$2,343
90013	\$1,545	\$1,700	\$1,630	\$1,793
90014	\$1,545	\$1,700	\$1,810	\$1,991
90024	\$1,545	\$1,700	\$2,290	\$2,519
90025	\$1,545	\$1,700	\$2,000	\$2,200

If the adoption of SAFMRs would create a significant discrepancy in individual ZIP code areas between existing PBV-assisted projects and newly developed projects under an SAFMR regime, then PHAs will want to consider the effect on neighborhoods and HCV applicants and program participants before taking a decision about whether to adopt SAFMRs for their PBV program. Consider the ZIP codes described above, for example.

A family can reside in any of these ZIP codes at lower cost to the PHA under MAFMRs than SAFMRs. If the PHA has existing properties in these ZIP codes, then it may not make sense to adopt SAFMRs.

Exhibit 3: Example of Lower PBV Maximum Rent to Owner under SAFMRs				
ZIP Code	MAFMR	Maximum Rent to Owner	SAFMR	Maximum Rent to Owner
90005	\$1,545	\$1,700	\$1,190	\$1,309
90006	\$1,545	\$1,700	\$1,170	\$1,287
90011	\$1,545	\$1,700	\$1,240	\$1,364
90029	\$1,545	\$1,700	\$1,230	\$1,353
90033	\$1,545	\$1,700	\$1,170	\$1,287

Alternatively, if a PHA adopts PBVs and places properties in any of the ZIP codes described above, the PHA may be called upon to justify why it is paying so much more for some projects than others. Despite the change in rules that provides an explanation for the difference, a PHA may face pressure to terminate (or at least not extend) the PBV HAP on pre-SAFMR properties, with potential consequences for tenants, lenders, and investors. If an owner has 30-year debt on the project and the appraised value has declined at the point of extension due to the adoption of SAFMRs, then the adoption of SAFMRs could create problems.

- (iv) *Portability and vouchers administered outside of SAFMR areas.* The vouchers of families who port will be administered according to the policies of the receiving PHA (as the term is used for portability purposes). If the receiving PHA is operating under SAFMRs, then the family's voucher will be administered using SAFMRs. If the receiving PHA has not adopted SAFMRs, then the family's voucher will not be administered using SAFMRs (regardless of whether the initial PHA uses SAFMRs). Likewise, if a PHA operates in a SAFMR area but also administers vouchers outside of that SAFMR area, then the vouchers that are administered outside of the SAFMR area will be administered using MAFMRs. If such a PHA wishes to apply SAFMRs to vouchers administered outside of a SAFMR area, then the PHA must request HUD approval to do so following the requirements of paragraph (5)(b).
- (v) *Special Housing Types.* If use of the SAFMR has been designated for a metropolitan area or a PHA has voluntarily chosen to use SAFMRs, the SAFMRs apply to all tenant-based vouchers, including special housing vouchers.

All special housing types are subject to the SAFMRs. For example, under the Single Room Occupancy (SRO) special housing type, the payment standard is 75 percent of the zero-bedroom payment standard amount on the PHA payment standard schedule. If the PHA revised the payment standard schedule as a result of the applicability of SAFMRs, the payment standard for SRO units would likewise be revised to reflect 75 percent of the applicable zero-bedroom payment standard amount.

Revisions to the payment standard as a result of the implementation of SAFMRs would also apply to the voucher homeownership program at 24 CFR §§982.625 through 982.641. The PHA must use the same payment standard schedule and payment standard amounts for the homeownership option as for the rental voucher program. The same protections that the PHA may employ for families under HAP when the payment standard decreases would apply to families assisted under the voucher homeownership option. Furthermore, the payment standard for a voucher homeownership family is always the greater of the payment standard used at the commencement of homeownership assistance for occupancy of the home or current payment standard in effect at the most recent regular reexamination.

- (vi) *Optional reporting.* HUD's Office of Policy Development and Research (PD&R) has developed a mobile application that delivers the most current FMR and Income Limit information to a mobile user based on the GPS location of their mobile device (available at https://www.huduser.gov/portal/pdr_mobile.html). In order to provide additional information to voucher families searching for a unit, PD&R would like to include payment standards in the application. PHAs that are willing to provide their payment standard information to HUD may do so by contacting PD&R at SAFMRs@hud.gov.

- (6) **Applicability of SAFMRs to Moving to Work (MTW) agencies.** An MTW PHA that operates in a mandatory SAFMR metropolitan area may be exempt from use of SAFMRs. An individual MTW PHA is exempt from the requirement to use SAFMRs if that agency has an alternative payment standards policy in its HUD-approved Annual MTW Plan. An MTW PHA that does not have such a policy in its HUD-approved Annual MTW Plan is required to use SAFMRs as outlined in the final rule. Any MTW PHA that does not operate in a metropolitan area where the use of SAFMRs is mandatory may choose to adopt SAFMRs, following the procedures outlined in this Notice.
- (7) **Inapplicability of SAFMRs to other HUD programs.** SAFMRs do not apply to any programs other than the HCV program. Other programs that use FMRs (e.g., HOME Investment Partnerships Program) continue to use MAFMRs regardless of whether SAFMRs have been designated for HCV tenant-based assistance within the same metropolitan area. The use of SAFMRs in HUD's Rental Assistance Demonstration (RAD) is addressed in Notice PIH 2012-32 (HA) H-2017-03, REV-3, which was published on January 12, 2017, and was in effect at the time of publication of this notice.

Generally, under RAD, an owner may use the SAFMR in place of the metropolitan area FMR in the computation of PBV rents, with HUD approval.

- (8) **Impact of Final rule on current 50th percentile FMR areas.** The final rule eliminates the regulations that had governed the establishment of FMRs using 50th percentile rents and establishes requirements for the transition of 50th percentile FMR areas. A PHA that is operating in a metropolitan area in which 50th percentile FMRs are effective, and for which the 3-year period has not expired prior to January 17, 2017, will, for the purposes of the HCV program, transition out of the use of 50th percentile FMRs, as follows.
- (a) A PHA that is operating in a metropolitan area that is designated for SAFMRs shall transition to the use of SAFMRs, as of the effective date of the area's SAFMR designation.
 - (b) A PHA that is operating in an area that is not designated for SAFMRs may choose one of the following options:
 - (i) Adopt SAFMRs without regard to the expiration of the 3-year period.
 - (ii) Remain subject to 50th percentile FMRs until the expiration of the 3-year period, then revert to the use of 40th percentile FMRs.
 - (iii) Revert to the use of the 40th percentile MAFMRs at the end of the 3-year period and then establish exception payment standards for a ZIP code area of up to and including 110 percent of the relevant SAFMR area by notifying HUD, as described in paragraph (4)(d)(ii)(II) of this Notice.
 - (iv) If a PHA scored the maximum number of points on the SEMAP deconcentration bonus indicator in the prior year or in two of the last three years (24 CFR §982.503(f)), then, upon the expiration of the 3-year period, it may request HUD approval of payment standard amounts based on the 50th percentile rent in accordance with 24 CFR §982.503(f), governing payment standard protections for PHAs that meet deconcentration objectives. The request must be made to the local HUD field office during the period between the release of revised FMRs and the effective date of those FMRs.

PHAs interested in more information on 50th percentile areas should review HUD's FY 2018 FMR *Federal Register* notice. This notice is available at:

<https://www.huduser.gov/portal/datasets/fmr/fmr2018/FY2018-FMR-Preamble.pdf>

- (9) **Suspension of SAFMRs or Temporary Exemption for an Individual PHA.** The regulations at 24 CFR §888.113(c)(4) provide that HUD may suspend a SAFMR designation from a metropolitan area, or may temporarily exempt a PHA in a designated SAFMR area from use of the SAFMRs, when HUD by notice makes a documented determination that such action is warranted. The process for reviewing whether a suspension or temporary exemption is warranted may be initiated by HUD or at the request of a PHA.

- (a) Suspension by HUD. In the event HUD determines that it is necessary to suspend an area's SAFMR designation or temporarily exempt an individual PHA from use of the SAFMRs within a designated SAFMR area, HUD will issue a Notice of Suspension or Exemption with information on the adverse rental market condition that is the reason for the suspension, the duration and timing of the suspension, and other details as HUD determines necessary. HUD may take either action by itself or upon request by a PHA or PHAs as described below.
- (b) Suspension of an SAFMR designation for the metro area or exemption from use of the SAFMRs for a PHA at the request of a PHA. PHAs may request either (1) a suspension of the Small Area FMR designation for a metropolitan area or (2) a temporary exemption from use of the SAFMRs within the designated SAFMR area for an individual PHA. In both cases, the request must be based on a documented finding of an adverse rental housing market condition specific to the area or PHA requesting a suspension or temporary exemption. If the request is for a suspension of the SAFMR designation for the metropolitan area, the requesting PHA or PHAs must administer more than 50 percent of the vouchers leased in the metropolitan area. PHA requests for suspension or exemption must be emailed to SAFMRs@hud.gov.
- (c) Adverse rental housing market condition. Adverse rental housing market conditions may include, but are not limited to, current vacancy rates falling below four percent (insufficient supply); a sudden influx of families into the metropolitan area (demand shock); a sudden loss of rental units (supply shock); a rapid increase in the PHAs per unit costs (PUC) causing the PHA to experience a funding shortfall (supply or demand shocks). Adverse rental housing market conditions may apply to the broad rental housing market, or may apply to the part of the rental market that is affordable and available to HCV families. For example, declining success rates and increasing rent burdens despite PHA owner outreach efforts may be evidence of adverse rental market conditions for HCV families due to lack of units that are both affordable and owned by owners willing to participate in the HCV program. There are likely to be other circumstances that cause adverse rental market conditions and HUD will review the documentation of these conditions on a case by case basis.
- (10) **Paperwork Reduction Act.** The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520) and assigned OMB control number 2577-0169.

/s/

Dominique Blom
General Deputy Assistant Secretary
Office of Public and Indian Housing

APPENDIX A — METROPOLITAN AREAS WHERE THE USE OF SAFMRs IS MANDATORY AS OF FY 2018

Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area
Bergen-Passaic, NJ HUD Metro FMR Area
Charlotte-Concord-Gastonia, NC-SC HUD Metro FMR Area
Chicago-Joliet-Naperville, IL HUD Metro FMR Area
Colorado Springs, CO HUD Metro FMR Area
Dallas, TX HUD Metro FMR Area (Dallas-Plano-Irving, Texas Metro Division)
Fort Lauderdale, FL HUD Metro FMR Area
Fort Worth-Arlington, TX HUD Metro FMR Area
Gary, IN HUD Metro FMR Area
Hartford-West Hartford-East Hartford, CT HUD Metro FMR Area
Honolulu, HI MSA
Jackson, MS HUD Metro FMR Area
Jacksonville, FL HUD Metro FMR Area
Monmouth-Ocean, NJ HUD Metro FMR Area
North Port-Sarasota-Bradenton, FL MSA
Palm Bay-Melbourne-Titusville, FL MSA
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA
Pittsburgh, PA HUD Metro FMR Area
Sacramento--Roseville--Arden-Arcade, CA HUD Metro FMR Area
San Antonio-New Braunfels, TX HUD Metro FMR Area
San Diego-Carlsbad, CA MSA
Tampa-St. Petersburg-Clearwater, FL MSA
Washington-Arlington-Alexandria, DC-VA-MD HUD Metro FMR Area
West Palm Beach-Boca Raton, FL HUD Metro FMR Area

APPENDIX B

Tips for PHAs on language to include in any written notice to families who will experience a reduction in subsidy due to a decrease in the payment standard.

- Provide a simple, clear letter, mailed directly to the family. This approach is preferable to a general meeting or training, even if all families are invited.
- Provide the notice at least one year in advance of the effective date of the lower payment standard and change in the HAP calculation for the family. Even a second notice sent less than a year before the date of implementation of the lower payment standard can not make up for proper notice (i.e., notice sent at least one year in advance of the implementation date of the lower payment standard).
- In the letter, clearly define and explain the term “payment standard,” and explain how a change in the payment standard is likely to affect the family’s subsidy. Do not assume that the family understands what is meant by “payment standard” or the connection between a change in the payment standard and a change in their subsidy. Include a sample calculation to illustrate the likely effect of the change.
- Identify a point of contact for families who have questions or wish to seek new housing, given the change. Make clear whom families may contact if they have questions, as well as how to contact that person.

All materials provided to residents communicating a change in their subsidy must be presented in a manner that is accessible for those with hearing and/or vision impairment, in addition to those with limited English proficiency, as described below.

- Effective Communication Requirements. All notices and communications must be provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act, Title II of the ADA, and implementing regulations. Recipients must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible websites, and other electronic communications). See 24 CFR §8.6; 28 CFR §35.160.
- Limited English Proficiency (LEP) Requirements. Recipients of HUD funds must take reasonable steps to ensure meaningful access to their programs and activities to LEP individuals. See HUD’s published Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance), 72 Fed. Reg. 2732, for more information.