



[Docket No. FR-6360-N-01]

Notice of Certain Operating Cost Adjustment Factors for 2023

AGENCY: Office of the Assistant Secretary for Housing — Federal Housing Commissioner, HUD.

ACTION: Notice; request for comment.

SUMMARY: This notice establishes operating cost adjustment factors (OCAFs) for project-based assistance contracts issued under Section 8 of the United States Housing Act of 1937 and renewed under the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) for eligible multifamily housing projects having an anniversary date on or after February 11, 2023.

OCAFs are annual factors used to adjust Section 8 rents renewed under section 515 or section 524 of MAHRA. Through this notice HUD also seeks public input on two proposed technical changes to its OCAF calculation method.

DATES: *Comment due date:* [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Applicability date: February 11, 2023, unless HUD receives comment that would lead to the reconsideration of these proposed changes, as described below.

ADDRESSES: HUD invites interested persons to submit comments regarding changes to the OCAF calculation method. Communications must refer to the above docket number and title and should contain the information specified in the “Request for Public Comments and FMR Reevaluations” section. There are two methods for submitting public comments:

- 1. Electronic Submission of Comments.** Interested persons may submit comments or reevaluation requests electronically through the Federal eRulemaking Portal at <https://www.regulations.gov>. HUD strongly encourages commenters to submit comments or reevaluation requests electronically. Electronic submission of comments or reevaluation requests allows the author maximum time to prepare and submit a comment or reevaluation request, ensures

timely receipt by HUD, and enables HUD to make them immediately available to the public.

Comments or reevaluation requests submitted electronically through the

<https://www.regulations.gov> website can be viewed by other submitters and interested members of the public. Commenters or reevaluation requestors should follow instructions provided on that site to submit comments or reevaluation requests electronically.

2. Submission of Comments by Mail. Members of the public may submit comments or requests for reevaluation by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500. Due to security measures at all federal agencies, however, submission of comments by standard mail often results in delayed delivery. To ensure timely receipt of comments or reevaluation requests, HUD recommends that comments or requests submitted by standard mail be submitted at least two weeks in advance of the deadline. HUD will make all comments or reevaluation requests received by mail available to the public at <https://www.regulations.gov>.

Note: To receive consideration as public comments or reevaluation requests, comments or requests must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments or Reevaluation Requests. HUD does not accept facsimile (FAX) comments or requests.

FOR FURTHER INFORMATION CONTACT: Jennifer Lavorel, Director, Office of Asset Management and Portfolio Oversight Program Administration Office, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; telephone number 202-402-2515 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

Section 514(e)(2) and section 524(c)(1) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) (42 U.S.C. 1437f note), as amended, require HUD to establish guidelines for the development of operating cost adjustment factors (OCAFs) for rent adjustments. Similar language is found in sections 524(a)(4)(C)(i), 524(b)(1)(A), and 524(b)(3)(A) of MAHRA, all of which prescribe the use of the OCAF in the calculation of renewal rents. MAHRA gives HUD broad discretion in setting OCAFs, referring, for example, in sections 524(a)(4)(C)(i), 524(b)(1)(A), 524(b)(3)(A), and 524(c)(1), to simply “an operating cost adjustment factor established by the Secretary.” HUD uses a single methodology for establishing OCAFs. The sole limitation to this grant of authority is a specific requirement in each of the foregoing provisions that application of an OCAF “shall not result in a negative adjustment.”

OCAFs vary among states and territories. Contract rents are adjusted by applying the OCAF for the state or territory in which the subject project is located to that portion of the rent attributable to operating expenses exclusive of debt service.

The OCAFs provided in this notice are applicable to eligible projects having a contract anniversary date on or after February 11, 2023.

II. Proposed Changes to OCAF Methodology

HUD seeks public input on the following proposed technical changes to its OCAF calculation methodology.

Vintage of data. To calculate the inflation factor for each of the nine cost components that comprise the OCAF, HUD uses year-over-year data, pulling data as of May of each year. Beginning with the 2024 OCAFs, HUD will begin to pull data in August of each year, to reduce the time lag between when OCAFs are calculated and when they go into effect.

Note: To provide for OCAFs that are relatively generous in 2023, given historically high inflation levels, HUD calculated the cost component inflation factor for most of the cost components using a time period that exceeds 1 year. HUD used the most recent available data at the

time of calculation for the numerator. For the denominator, HUD used the figure for the time period that was used in the calculation of the 2022 OCAFs. Going forward, HUD will revert to using year-over-year data for each component, subject to data availability.

Insurance component data source. To calculate the inflation factor for the insurance component, HUD has used the Bureau of Labor Statistics Consumer Price Index, Tenants and Household Insurance Index. Beginning with the 2023 OCAFs, HUD instead uses the industry data for Direct property and casualty insurers-Commercial multiple peril insurance series from the Bureau of Labor Statistics, Producer Price Index, as it is the best metric for insurance costs for properties of leased rental housing.

With respect to these proposed changes to OCAF methodology, HUD will consider all comments submitted not later than 30 days from the date of publication of this notice. Unless HUD receives comment that would lead to the reconsideration of these proposed changes, the changes will become effective on February 11, 2023. If HUD receives adverse comment that leads to reconsideration, HUD will notify the public via a revised notice issued immediately following the close of the comment period.

III. OCAF Data Sources

OCAFs are calculated as the sum of weighted component cost changes for electricity, employee benefits/employee wages, fuel oil, goods/supplies/equipment, insurance, natural gas, property taxes, and water/sewer/trash, using publicly available indices. The weights used in the OCAF calculations for each of the nine cost component groupings are set using current percentages attributable to each of the nine expense categories. HUD calculates weights using three years of audited Annual Financial Statements from projects covered by OCAFs. The expenditure percentages for these nine categories have been found to be stable over time, and using three years of data increases their stability. The nine cost component weights are calculated at the state level, which is the lowest level of geographical aggregation with enough projects to permit statistical analysis. These data are not available for the Western Pacific Islands, so data for Hawaii are used as

the best available indicator of OCAFs for these areas.

HUD uses the best current price data sources for the nine cost categories in calculating annual change factors. State-level data for electricity, fuel oil, and natural gas from Department of Energy surveys are relatively current and continue to be used. Data on changes in employee benefits/employee wages, goods/supplies/equipment, insurance, property taxes, and water/sewer/trash costs are available only at the national level.

The data sources used for the selected nine cost indicators are as follows:

- Electricity: Energy Information Agency (EIA), May 2022 “Electric Power Monthly” report, Table 5.6.B. HUD compares the estimate for January 2022 through May 2022 to the estimate for January 2020 to December 2020.
https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_06_b.
- Employee benefits: Bureau of Labor Statistics (BLS) ECI, Private Industry Benefits, All Workers (Series ID CIU2030000000000I), at the national level. HUD compares the second quarter 2022 to the first quarter of 2021. <https://data.bls.gov/timeseries/CIU2030000000000I>
- Employee wages: Bureau of Labor Statistics (BLS) ECI, Private Industry Wages and Salaries, All Workers (Series ID CIU2020000000000I), at the national level. HUD compares the second quarter 2022 to the first quarter of 2021.
<https://data.bls.gov/timeseries/CIU2020000000000I>.
- Fuel Oil: EIA U.S. Weekly Heating Oil and Propane Prices report. Average weekly residential heating oil prices in cents per gallon excluding taxes for the period from October 5, 2021, through the week of March 29, 2022, are compared to the average from October 5, 2020, through the week of March 29, 2021. For the States with insufficient fuel oil consumption to have separate estimates, the relevant regional Petroleum Administration for Defense Districts (PADD) change between these two periods is used; if there is no regional PADD estimate, the U.S. change between these two periods is used.
https://www.eia.gov/dnav/pet/pet_pri_wfr_a_EPD2F_PRS_dpgal_w.htm.

- Goods/Supplies/Equipment: Bureau of Labor Statistics (BLS) Consumer Price Index, All Items Less Food, Energy and Shelter (Series ID CUUR0000SA0L12E) at the national level. HUD compares the July 2022 estimate to the estimate for May 2021.
<https://data.bls.gov/timeseries/CUUR0000SA0L12E>
- Insurance: Bureau of Labor Statistic (BLS) Producer Price Index, industry data for Direct property and casualty insurers-Commercial multiple peril insurance (Series ID PCU5241265241265) at the national level. HUD compares the estimate for July 2022 to the estimate for May 2021. <https://data.bls.gov/timeseries/PCU5241265241265>
- Natural Gas: Energy Information Agency, Natural Gas, Residential Energy Price, monthly prices in dollars per 1,000 cubic feet at the state level. HUD compares the estimate for January 2021 through May 2022 to the estimate for January 2020 through December 2020. Due to EIA data quality standards, several states were missing data for one or two months in 2021 and 2022; in these cases, data for these missing months were estimated using data from the surrounding months in that year and the relationship between that same month and the surrounding months in 2020.
http://www.eia.gov/dnav/ng/ng_pri_sum_a_EPG0_PRS_DMcf_a.htm.
- Property Taxes: Census Quarterly Summary of State and Local Government Tax Revenue – Table 1
<https://www.census.gov/econ/currentdata/dbsearch?program=QTAX&startYear=2019&endYear=2021&categories=QTAXCAT1&dataType=T01&geoLevel=US¬Adjusted=1&submit=GET+DATA&releaseScheduleId=>. Twelve-month property taxes are computed as the total of four quarters of tax receipts for the period from April through March. Total 12-month taxes are then divided by the number of occupied housing units to arrive at average 12-month tax per housing unit. HUD compares the estimate for April 2021 through March 2022 to the estimate for April 2020 through March 2021. The number of occupied housing units is taken from U.S. Census Bureau’s Current Population Survey/Housing Vacancy

Survey (CPS/HVS) housing inventory estimates the estimates, Table 8:

<https://www.census.gov/housing/hvs/data/histtab8.xlsx>.

- Water/Sewer/Trash: Consumer Price Index, All Urban Consumers, Water and Sewer and Trash Collection Services (Series ID CUUR00 00SEHG) at the national level. HUD compares the estimate for July 2022 to the estimate for May 2021.

<https://data.bls.gov/timeseries/CUUR0000SEHG>

The sum of the nine cost component percentage weights equals 100 percent of operating costs for purposes of OCAF calculations. To calculate the OCAFs, state-level cost component weights developed from AFS data are multiplied by the selected inflation factors. For instance, if wages in Virginia comprised 50 percent of total operating cost expenses and increased by 4 percent from 2021 to 2022, the wage increase component of the Virginia OCAF for 2023 would be 2.0 percent ($50\% * 4\%$). This 2.0 percent would then be added to the increases for the other eight expense categories to calculate the 2023 OCAF for Virginia. For states where the calculated OCAF is less than zero, the OCAF is floored at zero. The OCAFs for 2023 are included as an Appendix to this notice.

IV. Findings and Certifications Environmental Impact

This notice sets forth rate determinations and related external administrative requirements and procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 Code of Federal Regulations 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

V. Paperwork Reduction Act

This notice does not impact the information collection requirements already submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection

displays a currently valid OMB control number. The OMB control number associated with this collection is 2502–0587.

VI. Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 14.195.

Julia R. Gordon,

Office of the Assistant Secretary for Housing,

Federal Housing Administration Commissioner.

[Billing Code: 4210-67]

APPENDIX

OPERATING COST ADJUSTMENT FACTORS FOR 2023

| | |
|----------------------|-----|
| Alabama | 5.8 |
| Alaska | 6.0 |
| Arizona | 5.7 |
| Arkansas | 5.9 |
| California | 7.1 |
| Colorado | 5.9 |
| Connecticut | 6.1 |
| Delaware | 5.8 |
| District of Columbia | 5.8 |
| Florida | 6.1 |
| Georgia | 5.6 |
| Hawaii | 7.3 |
| Idaho | 5.1 |
| Illinois | 7.3 |
| Indiana | 6.4 |
| Iowa | 5.0 |
| Kansas | 5.5 |
| Kentucky | 6.4 |
| Louisiana | 5.9 |
| Maine | 8.3 |
| Maryland | 6.6 |
| Massachusetts | 6.1 |
| Michigan | 5.5 |
| Minnesota | 7.3 |
| Mississippi | 6.2 |
| Missouri | 5.2 |
| Montana | 5.4 |
| Nebraska | 5.9 |
| Nevada | 6.2 |
| New Hampshire | 5.7 |
| New Jersey | 5.3 |
| New Mexico | 6.0 |
| New York | 7.6 |
| North Carolina | 5.7 |
| North Dakota | 6.0 |
| Ohio | 6.2 |
| Oklahoma | 4.9 |
| Oregon | 5.6 |
| Pacific Islands | 7.3 |
| Pennsylvania | 5.8 |

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|----------------|-----|
| Puerto Rico | 6.3 |
| Rhode Island | 5.3 |
| South Carolina | 5.6 |
| South Dakota | 4.8 |
| Tennessee | 5.7 |
| Texas | 5.7 |
| Utah | 5.6 |
| Vermont | 6.0 |
| Virgin Islands | 5.8 |
| Virginia | 6.0 |
| Washington | 5.9 |
| West Virginia | 6.6 |
| Wisconsin | 6.6 |
| Wyoming | 5.6 |
| United States | 6.1 |

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