Dated: March 29, 2011.

Joseph F. Smith,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5413–N–02]

Section 8 Housing Choice Voucher Program—Demonstration Project of Small Area Fair Market Rents in Certain Metropolitan Areas, Discussion of Comments, and Request for Participation

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Final notice establishing the Small Area Fair Market Rent (FMR) Demonstration Project and requesting participation from metropolitan public housing agencies.

SUMMARY: Today's notice provides HUD's responses to comments filed in response to a May 18, 2010, notice (75 FR 27808) announcing HUD's intent to operate a small area FMR demonstration project in several metropolitan areas. The purpose of this demonstration project is to provide voucher holders with the opportunity to move to areas of greater opportunity. This notice provides additional details regarding the operation of the tenant-based Housing Choice Voucher (HCV) program in areas selected to participate in the demonstration, establishes the criteria for selecting public housing agencies (PHAs) for participation in the demonstration, and requests interested PHAs to apply for participation in the demonstration according to instructions published in this notice. Metropolitan PHAs that would like to participate in the small area FMR demonstration project may apply, as discussed later in this notice, with an anticipated selection date of July 1, 2011. In order to assess the impact of the demonstration, participating PHAs will be expected to provide HUD with additional data specified in this notice beyond what is normally required.

DATES: Date to request participation in demonstration: June 6, 2011.

ADDRESSES: Interested persons are invited to request participation in the small area FMR demonstration by submitting a request to the Office of General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0001. Communications should refer to the above docket number and title and should contain the information specified in the "Request to Participate" section.

Public Inspection of Requests. All requests to participate submitted to HUD will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the requests to participate must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: For technical information on the methodology used to develop small area FMRs, please contact Peter B. Kahn or Marie L. Lihn, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone number 202–708–0590 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339. The small area FMR dataset, **Federal Register** notices, and links to participation requests (as well as comments to the original May 18, 2010, notice) are available on the HUD Web site at *http://www.huduser.org/portal/datasets/fmr.html.* The HUD USER information line at 800–245–2691 may answer questions on this information. (Other than the TDD numbers and the HUD USER information line, telephone numbers are not toll free.)

Electronic Data Availability: This **Federal Register** notice is available electronically from the HUD User Web site at *http://www.huduser.org/portal/datasets/fmr.html.* **Federal Register** notices also are available electronically at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR,* the U.S. Government Printing Office Web site. A system for looking up small area FMRs based on Final Fiscal Year (FY) 2011 FMRs is available at *http://www.huduser.org/portal/datasets/fmr/fmrs/index_sa.html.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (USHA) authorizes housing assistance to aid lower-income families in renting safe and decent housing. In the HCV program, the FMR is the basis for determining the "payment standard amount" used to calculate the maximum monthly subsidy for an assisted family (see 24 CFR 982.503). In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (nonluxury) nature with suitable amenities. In addition, all rents subsidized under the HCV program must meet reasonable rent standards.

Currently, FMRs are calculated for all nonmetropolitan counties and metropolitan areas. The same FMR is available throughout a nonmetropolitan county or metropolitan area, which generally is comprised of several metropolitan counties. FMRs in a metropolitan area represent the 40th-percentile (or in special circumstances the 50th-percentile) gross rent of the entire HUD-defined metropolitan area. PHAs may set a payment standard within 90 percent to 110 percent of the FMR. PHAs may determine that payment standards that are higher than 110 percent, or lower than 90 percent, are needed to make the HCV program work in subareas of their market; in such an instance, a PHA would request HUD approval for a payment standard below 90 percent or an exception payment standard above 110 percent. This request could not represent more than 50 percent of the population of the area (see 24 CFR 982.503).

On May 18, 2010, HUD published a notice in the **Federal Register** (75 FR 27808) seeking public comment on a small area FMR demonstration project. Today's notice discusses those comments and provides an opportunity for PHAs to volunteer for the demonstration project that will begin later in FY 2011.

The Housing Choice Voucher (HCV) program is the only HUD program where small area FMRs will be used during the demonstration. All other programs must use the area-wide FMRs listed in Schedule B of the current FMR **Federal Register** notice (75 FR 61253, October 4, 2010). HUD expects that small area FMRs will provide HCV tenants with 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. Small area FMRs will alter some administrative responsibilities of PHAs that administer HCV programs, but it is unclear what the net effect on administrative costs will be. A copy of the **Federal Register** notice announcing this program can be accessed at *http://www.huduser.org/portal/datasets/fmr/fmr2010f/Small_Area_FMRs.pdf.*

II. Discussion of Public Comments

In response to its notice seeking comments on HUD's proposal to establish a small area FMR demonstration project, HUD received 19 comments by the close of the comment period on July 19, 2010. HUD requested comments on specific questions. These questions and other issues raised by the commenters that concern the small area FMR demonstration project will be addressed in this section.

Most of the commenters support the small area FMR demonstration project, noting that it provides real benefits to HCV program participants.

Opposition to Demonstration From PHAs Operating in Nonmetropolitan Counties

Comments: Two PHA administrators of nonmetropolitan housing agencies expressed opposition to the implementation of small area FMRs. One was concerned about the increased administrative burden of administering so many more payment schedules with the "rollout" of small area FMRs nationally; the other was concerned about covering the costs of portability when a small area FMR is significantly above the current area-wide FMR.

HUD Response: For the first commenter, it should be noted that even with a national rollout of small area FMRs, HUD does not plan to extend this new policy to nonmetropolitan counties. This means that the number of payment standards will not increase in such areas, which should alleviate this concern.

Regarding the second comment concerning portability, voucher portability and funding replacement are components of the HCV program regardless of the geography over which FMRs are defined. FMRs and payment standards vary considerably across the country under current policy, so a tenant may already move from a low-payment standard area to a high-payment standard area. The extent to which small area FMRs would make this issue a larger problem is not clear. Small area FMRs are intended to provide HCV holders with greater access to all parts of metropolitan areas and more opportunity to find suitable housing. Portability is an important component of the HCV program, and any limitations placed on portability would negatively impact tenants' ability to obtain decent housing.

Opposition to and Concern Over Demonstration Because FMRs Are Used in Financing Affordable Projects

Comments: A commenter expressed opposition to the small area FMR demonstration project, on the basis that rental properties that have been developed and operated under federal and state housing programs may be adversely impacted. Such programs target affordable housing development to distressed areas as part of a plan to foster redevelopment and stabilize neighborhoods. Rents are restricted to ensure that they are affordable to very low- and low-income households. These projects have little additional cash flow available after paying debt service and operating costs, to absorb unanticipated negative shocks. For properties that rely on HCV use to support long-term financing, a permanent hold-harmless provision was recommended.

Other commenters, while not opposed to the demonstration project, asked HUD to apply small area FMRs to the HCV program and other programs carefully, as there could be serious unintended consequences. Specifically, several commenters were concerned with the application of small area FMRs to project-based voucher (PBV) developments and other projects that use FMRs for rents.

HUD Response: During the demonstration, the HCV program is the only program that will use small area FMRs, and only in those areas, and by those PHAs, selected for the demonstration. To address the concerns regarding project-based vouchers (PBVs), PBV units for which a notice-of-owner selection was issued in accordance with 24 CFR 983.51(d), 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 will be able to project costs and plan accordingly. HUD will monitor this issue 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.

Opposition to Use of 2000 Census Data in Determining Small Area FMRs

Comment: Several commenters asked HUD to delay the small area FMR demonstration project until the 5-year American Community Survey (ACS) data are published. The notice announcing the demonstration project specified HUD would use 2000 Census data to determine the small area FMRs for the demonstration project. Many commenters were concerned that the 5-year data would be significantly different from the 2000 Census data and that significant adjustment to the small area FMRs would be disruptive. One commenter wanted HUD to update FMRs every 3 years rather than every 5 years, because he stated that most of the new data is available on a 3-year basis.

HUD Response: HUD intends to use the 5-year ACS data to calculate small area FMRs for PHAs participating in the demonstration. However, due to timing, the special tabulations of 5-year ACS data that are required for calculating small area FMRs are not available with the publication of this notice requesting applications for the small area FMR demonstration. Therefore, PHAs that choose to apply for the demonstration based on the rent data currently available that are selected for participation in the demonstration will be given the opportunity to opt out of the demonstration after reviewing the small area FMRs calculated using the 5-year ACS data. Due to the nature of the ACS, it is unlikely that 3-year tabulations of data will be available for all metropolitan ZIP Codes. Therefore, HUD has not requested special tabulations of 3-year data.

Length of Demonstration Unclear

Comments: Several commenters stated that HUD has been unclear about the length of the demonstration project. Most commenters agreed that the demonstration project has to be for more than 2 years, because existing tenants will not feel the impact of small area FMRs until their second recertification. Several commenters requested that the demonstration project last 5 years. One commenter did not feel the need to establish a demonstration project and urged HUD to change to small area FMRs without testing the impact.

HUD Response: At a minimum, PHAs selected to participate in the demonstration will operate using small area FMRs for the HCV program until FY 2013.

Opposition to Demonstration Because Voucher Holders May Pick Very Expensive Neighborhoods

Comment: One commenter appeared to oppose the concept of small area FMRs, noting that HCV holders may choose housing in high-income areas, where rents may be as high as the 80th percentile of the metropolitan area rents. The commenter said that this rent is inappropriate, because deeply assisted housing serves only 25 percent of the households eligible for housing assistance.

HUD Response: The purpose of the small area FMR demonstration is to expand the options available to HCV holders within participating metropolitan areas. Small area FMRs will be approximately the 40th percentile rent in each ZIP Code area. Small area FMRs are 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, as noted in the following section, small area FMRs will be capped at 150 percent of the metropolitan area FMR. If the voucher holder's selected unit passes the rent reasonableness determination, HUD has no objection to the tenant renting the unit in question. In fact, giving tenants access to previously inaccessible neighborhoods is an intended outcome of the small area FMR demonstration.

Implementation of the Small Area FMRs

Comment: Although HUD requested comments specifically concerning caps and floors, many commenters sidestepped this issue, instead asking HUD to phase-in decreases for small area FMRs. Some commenters suggested that HUD allow increases in FMRs immediately but wait for the family's second re-examination for decreases to take effect. Several other commenters noted that the proposed legislation known as the Section Eight Voucher Reform Act (SEVRA) includes an annual phase-in policy of 10 percent and requested that this methodology be followed for the small area FMR demonstration project. Some preferred a lower phase-in level of 5 percent per year.

HUD Response: HUD agrees that there should be a phase-in of decreases in the small area FMR demonstration project, and the proposed caps and floors will be consistent with the Department's long-term vision for the Section 8 HCV program. Consequently, HUD will impose a 10 percent floor on annual decreases in small area FMRs under the demonstration project. There will be no additional annual cap except for the 150 percent cap on the ratio of the ZIP Code area to the FMR area, as discussed below.

Items Where HUD Specifically Requested Comments

1. Should HUD Institute caps and floors on small area FMRs? The current cap is 150 percent of the metropolitan FMR, and the current floor is the state nonmetropolitan minimum FMR. Are these appropriate, or should they be changed or eliminated?

Comments: Several commenters suggested that a 150 percent cap seemed arbitrary. There were suggestions to establish a national rather than a local FMR cap, or to establish area-specific caps based on the 90th FMR percentile. HUD was urged to study the use of the 150 percent cap to ensure that few areas had FMRs set at below-market rents. Few commenters addressed the issue of a floor on small area FMRs. Those commenters approved of the use of the state minimum FMR as a floor.

HUD Response: HUD intends to maintain the state minimum as its small area FMR floor in conjunction with current practice. Based on 2000 Decennial Census data, the 150 percent cap applies to approximately 170 of the more than 17,000 metropolitan ZIP Codes, so the 150 percent cap would not meaningfully restrict voucher tenants' choices. While this cap is only in effect for a small percentage of small areas, HUD intends to maintain the 150 percent cap during the demonstration project as one mechanism for ensuring that HCV program funds are used as judiciously as possible.

2. Should HUD revise the 50th-percentile FMR policy or eliminate it, and why?

Comments: Many commenters supported the continued use of 50th-percentile FMRs, calculated on the basis of the core-based statistical area (CBSA) or the metropolitan Statistical Area (MSA). One commenter noted that HUD should develop regulations that allow the use of higher FMRs when local market conditions reduce program success rates and utilization. One commenter felt that the use of 50th-percentile FMRs would no longer be necessary once small area FMRs are used by all metropolitan areas. However, HUD was cautioned to be careful in transitioning these areas to 40th-percentile FMRs.

HUD Response: HUD will base small area FMRs on the 40th-percentile rent. From a practical standpoint, the regulatory standard for qualifying for a 50th-percentile FMR (i.e., there must be at least 100 census tracts in the FMR area) is not one that will be met by PHAs if they are selected to participate in the small area FMR demonstration project since there are no ZIP Code areas with at least 100 census tracts. In addition, in certain small area FMR demonstration project ZIP Codes, FMRs could increase by as much as 50 percent in a single year. Contrast this with the increase from a 40th- to a 50th-percentile FMR, which without exception results in a 7 to 8 percent increase in FMRs. HUD will not eliminate the 50th-percentile policy for metropolitan FMR areas not participating in the small area FMR demonstration project.

3. Are there any instances where an exception payment standard policy might still be useful?

Comments: Most commenters supported the continuation of exception payment standards, not only for nonmetropolitan areas once the program is rolled out nationally, but for metropolitan areas where there are substantial rent differences within a ZIP Code. Several commenters cited ZIP Codes in their service areas where exception payment standards would be helpful. In addition, commenters want to be sure that HUD continues to issue special exception payment standards for disabled tenants or for disaster areas.

HUD Response: Exception payment standards are a valuable tool available to PHAs to further assist tenants in finding suitable homes. Small area FMRs are also intended to provide tenants with access to portions of metropolitan areas where previous FMRs have been insufficient. With respect to PHAs chosen to participate in the demonstration project, HUD would like to work directly with such agencies to determine appropriate areas for exception payment standards. The regulations regarding family requests for exception payment standards as a reasonable accommodation for a person with disabilities will continue to apply.

4. Do small area FMRs increase the administrative burden of PHAs, and, if so, how can the burden be reduced?

Comments: Tenant advocacy groups either did not address the issue or assumed administrative burden changes would not be significant, because rent reasonableness studies may no longer be required. PHAs and their advocacy groups were, for the most part, concerned about an increase in administrative burden, with some advocating an increase in administrative fees for agencies participating in the small area FMR demonstration project.

One commenter suggested that HUD eliminate the rent reasonableness requirement for PHAs using small area FMRs to ensure that their administrative burden is reduced. In most cases, PHAs operating in large cities produce a single set of payment standards, so moving to dozens or even hundreds of different FMRs without eliminating rent reasonableness will significantly increase administrative burden. Another commenter stated that HUD should be able to use the ZIP Code FMRs in place of rent reasonableness determinations and that HUD should evaluate whether rent reasonableness studies will be required in the future.

HUD Response: Since rent reasonableness is a statutory requirement, HUD cannot eliminate or waive it. Additionally, although demonstration project FMRs will be based on ZIP Codes, the wide variation in housing quality and rents within ZIP Codes mean that PHAs must continue to conduct rent reasonableness determinations. However, as part of the evaluation of the demonstration, HUD will evaluate whether the small area FMRs reduce the number of units with rents outside an initial rent reasonableness determination.

5. Is the proposed rounding protocol of $25 appropriate, or should small area FMRs be rounded to a larger or smaller amount?

Comments: FMRs are currently rounded to the nearest dollar; several commenters did not want this to change. One commenter supported the proposed rounding protocol to the nearest $25, as a measure that helps reduce administrative burdens for PHAs. No commenter specifically addressed the question of whether state minimums and small area FMRs should be rounded before application or addressed the timing of subsequent rounding.

HUD Response: HUD believes there are several benefits to rounding small area FMRs. These include, but are not limited to, reducing the number of payment standards PHAs will have to administer and limiting the year-to-year fluctuations that adding new survey data annually is likely to impose. HUD also recognizes that in some cases, rounding to the nearest 25 dollars may be too large and contribute to the annual fluctuation in FMRs that HUD is trying to alleviate. For example, if in year one, the unrounded small area FMR is $512, with 25 dollar rounding the published FMR would be $500. If in the next year, the unrounded FMR is $513, the rounded value would be $525—a 5 percent change for a $1 change in the underlying rent. Therefore, in order to maintain the benefits of rounding small area FMRs while limiting the impact of rounding, HUD will round small area FMRs to the nearest 10 dollars.

6. Should the demonstration be open to smaller metropolitan areas than those meeting the size criterion for 50th-percentile FMR eligibility?

Comments: Several public interest group commenters suggested that smaller metropolitan areas be allowed to participate in the demonstration project; however, the only comments received from small, nonmetropolitan areas were opposed to rolling out small area FMRs in their communities. The issue of portability and the reimbursement for higher FMRs was of great concern to several commenters representing small PHAs. One commenter noted that PHAs do not necessarily know if their FMR area meets the size criterion for 50th-percentile FMR eligibility (100 census tracts) and asked HUD to provide this information.

HUD Response: HUD will not limit participants in the demonstration project to those in areas of 100 census tracts or more, because HUD recognizes that eligibility to participate in the Demonstration project must result in a representation of the range of metropolitan areas.

7. Should affordable housing concentration criterion be a consideration in the selection of participating areas?

Comments: One commenter considered this as a worthwhile criterion and requested that HUD provide information on poverty and racial concentration by ZIP Code.

HUD Response: HUD must select areas with as many different characteristics as possible to try to learn as much as possible about implementation issues that would occur with a national rollout of small area FMRs (though limited to metropolitan areas). Additionally, HUD plans to study the effect of the demonstration on PHAs, tenants, landlords, program costs, etc. Therefore, it will be important to have a diverse selection of participants. The selection criteria for participation in the demonstration project are enumerated below in the “Small Area FMR demonstration Details” section of this notice.

8. Is the 80 percent-of-voucher-tenants standard for applicants’ eligibility to participate in the demonstration project appropriate?

Comments: Several commenters requested that this requirement be relaxed. One large PHA noted that its market area did not meet the 80 percent-of-voucher-tenants criteria and that other PHAs in its metropolitan area would have less need for small area FMRs.

HUD Response: HUD’s initial rationale for suggesting that PHAs representing 80 percent of voucher holders in a metropolitan area must agree to participate in the demonstration project before being allowed to participate was based on the premise that small area FMRs would be set for the entire metropolitan area, not just for the PHAs that desire participation. This requirement, however, has changed so that now only those PHAs in the metropolitan area that agree to participate in the demonstration project will set their FMRs at the small area FMR. Other PHAs in the metropolitan area will continue to use the area-wide FMR. The specific selection criteria are discussed in the “Small Area FMR Demonstration Details” of this notice, but the 80 percent threshold is no longer a minimum criteria.

9. Is demonstrated past use of multiple payment standards an appropriate criterion for participation?

Comments: Several commenters contend that past or current use of multiple payment standards should not be a factor in determining which FMR areas are selected for the small area FMR demonstration project. Commenters stressed that for the demonstration project to be valid, it should be as representative as possible of the subset of PHAs in large metropolitan areas that will eventually use small area FMRs.

HUD Response: Because of their experience, PHAs already operating with multiple payment standards should be able to implement small area FMRs relatively easily. However, to ensure that HUD selects a diverse set of PHAs and areas, while avoiding any notion of preselection preference, this criterion will not be used as a preference for selecting demonstration participants. Please see the section titled “Small Area FMR Demonstration Details” of this notice for specific details regarding the selection of participants.

III. Small Area FMR Methodology

In calculating small area FMRs, HUD will use the methodology set forth in the

May 18, 2010, **Federal Register** notice announcing the demonstration, with the following changes: (1) HUD intends to use the 5-year ACS data to calculate small area FMRs for the demonstration project, and (2) HUD will round small area FMRs to the nearest $10 instead of the nearest $25. In summary, HUD will calculate a rental rate ratio for each ZIP Code area within a metropolitan area in the following manner:

Rental Rate Ratio = Median Gross Rent for ZIP Code area/Median Gross Rent for CBSA

If the ZIP Code within the CBSA does not have 1,000 cash rental units, then the rental rate relationship is calculated as:

Rental Rate Ratio = Median Gross Rent STCO/Median Gross Rent of the CBSA

where STCO is the county within the state containing the ZIP Code.[1] For metropolitan areas, FMRs will be calculated and published for each small area. HUD chose ZIP Codes because they localize rents, and a unit's ZIP Code is easily identifiable by PHAs, landlords, and tenants.

The individual ZIP-Code-level, two-bedroom FMR for each part of the FMR area is the product of the rental rate ratio and the two-bedroom FMR for that area's CBSA, as calculated using methods employed for past metropolitan area FMR estimates (for a description of the methodology currently in place to calculate FMRs, please see HUD's **Federal Register** notice (75 FR 61254) announcing Final FY 2011 FMRs). HUD then compares this product to the state nonmetropolitan minimum, two-bedroom rent for the state in which the area is located and, if the ZIP Code rent determined using the rental rate ratio is less than the minimum, the ZIP Code rent is set at the nonmetropolitan minimum for that state. HUD will calculate the relationship between two-bedroom units and other bedroom sizes from the 5-year ACS for the metropolitan area for the large area of geography. HUD anticipates updating the bedroom rental rate ratios once every 5 years when the 5-year ACS sample is replaced.[2] As discussed in the "Response to Comments" section, the final calculated rents are then rounded to the nearest $10. Small area FMRs based on 2000 Decennial Census data and Final FY 2011 FMRs for all metropolitan areas are available for viewing and download from the Internet at *http://www.huduser.org/portal/datasets/fmr.html.*

IV. Small Area FMR Demonstration Details

Selection of Participants

In the May 18, 2010, notice, HUD proposed that entire CBSAs be named demonstration areas (i.e., all PHAs operating in the CBSA would participate, whether all PHAs apply or not). The primary reason for this was to facilitate comparison of participating CBSAs to nonparticipating CBSAs. However, HUD has determined that the demonstration will be served best by PHAs that actively volunteer to participate. Therefore, only PHAs that apply will take part in the demonstration, but a preference will be given to areas where a larger share of PHAs covering a larger share of HCV tenants in the area apply to participate.

The following lists the selection criteria for participation:

1. Percentage of Voucher Tenants in the CBSA Covered by applying PHAs (calculated by HUD using HUD's administrative data). [Weighted 35 percent];

2. Percentage of PHAs in the CBSA Covered by applying PHAs in the CBSA (calculated by HUD using HUD's administrative data). [Weighted 35 percent];

3. Concentration of Voucher Tenants—The concentration of voucher tenants will be measured using the same metric that is used to determine if an area qualifies for 50th-percentile FMRs (25 percent or more of voucher tenants in the CBSA reside in 5 percent of the census tracts for the CBSA). See 24 CFR 888.113 (c)(iii). [Weighted 10 percent];

4. Racial Segregation—In order to affirmatively further fair housing, a CBSA's racial segregation will be assessed based on the non-Hispanic White/all minority Dissimilarity Index calculated at the census tract level for the CBSA from 2010 Decennial Census data. [Weighted 10 percent];

5. Dissimilarity of rents within the area—Using an unbiased measure of the dispersion of rent ratios. [Weighted 10 percent].

The CBSAs containing the applicant PHAs will be ranked according to each of the statistics specified above, and then a weighted average ranking will be calculated according to the weights specified above. The highest-ranking PHA applicant groups will be chosen subject to the requirements for selecting representatives of the different types of metropolitan areas described below.

In addition to the scored criteria above, HUD has established criteria for evaluating a PHA's administrative capacity in order to participate in this demonstration. All applicants must meet the following threshold requirements:

1. *Reporting Requirements.* Each applicant must meet PIC reporting requirements. All PHAs are required to submit Family Reports (form HUD–50058) for at least 95 percent of voucher families leased at the end of the last quarter prior to the application deadline date as verified by the PIC Delinquency Report. All PHAs must also be timely in their reporting.

2. *SEMAP.* Each applicant must not be designated as troubled for its most recently assessed fiscal year.

HUD will also evaluate the PHA on the following areas:

3. *Administrative Capacity.* The Office of Field Operations will be consulted regarding administrative capacity. In making this determination, the field office may consider things such as any unresolved program management findings from an Inspector General's audit, HUD management review or Independent Public Accountant (IPA) audit for the PHA's HCV program, fraud or misconduct, or other significant program compliance problems that were not resolved or were in the process of being resolved prior to the application deadline.

4. *Litigation.* The PHA must not be involved in litigation where HUD determines that the litigation may seriously impede the ability of the applicant to administer the vouchers.

Number of Participants

In order to create similar groups of metropolitan areas for analysis of the demonstration, all metropolitan areas were classified based on five general categories of characteristics: demographics, economic conditions, PHA structure, tenant characteristics, and housing market conditions. HUD assigned 31 variables to one of these 5 categories, and standardized and weighted the variables to maintain equal weight across categories. Based on the results of the analysis of these characteristics, the metropolitan areas have been clustered into 5 groups. Each metropolitan area in the same group has similar characteristics. For each area with PHAs participating in the demonstration, for the purposes of evaluating the demonstration, HUD will

[1] For ZIP Codes that cross county boundaries, the Median Gross Rent in the numerator is calculated as the rental unit weighted average of the Median Gross rents for each county containing the ZIP Code.

[2] The current decennial data is not robust enough to lead HUD to believe that updating bedroom ratios on a more frequent basis would provide meaningful changes. The current bedroom ratios are constrained by ranges that reflect the average relationship to the two-bedroom rent and, for the three-bedroom and four-bedroom rents, bonuses have been added to assist with the operation of the Section 8 HCV program.

identify a similar area from the same group where no PHAs are participating.

If applications permit, at least one PHA or PHA applicant group in the five metropolitan areas will be selected to participate in the demonstration—at least one metropolitan area from each of the five groups. This will allow for analysis of demonstration differences or similarities across characteristics of the areas (groups).

PHA Administrative Responsibilities

In determining whether to apply for this demonstration, PHAs should consider the additional administrative and programmatic factors that will be impacted by implementing small area FMRs, including but not limited to the following:

1. Converting software to handle larger numbers of payment standards;
2. Additional outreach and briefings for families and landlords on new FMR methodology and how this affects the payment standards;
3. Developing additional briefing materials for new housing markets;
4. Revising current forms and briefing packages;
5. Financial analysis to determine appropriate payment standards and ongoing monitoring of financial impacts;
6. Staff training;
7. Ability to manage additional workload; and
8. Potential changes to rent reasonableness determinations/methodology.

HUD will provide technical assistance and assist PHAs throughout the demonstration to reduce the burden of these activities as much as possible.

PHA Reporting Requirements

HUD needs to evaluate the demonstration project in terms of effectiveness in meeting the primary goal of improving tenants' housing choices in areas of opportunity. In addition, the administrative changes for PHAs participating in the demonstration project must also be evaluated. All PHAs in the demonstration project will be required to report additional data to HUD, in addition to the normal HCV program reporting requirements. Information such as the following will be requested concerning the following topics:

a. Additional procedures implemented to brief tenants and owners on small area FMRs and collect information on demonstration project;
b. Impact/interaction with current rent reasonableness determinations;
c. Software/systems issues;
d. Impact on staffing and resources;
e. Any funding-related impact;
f. Success rate for new HCVs; must be able to be compare with success rate prior to the demonstration project;
g. Time taken for new families to use an HCV;
h. Lease-up rate, for new families; must be able to compare with lease-up rate prior to the demonstration project;
i. Number of participants who elect to move and the differential in the FMR/payment standard; race, age of head of household, number of children, and ages of children must be reported;
j. Reason given by new participants and existing participant for their location choice;
k. Changes in landlord retention and recruitment;
l. Number of vouchers issued and the number of families that successfully lease a unit. In accordance with PIH Notice 2010–25, PHAs are expected to enter the issuance of vouchers in PIC; and
m. Voucher holders requesting to use portability to move into demonstration areas to take advantage of small area FMRs and the number of those families who were successful in leasing up in higher and lower FMR areas.

Program Operation

Participating PHAs will use small area FMRs as the basis for setting payment standards for the tenants that they serve. PHAs applying to participate in the demonstration and operating in areas that are currently eligible for 50th-percentile FMRs will use small area FMRs calculated using 40th-percentile rents. All existing program rules will apply under this demonstration project.

Implementation Date

HUD will work with each of the PHAs selected to participate in the demonstration to determine the implementation date of the small area FMRs based on individual PHA circumstances. However, HUD will expect all PHAs to have the small area FMRs fully operational no later than 90 days after the selection date.

Applicability of Small Area FMRs to Project-based Vouchers

The small area FMRs will not apply to project-based vouchers (PBVs) for which a notice of owner selection was issued in accordance with 24 CFR 983.51(d) as of the effective date of the PHA's participation in the demonstration (i.e., the date that the small area FMRs go into effect for the PHA). This includes units currently under HAP contract. However, any PBVs for which a notice of owner selection is issued after the effective date of the PHA's participation in the demonstration will be subject to the small area FMRs. In cases where the small area FMRs are not applicable to PBV units, the area-wide FMRs will continue to apply.

V. Requests for Participation in the Small Area FMR Demonstration Project

Any PHA operating an HCV program in a metropolitan area may apply to participate in the small area FMR demonstration. Due to the flexibility already provided to PHAs operating in the Moving To Work (MTW) program, HUD does not believe that MTW PHAs need to be included in the demonstration in order to use small area FMRs. Therefore, HUD will not consider the HCVs of an MTW agency when determining the proportion of the metropolitan area's HCVs that a PHA (or group of PHAs) represent. This does not preclude MTW agencies, however, from participating in the small area FMR demonstration.

A PHA wishing to be considered for inclusion in the demonstration should respond with a letter to HUD signed by its executive director. PHAs applying jointly should submit a single letter signed by all of the participating PHAs' executive directors. The letter must include a resolution from the PHA Board of Commissioners authorizing the PHA to participate in the demonstration. (In the case of a joint letter, a resolution for each participating PHA is required.) The request letters should include the PHAs' affirmative declaration to participate and include the number of vouchers the PHAs collectively administer in the metropolitan area. Additionally, the application should include an attachment describing the expected financial impact of implementing small area FMRs in the PHAs jurisdiction. Letters should be addressed to: Small Area FMR Demonstration Project Applications, Office of General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0001.

Once the response period has ended, HUD will compile all of the selection criteria data and determine which areas will be selected to participate. The executive directors of the selected PHAs will be contacted, and a final roster of participants, along with updated small area FMRs based on 2005–2009 ACS data, will be published in a **Federal Register** notice.

VI. Paperwork Reduction Act

In accordance with the Section 3507 of the Paperwork Reduction Act of 1995

(44 U.S.C. 4321), HUD will request approval from the Office of Management and Budget (OMB) to collect data under the reporting requirements that PHAs are not currently providing.

VII. Environmental Impact

This notice involves the establishment of a small area FMR demonstration project, 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).

Dated: April 7, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2011–9501 Filed 4–19–11; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Notice of Intent To Accept Proposals, Select One Lessee, and Contract for Hydroelectric Power Development at the Granby Dam Outlet, a Feature of the Colorado-Big Thompson (C–BT) Project, Colorado

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent.

SUMMARY: Promoting responsible development of renewable energy and moving the Nation toward a clean energy future is a top priority of the Department of the Interior. The Department signed a Memorandum of Understanding in March 2010 intended to focus on opportunities for development of environmentally sustainable hydropower at existing Bureau of Reclamation (Reclamation) facilities. The Department, acting through Reclamation, will consider proposals for non-Federal development of hydroelectric power at Granby Dam Outlet of the C–BT, Colorado. Reclamation is considering such hydroelectric power development under a lease of power privilege. No Federal funds will be available for such hydroelectric power development. The Department will prioritize projects that appropriately balance increased energy generation with consideration of environmental impacts. The Western Area Power Administration (Western) would have the first opportunity to purchase and/or market the power that would be generated by such development under a lease of power privilege. The C–BT is a Reclamation project. This Notice presents background information, proposal content guidelines, information concerning selection of one or more non-Federal entities to develop hydroelectric power at Granby Dam Outlet, and power purchasing and/or marketing considerations. Interested entities are invited to submit a proposal on this project.

DATES: A written proposal and seven copies must be submitted on or before 1 p.m. (MDT), on August 19, 2011. A proposal will be considered timely only if it is received in the office of the Lease of Power Privilege Coordinator by or before 1 p.m. (MDT) on the designated date. Interested entities are cautioned that delayed delivery to this office due to failures or misunderstandings of the entity and/or of mail, overnight, or courier services will not excuse lateness and, accordingly, are advised to provide sufficient time for delivery. Late proposals will not be considered.

ADDRESSES: Written proposals and seven copies should be sent to Mr. George Gliko, Lease of Power Privilege Coordinator (GP–2200), Bureau of Reclamation, Great Plains Regional Office (GP–2200), P.O. Box 36900, Billings, MT 59107–6900.

Information related to Western's purchasing and/or marketing the power may be obtained at Western Area Power Administration, Rocky Mountain Region, Attn: Dave Neumayer, Power Marketing Manager, 5555 East Crossroads Blvd., Loveland, Colorado 80538, Telephone: (970) 461–7322.

Information related to the operation and maintenance of Granby Dam and Reservoir may be obtained at Northern Colorado Water Conservancy District, 220 Water Avenue, Berthoud, Colorado 80513, Telephone: (970) 532–7700.

FOR FURTHER INFORMATION CONTACT: Mr. George Gliko at (406) 247–7651.

Reclamation will be available to meet with interested entities only upon written request to the Lease of Power Privilege Coordinator at the above address. Reclamation reserves the right to schedule a single meeting and/or visit to address at one time, the questions of all entities that have submitted questions or requested site visits.

SUPPLEMENTARY INFORMATION: The C–BT, located in central Colorado, was authorized for construction, including hydroelectric power, by the Department of the Interior Appropriations Act, 1938 (1938 Act), Public Law 75–249, 50 Stat. 564 (August 9, 1937). Specifically, the 1938 Act appropriates funds for the Project's "construction in accordance with the plan described in Senate Document No. 80, Seventy-fifth Congress, First Session * * *" 50 Stat. 595. As part of the C–BT, the United States constructed Granby Dam. The Northern Colorado Water Conservancy District (District), under its contracts with the United States, has certain operation, maintenance, replacement, and repayment responsibilities and obligations concerning the C–BT, which includes such responsibility for Granby Dam and Reservoir. Reclamation recently released its Hydropower Resource Assessment (March 2011), which estimated that hydropower at Granby Dam is economically feasible to develop (benefit-cost ratio 1.16, including green incentives), and that there is a potential capacity of 484 kW. The Assessment may be viewed in its entirety at *http://www.usbr.gov/power/.*

Reclamation is considering hydroelectric power development at Granby Dam Outlet through a lease of power privilege. A lease of power privilege is a congressionally authorized alternative to Federal hydroelectric power development. A lease of power privilege grants to a non-Federal entity the right to utilize C–BT for non-Federal electric power generation and sale, consistent with project purposes. Leases of power privilege have terms not to exceed 40 years. The general authority for lease of power privilege under Reclamation law includes, among others, the Town Sites and Power Development Act of 1906 (43 U.S.C. 522) and the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) (1939 Act). Reclamation will be the lead Federal agency for ensuring compliance with the National Environmental Policy Act (NEPA) of any lease of power privilege considered in response to this Notice. Leases of power privilege may be issued only when Reclamation, upon completion of the NEPA process, determines that the affected hydroelectric power sites are environmentally acceptable. Any lease of power privilege at Granby Dam Outlet must accommodate existing contractual commitments related to operation and maintenance of such existing facilities, and must meet the requirements of applicable law.

Western would have the first opportunity to purchase and/or market the power that would be generated under any lease of power privilege. Under this process, Western would either purchase and market the power as Loveland Area Power power or market the power independently by first offering it to preference entities and secondly to non-preference entities.

All costs incurred by the United States related to development and