

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4771-N-01]

Utility Allowances for Use by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation

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

ACTION: Notice.

SUMMARY: This notice announces that the Department has established monthly utility allowances in accordance with the Secretary's authority to regulate the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). Each enterprise is also referred to as a Government-Sponsored Enterprise (GSE). These allowances are used to determine whether rental units financed by GSE mortgage purchases are affordable and may count toward the achievement of the income-based housing goals established by the Secretary. For these purposes, the allowances in this notice shall be added to the contract rent for rental units in which: (1) Tenant income is not available; (2) contract rent does not include the cost of utilities; and (3) the GSE does not use the HUD Section 8 utility allowances.

FOR FURTHER INFORMATION CONTACT: Sandra Fostek, Director, Office of Government-Sponsored Enterprises Oversight, Department of Housing and Urban Development, Room 6182, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-2224 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Environmental Review

This notice involves the establishment of a rate and cost

determination similar to interest rates, loan limits, building cost limits, prototype costs or fair market rent schedules which does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 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).

II. Background

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992, enacted as Title XIII of the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992, codified generally at 12 U.S.C. 4501-4561) (the Act)¹ requires the Secretary, *inter alia*, to establish and monitor the performance of the GSEs in meeting annual goals for mortgage purchases on housing for low- and moderate-income families and special affordable housing, *i.e.*, housing meeting the needs of, and affordable to, low-income families in low-income areas and very low-income families. On January 2, 1996, the Secretary's regulation on the GSEs, codified at 24 CFR, part 81 (regulation), became effective. (See 60 FR 61846, December 1, 1995). This regulation was modified by new regulations that became effective on January 1, 2001. (See 65 FR 65044, October 31, 2000).

Under the Act and regulations, in considering whether a rental dwelling unit that is financed by a GSE mortgage purchase is affordable and counts toward any housing goal, the Secretary must consider the income of tenants if income information is available. Where income information is not available, rent on the dwelling unit is used as a proxy and compared to the rent levels affordable to very low-, low-, and moderate-income families, and families whose incomes do not exceed 50 percent of the area median income (especially low-income families).² To be considered affordable and count under the goal, the rent cannot exceed 30

percent of the maximum income level of the family's classification, with adjustments for unit size.³

Under the regulation, rent is defined as contract rent, but only where the contract rent includes the cost of all utilities.⁴ In all other instances, rent is contract rent plus (1) the actual cost of utilities or (2) a utility allowance.⁵ The regulation allows the GSEs to choose from two different utility allowances—the allowances used in the HUD Section 8 Program or the utility allowances derived from the American Housing Survey (AHS) and issued by the Secretary.⁶

On July 8, 1998 (63 FR 36931), a notice was issued establishing the utility allowances for 1998 and 1999. Those utility allowances were based on the Department's analysis of data from the 1995 AHS.

This notice announces that the Department has established the AHS-derived utility allowances for 2002 and 2003. In establishing these allowances, the Department analyzed 1999 AHS data on the mean costs, based on unit type (*i.e.*, number of bedrooms), paid by renters in both multifamily and single-family properties for electricity, gas, fuel oil, other fuel, water and sewerage, and garbage and trash removal.⁷

The GSEs were advised by letter dated May 9, 2002, that these allowances were to be published in the **Federal Register** and that they would become effective on July 1, 2002, but could be implemented sooner at each GSE's option.

III. The Utility Allowances

In accordance with sections 1321, 1331-33, and 1336 of the Federal Housing Enterprises Financial Safety and Soundness Act (12 U.S.C. 4541, 4561-63, and 4566), and as provided in paragraph (1) under the definition of "utility allowance" in section 81.2(b) of Title 24 of the Code of Federal Regulations, the AHS-derived monthly utility allowances for 2002 and 2003 are as follows:

Type of property	Number of bedrooms			
	Efficiency	1	2	3 or more
Multifamily	\$41	\$57	\$80	\$112
Single Family	41	73	113	155

¹ Unless otherwise specified, all sections cited herein are in the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. Sections 1331-1336 of that Act are codified at 12 U.S.C. 4561-66.

² Sections 1332(c) and 1333(c); 1333(d)(3) and 24 CFR 81.14(d).

³ Sections 1332(c)(2) and 1333(c)(2).

⁴ 24 CFR 81.2.

⁵ *Id.*

⁶ *Id.*

⁷ The utility allowances reported for 2002 and 2003 reflect an adjustment to the 1999 AHS means

for the 16.6 percent increase in the Consumer Price Index for All Urban Consumers (CPI-U) for Fuels and Other Utilities from 1999 to 2001 and the 2.0 percent projected decrease from 2001 to 2002 as forecast by DRI-WEFA.

The utility allowances for 2002 and 2003 are less than the previously published allowances for 1998 and 1999 for efficiency and one-bedroom units, approximately the same for two-bedroom units, and somewhat greater for units with three or more bedrooms. This is the result of changes in mean utility expenditures on particular utilities that are separately billed (which is the basis for the utility allowances) for different bedroom sizes and of changes in billing patterns. Based on the AHS, the mean electricity expenditures were lower in 1999 than in 1995, with the largest decreases seen for efficiency and one-bedroom units. With respect to billing patterns, a lower proportion of renters in 1999 paid separately for trash in each of the unit categories, a lower proportion paid separately for gas in

each of the unit categories except single-family efficiency, and the proportion of renters paying separately for electricity was lower or the same in each of the unit categories except single-family and multifamily efficiency units. The net result was lower estimated average utility costs in 1999 than in 1995 for all categories of units. The inflation adjustment to convert the 1999 estimates into 2002 utility allowances was sufficiently higher than the inflation adjustment previously used to adjust 1995 figures to 1998 as to cause the 2002 allowances for 2- and 3+ bedroom units to be greater than the previously published 1998 allowances. The mean utility costs for efficiency and one-bedroom units decreased more than for the larger bedroom-size categories between the AHS of 1995 and 1999,

causing the inflation-adjusted 2002 utility allowances for efficiency and one-bedroom units to remain below the corresponding previously published allowances.

IV. Effect of Notice Beyond 2003

For 2004 and thereafter, the Secretary shall establish AHS-derived utility allowances by subsequent notice. Pending establishment of such allowances for 2004 and thereafter, the allowances in this notice shall continue to be used by the GSEs.

Dated: August 26, 2002.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

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