

RENT REASONABLENESS AND FAIR MARKET RENT UNDER THE CONTINUUM OF CARE PROGRAM

ABOUT THIS RESOURCE

Using Continuum of care (CoC) Program funds for rental assistance and leasing requires an understanding of and adherence to rent reasonableness standards to determine whether a specific unit can be assisted. Recipients and subrecipients also need to understand the relationship between rent reasonableness and the Fair Market Rent (FMR). This resource provides an explanation of both concepts and describes how to determine and document compliance with each for units in which program participants will reside. CoC Program recipients and subrecipients can use this resource to develop policies, procedures, and documentation requirements to comply with HUD rules.

What is the Rent Reasonableness Requirement?

HUD's rent reasonableness standard is designed to ensure that rents being paid are reasonable in relation to rents being charged for comparable unassisted units in the same market. Recipients and subrecipients should have a procedure in place to ensure that compliance with rent reasonableness standards is documented prior to executing the lease for an assisted unit. Under the CoC Program, all units and structures for which rent is paid must be reasonable; however, this document deals primarily with determining rent reasonableness for units in which program participants will reside.

Determining and Documenting Rent Reasonableness

Recipients and subrecipients are responsible for determining what documentation is required in order to ensure the rent reasonableness standard is met for a particular unit. Recipients and subrecipients should determine rent reasonableness by considering the gross rent of the unit and the location, quality, size, type, and age of the unit, and any amenities, maintenance, and utilities to be provided by the owner.

To calculate the gross rent for purposes of determining whether it meets the rent reasonableness standard, consider the entire housing cost: rent plus the cost of any utilities that must, according to the lease, be the responsibility of the tenant. Utility costs may include gas, electric, water, sewer, and trash. However, telephone, cable or satellite television service, and internet service should be excluded. The gross rent also does not include pet fees or late fees that the program participant may accrue for failing to pay the rent by the due date established in the lease.

Comparable rents can be checked by using a market study of rents charged for units of different sizes in different locations or by reviewing advertisements for comparable rental units. For example, a program participant's case file might include the unit's rent and description, a printout of three comparable units' rents, and evidence that these comparison units shared the same features (location, size, amenities, quality, etc.). Another acceptable method of documentation is written verification signed by the property owner or management company,

on letterhead, affirming that the rent for a unit assisted with CoC Program funds is comparable to current rents charged for similar unassisted units managed by the same owner.

Caution

Comparable rents vary over time with market changes, so it is important to ensure that the comparison you are using is up-to-date and appropriate for each prospective unit.

Before conducting its own study of rent levels in its community, a recipient or subrecipient should consult existing sources of rental housing data that can be used to establish comparable rents. The section below describes some different sources of information on rental units to help recipients and subrecipients meet rent reasonableness requirements. Each recipient or subrecipient must determine which approach is appropriate, given the size of its project, other housing programs it administers, local staff capacity, and other resources available within the community.

Rental Housing Data Sources

Public sources of data: There may be organizations within the Continuum of Care's geographic area that collect and aggregate data on the rental housing stock, such as a State or local Public Housing Agency (PHA) or the local Chamber of Commerce.

Real estate advertisements and contacts: Ads in newspapers or online are simple ways to identify comparable rents. The following are potential sources of information:

- Newspaper ads (including internet versions of newspaper ads);
- Weekly or monthly neighborhood or "shopper" newspapers with rental listings;
- "For Rent" signs in windows or on lawns;
- Bulletin boards in community locations, such as grocery stores, laundromats, churches, and social service offices;
- Real estate agents;
- Property management companies that handle rental property; and
- Rental listing websites like:
 - www.apartmentguide.com
 - www.apartments.com
 - www.forrentmag.com
 - <http://www.move.com/apartments/main.aspx>

Tip

Real estate ads and contacts might not provide all the information the recipient requires to determine rent reasonableness. In such instances, a follow-up call to obtain the missing information may be required. Newspaper and internet listings often contain either the lowest rent or the range of rents when there is variation among units with the same number of bedrooms. The recipient should follow up to determine what causes the rents to vary (e.g., unit size, location within the development, number of bathrooms, amenities, etc.), and then document these factors.

Rental market study: A rental market study is an in-depth analysis of a particular rental market that is often prepared by independent organizations for specific communities. Commercial firms will frequently conduct these studies before developing rental housing in a particular location. They can provide a good source of data to use as the basis of a rent reasonableness policy. However, some rental market studies may be narrowly focused on a particular type of rental housing (such as housing for seniors or rental condominiums) and might be useful only for certain housing units assisted with CoC Program funds.

Rental market survey: A rental market survey provides a comparison of various landlords and property management companies in the area. Some local governments conduct surveys to assist with planning activities. Additionally, local associations of rental owners and managers may survey their members periodically and publish the results. Many of these surveys report average rents and/or rent ranges by the number of bedrooms and submarket location. However, such surveys frequently do not contain the detailed information required for rent reasonableness comparisons, such as amenities (free parking, laundry, etc.) or additional fees that must be paid. Rental market surveys are designed to show the overall picture of the rental market and may not be useful in evaluating the rent for a particular unit type.

Tip

When using either a market study or a market survey, it is very important to understand what is and is not included in the rent reported. For example, surveys/studies may report rents with all, some, or no utilities included. When comparing unassisted market rents with CoC Program-assisted units, it is important to consider whether utilities and other amenities are included in the rent.

Rental database: Some recipients and subrecipients find it useful to build their own rental database in order to perform more efficient searches for comparable rents. Building a rental database allows the majority of work to be completed on the front end, which increases the efficiency of making rent reasonableness determinations and allows assistance to be provided more quickly. However, there are serious resource issues to consider for this option, including updating the data and maintaining the database, which can be labor-intensive and costly. If choosing this option, CoC Program recipients and subrecipients in close proximity to one another may want to consider collaborating on a database, or the CoC may elect to support a rental database to support coordinated housing placement in addition to rent reasonableness documentation.

Rural Housing Data Sources

While there may be fewer rental units in rural areas than in urban and suburban areas, it is possible to find comparable rents for different unit types located in these areas using various data sources, including:

- **U.S. Department of Agriculture's Rural Development Agency (USDA):** USDA provides direct and guaranteed loans for single and multi-family housing development in rural areas and for farm laborers. Contact information for Rural Development State and Local Offices or USDA Service Centers is available at www.rurdev.usda.gov/recd_map.html. Each Rural Development Office, if it has a Rural Housing component, can provide information on the types of rental housing available in communities throughout the state, and include unit sizes and rental rates.
- **PHAs:** If a rural community is also under the jurisdiction of a PHA, the PHA may be a source of comparable rent data.
- **Real estate agents:** Local real estate agents are not only knowledgeable about real estate prices but often are a source of information on rental housing in the area. They may be able to extrapolate rent estimates based on the general cost of housing in the area. To find real estate agents active in particular communities, recipients and subrecipients can consult the National Association of Realtors on the web at www.realtor.org. For demographic information on the housing stock, market trends, etc., recipients and subrecipients should access www.realtor.org/research.

Components of an Effective Rent Reasonableness Policy

Recipients and subrecipients must establish their own written policies and procedures for documenting comparable rents and ensure that they are followed when documenting rent reasonableness in the case file.

However, a recipient may require all subrecipients to use a specific form or a particular data source. Use of a single form to collect data on rents for units of different

sizes and locations will make the data collection process uniform.

For monitoring purposes, HUD will determine whether the recipient/subrecipient developed a written policy and followed that policy to determine and document that the rent was reasonable.

A sample "Rent Reasonableness Checklist and Certification" form is available at:

<https://www.hudexchange.info/resources/documents/RentReasonableChecklist.pdf>.

This sample form is used across different housing programs.

Written Policies and Procedures

The basis for the determination must be supported by the evidence documented in the case file. Therefore, adequate documentation will enable a supervisor or other entity charged with monitoring the program to readily identify the factors and process that resulted in the determination that each unit met HUD requirements.

Recipients' and subrecipients' rent reasonableness policies and procedures must be transparent and consistently applied across their projects, and result in decisions that comply with HUD requirements. At a minimum, a rent reasonableness policy should include a methodology for documenting comparable rents, case file checklists and forms, standards for certifying comparable rents as reasonable, staffing assignments, and strategies for addressing special circumstances.

Thus, the policies and procedures would provide step-by-step guidance on how to make comparisons between the proposed unit rent and rents for comparable units in that community. The forms would ensure that similar information is included in each case file and would prompt staff to record considerations and conclusions made throughout the process. The recipient's policy would also specify the definition of "reasonable". For example, a recipient's policy could require staff to collect rents for no less than three comparable units and could allow as "reasonable" only rents that are lower than \$50 above the average of the three comparable rents. In this example, rent could be paid that is slightly higher than the individual comparable units and would still be considered "reasonable" under the recipient's policy.

Staff Roles and Responsibilities

The responsibility of determining and documenting each unit's compliance with these standards may be assigned to one or more program staff, such as the case manager, clerical support staff, or a staff member who is assigned to conduct habitability inspections. One staff person may perform all the checks, or the tasks may be divided among more than one staff. For example, for rent reasonableness, one staff member could conduct a telephone survey of the property owner/landlords, while another searches rental databases for comparable properties.

While the CoC Program interim rule does not specify how often a rent reasonableness survey should be performed, an annual review is appropriate. Also, in order to keep the administrative burden to a minimum, rent reasonableness documentation does not have to be collected for each individual unit. Rather, rent data may be collected at the neighborhood or community level, as long as the staff member making the determination verifies the documentation is appropriate for the proposed unit.

What is the Fair Market Rent Requirement?

The other key standard in determining the level of CoC Program funds that can be used to pay rent for an eligible program participant is the Fair Market Rent (FMR) amount for the geography in which the unit is located.

HUD establishes FMRs to determine payment standards or rent ceilings for HUD-funded programs that provide housing assistance, which it publishes annually for 530 metropolitan areas and 2,045 non-metropolitan county areas. Federal law requires that HUD publish final FMRs for use in any fiscal year on October 1—the first day of the fiscal year (FY).

The FMR standard is applied to ensure that a reasonable supply of adequate but modest rental housing is accessible to program participants. To accomplish this objective, FMRs must be high enough to permit a selection of units and neighborhoods and low enough to maximize the number of low-income families that can be served.

FMRs for each fiscal year can be found by visiting HUD's website at www.huduser.org/portal/datasets/fmr.html and clicking on the current "Individual Area Final FY20__ FMR Documentation" link. This site allows recipients and subrecipients to search for FMRs by selecting their state and county from the provided list. The site also provides detailed information on how the FMR is calculated for each area.

Determining and Documenting FMR

Determining FMR standards is straight forward; no geographic area has more than one FMR standard. However, if a recipient or subrecipient serves multiple cities or counties, it must use the appropriate FMR for the geographic area in which the assisted housing unit is located. Recipients and subrecipients should place a copy of the applicable FMR data in the program participant's case file to document the FMR for that program participant's unit size and geographic area.

FMR and CoC Program Leasing Funds

The amount of CoC Program funds used for leasing an individual unit may not exceed the current FMR for that unit size and location. For each assisted unit, recipients and subrecipients must ensure that CoC Program leasing funds do not exceed the current published FMR for their geographic area (even if an earlier FMR was used as the basis for the recipient's CoC Program grant). The applicable FMR should be documented in the case file for each program participant assisted with leasing funds.

Leasing a Structure

Recipients and subrecipients may also receive CoC Program funds to lease a structure (or a portion of a structure). In this situation, the FMR does not play a role; however, the unit must still meet rent reasonableness standards. Specifically, the gross rent paid must be reasonable in relation to rents being charged in the area for comparable space. In addition, the rent paid may not exceed rents currently being charged by the same owner for comparable unassisted space.

FMR and CoC Program Rental Assistance Funds

The amount of CoC Program funds used for rental assistance may exceed the current FMR for that unit size and location, as long as the contract rent is reasonable. [See the section below on Determining Acceptable Rent Subsidies for Units Assisted with CoC Program Rental Assistance Funds for more information.]

Determining Acceptable Rent Subsidies for Units Assisted with CoC Program Leasing Funds

The process for determining acceptable rent subsidies in projects assisted with leasing funds includes:

- Comparing comparable rent data to the gross rent of the proposed unit to assure rent reasonableness, and
- Comparing the rent for the proposed unit with current published FMR rates.

Example

A case manager is looking to house a mother and son, and has identified a 2-bedroom unit at a rent of \$1,200 per month, not including utilities (the tenant's responsibility). The utility allowance established by the PHA is \$150. Therefore, the gross rent is \$1,350. A check of three similar units in the neighborhood reveals that the reasonable rent is \$1,400 for that area of the city; however the FMR for the jurisdiction is only \$1,150. Since CoC Program leasing funds may only provide assistance up to the FMR, the recipient would either need to identify additional resources to make up the difference between the FMR and the gross rent (i.e., \$200) or the another unit would need to be identified.

Note that in some communities, the reasonable rent for a specific unit may be lower than the FMR that has been established for the community, thus the maximum amount that can be paid for rent is the lower of the reasonable rent level and FMR.

Rent Scenarios

If the gross rent is at or below both the FMR **and** the rent reasonableness standard for a unit of comparable size, type, location, amenities, etc., CoC Program funds may be used to pay up to the full amount of the contract rent for the unit.

If the gross rent for the unit is reasonable but exceeds the FMR, CoC Program recipients and subrecipients may use CoC Program leasing funds for a portion of the rent, not to exceed the FMR, if another resource is available to pay the difference.

If the gross rent for the unit exceeds the rent reasonableness standard, CoC Program recipients or subrecipients are prohibited from using CoC Program funds for **any** portion of the rent.

Determining Acceptable Rent Subsidies for Units Assisted with CoC Program Rental Assistance Funds

CoC Program funds for rental assistance may be used to pay rent for units with contract rents that exceed the FMR, if the contract rent is reasonable in relation to rents being charged for comparable unassisted units in the area. HUD will only provide rental assistance on behalf of a program participant for a unit if the rent for that unit is reasonable. [CoC Program FAQ#1538: <https://www.onecpd.info/faqs/1538/coc-program-funds-for-rental-assistance-be-used-to-pay-rent-for-units/>]

Recipients and subrecipients are not required to consult the FMR when determining if a rent is acceptable for CoC Program rental assistance; however, recipients, subrecipients, and rental assistance administrators should pay attention to the FMR when deciding to approve a unit since it plays a role in managing the overall grant funds. If the recipient approves unit rents that are reasonable, but exceed the FMR used to determine the grant award, then there may not be sufficient grant funding to support the number of program participants approved as part of the grant application. If the recipient approves unit rents that are reasonable, but are less than the FMR used to determine the grant award, then there may be a surplus of grant funds and the recipient may be able to serve additional program participants.

Recipients that receive rental assistance funds through the CoC Program are awarded funds based on the following formula:

$$\begin{array}{r} \text{Number and size of units} \\ \times \\ \text{Fair Market Rent (at the time of award)} \\ \times \\ \text{Length of grant} \\ = \\ \text{Rental Assistance Grant Award} \end{array}$$

Rent Scenarios

The process for determining acceptable rental assistance amounts for eligible program participants only requires the recipient or subrecipient to determine rent reasonableness.

If the gross rent is reasonable for a unit of comparable size, type, location, amenities, etc., CoC Program rental assistance funds may be used to pay the rent amount for the unit less the required program participant's rent contribution.

Additional Resources

Leasing and Rental Assistance under the CoC Program Video

<https://www.onecpd.info/resource/3107/leasing-and-rental-assistance-under-the-coc-program/>

CoC Program Leasing: Broadcast

<https://www.onecpd.info/resource/3098/coc-program-leasing/>

CoC Program: Rental Assistance Broadcast

<https://www.onecpd.info/resource/3099/coc-program-rental-assistance/>