

Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

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HUD's Small Market FMR Demonstration Program

Effective Date

PHAs must request to participate in the Small Market Fair Market Rent (FMR) demonstration program for housing choice vouchers by June 6, 2011. HUD will select PHAs to participate in the demonstration on or around July 1, 2011.

Background

On April 20, HUD invited Public Housing Agencies to participate in a Small Area Fair Market Rents (FMR) demonstration program to test setting FMRs for the Section 8 voucher program at the zip code level. Currently, FMRs for the voucher program are set at the metropolitan area level.

The Federal Register notice detailing the pilot program is available here:
<http://www.gpo.gov/fdsys/pkg/FR-2011-04-20/pdf/2011-9501.pdf>.

Summary of the Small Area FMR Pilot Program for Housing Choice Vouchers

HUD expects that small area FMRs using zip codes will provide voucher tenants greater ability to move into opportunity areas, which are where jobs, transportation, and educational opportunities exist, and will reduce undue subsidy in lower-rent areas.

Eligibility

The demonstration program only applies to the Housing Choice Voucher (HCV) program. All other programs will continue to use area-wide FMRs established by the October 4, 2010 Federal Register notice, located here: <http://www.gpo.gov/fdsys/pkg/FR-2010-10-04/pdf/2010-24465.pdf>

PHAs must apply to participate in the pilot. HUD will only be testing the Small Area FMR pilot in the housing choice voucher program in areas, and by PHAs, selected by HUD for the demonstration. PHAs selected to participate in the pilot will operate using Small Area FMRs for

the housing choice voucher program until FY 2013. HUD has said it will select PHAs from metropolitan areas for the pilot program with as many different characteristics as possible in order to evaluate potential implementation issues if the Department decides to roll out small area FMRs nationwide. The Department does not plan to extend Small Area FMRs to nonmetropolitan counties, meaning the number of payment standards will not increase in those areas.

Treatment of Existing PBV Properties in the Jurisdiction of PHAs Selected for the Pilot

Project-based voucher (PBV) units for which a notice-of-owner selection was issued as of the effective date of the PHA's participation in the demonstration will NOT be subject to the Small Area FMRs. This includes PBVs that are currently under a Housing Assistance Payment (HAP) contract. The area-wide FMRs will continue to apply to these PBV units, thus ensuring the viability of PBV projects that were in the development pipeline and had obtained financing based on area-wide FMRs. However, any PBVs for which a notice-of-owner selection is issued AFTER the PHA is selected to participate in the demonstration will be subject to the small area FMRs. PHAs interested in project-based units and owners interested in participating in the PBV program after a PHA is participating in the demonstration should be aware of the small area FMRs in place, and owners are expected to project costs and plan accordingly. HUD has said it will monitor the impact on PBV units closely throughout the demonstration, will continue to assess the likely impact of small area FMRs on other programs, and will provide another opportunity for public comment on the issue at a future date.

Calculations

Small Area FMRs will be approximately the 40th percentile rent in each zip code area. They will be calculated using the relationship of the zip code based rent and the core-based statistical area (CBSA) rent as applied to the 40th percentile FMR for that metropolitan area.

In addition, Small Area FMRs will be capped at 150 percent of the metropolitan area FMR. Based on 2000 Census data, the 150 percent cap applies to approximately 170 of the more than 17,000 metropolitan zip codes. HUD does not believe the 150 percent cap will significantly restrict voucher tenants' choices. While this cap is only in effect for a small percentage of small areas, HUD plans to maintain the 150 percent cap during the pilot to help ensure that voucher program funds are being used as judiciously as possible.

HUD intends to maintain the state minimum as its Small Area FMR floor in conjunction with current practice.

As long as the voucher holder's selected unit passes the rent reasonableness determination, HUD has no objection to the tenant renting the unit in question. The intent of the Small Area FMR pilot is to give tenants access to previously inaccessible neighborhoods.

Evaluation

The Small Area FMRs is expected to alter some administrative responsibilities of PHAs that administer HCV programs, but HUD has said it is unknown what the net effect on administrative costs will be.

HUD plans to evaluate whether the Small Area FMRs reduce the number of units with rents outside an initial rent reasonableness determination over the course of the demonstration program. HUD will be selecting metro areas and PHAs with the greatest number of diverse characteristics in order to study the pilot's effect on PHAs, tenants, landlords, program costs, etc.

Positive Aspects

Late last year, in the context of negotiations on H.R. 3045, the Section 8 Voucher Reform Act (SEVRA) legislation, NAHMA participated in conference calls with HUD and congressional staff about changes to FMRs. At that time, HUD was pushing for statutory language to allow it to set FMRs at the smallest area practical, which NAHMA believes would have implemented the Small Market FMR without any evaluation of the effects.

Although NAHMA has concerns about potential effects of this demonstration, a demonstration program is a preferable option compared to a statutory change that would have impacted all metro FMRs. A voluntary demonstration program will give HUD the opportunity to evaluate the impact of FMRs by zip code in metro areas before it decides if the program should be expanded. HUD has stated it will provide a public opportunity to review and comment on the results of the demonstration program before making any changes or expanding it.

The demonstration program is also limited to the Section 8 housing choice voucher program rather all programs that use FMRs. The project-based Section 8 program is currently not eligible to participate in the Small Market FMR demonstration program.

NAHMA Concerns

NAHMA members are concerned the Small Market FMRs will result in lower rents in less desirable rental markets, which would create additional challenges for properties—especially those with low-income housing tax credits—operating in those markets. Properties that have ongoing vacancy issues may find themselves in more difficult financial situations under the Small Market FMRs than they experienced under the current metropolitan based FMRs. The properties in less desirable areas often have limited cash flow. If this policy results in additional vacancies, the financial solvency of the project may be in jeopardy.

Furthermore, NAHMA members worry that setting FMRs at the zip code level could significantly change FMRs for some properties in high-rent markets. The Small Market FMR program would create a single FMR in zip codes with multiple rental markets—meaning that particular FMR would apply across urban, suburban, and/or sparsely populated areas.

NAHMA is also very concerned by the large number of unknowns, including:

- The overall impact of Small Market FMRs on housing choice vouchers;
- The impact of the new Small Market FMRs on property operations
 - Especially in low-income housing tax credit properties;
- The accuracy of voucher rents in the small markets, when compared to the current metropolitan FMRs;
- If the Small Market FMRs program will ultimately be expanded to all vouchers in metropolitan areas and
 - When that roll out might occur; and
- If HUD might consider using the Small Market FMRs in the future to help determine project-based Section 8 rents in metropolitan areas

NAHMA Position

NAHMA will continue to monitor HUD's proposed changes to FMRs, including this new Small Market FMR demonstration program.

We invite NAHMA members to provide additional feedback on how this change in FMR may impact your properties if it were implemented on a national scale. In the meantime, we are particularly interested in hearing about impacts from members whose PHAs participate in the Small Market FMR program later this summer.