August 12, 2022

Comments re: Proposed Changes to the Methodology Used for Calculating Fair Market Rents, Docket No. FR-6334-N-01, HUD-2022-0051

Fahe writes respectfully in response to the Department of Housing and Urban Development's notice of proposed changes for calculating Fair Market Rents (FMRs). Fahe is a Network of 50+ organizations building the American Dream in Appalachia. Since 1980 Fahe has invested over $1.32B generating $1.69B in finance. Channeled through our Members and community partners, this investment directly changes the lives of 778,114 people in some of the hardest-to-reach places in Appalachia.

As builders, developers, preservers, repairers, and rehabilitators of affordable housing across Appalachia, Fahe Members are where the rubber meets the road for federal investments into housing – which includes those made by HUD and affected by the proposed FMR calculation changes. While Appalachia is a diverse region composed of urban, suburban, small town, and rural communities, we are acutely aware of the policy challenges that come with working in rural places. Our comments here then, are focused on the impacts of the proposed changes on rural communities' FMRs, as well as HUDs calculation of rural FMRs more broadly.

Proposed Changes to the Methodology

In general, the proposed changes to the FMR methodology for FY2023 will have little to no impact on rural places. This is a missed opportunity that fails to account for the thousands of rural Americans who are rent burdened. Rents and cost for utilities are increasing in rural places too, and have been unaffordable for many years, just as they have been in urban places. 40.5% of residents in Perry County, Kentucky, for instance, are rent burdened. The affordable housing crisis is not limited to our cities. As we seek ways to accurately capture and reflect the rapidly rising cost of housing, HUD should not be proposing solutions that are limited to the most densely populated portions of America.

More specifically however, we have deep concerns about the use of private rental market data for FY2023. Fahe believes that in this particular instance of crisis, private data should be used to better understand the current market for FY 2023's FMR calculations. As currently used, this method will likely only benefit the more densely populated communities in our Region, including Birmingham & Huntsville, AL, Knoxville, TN, and Roanoke, VA. It is unclear if all MSAs, particularly those in less populated regions, will benefit at all. This reality further limits the usefulness of this data. For example, none of the MSAs in West Virginia, including the capital city of Charleston, appear to meet the requirement for 3 private data sources. Is this proposal then only oriented toward benefiting the very-largest MSAs in the nation?

Regardless of any potential issues with the use of private data for FY2023, it is crucial that after this fiscal year, this private rent data not be used again for calculations of FMRs. Compared to OMB-derived data, there is no public oversight over how the data is gathered, compiled, and reported. Future improvements and modifications to FMR calculations should be based on the use of federally-derived data that has the ability to be examined and improved. **FY2023 should be a one-time, emergency, deviation from this principle.**

Standard FMR Calculation and Long-Term Changes

Beyond the proposed changes, the way that standard FMRs are calculated also need to be addressed to make them more equitable and accurate. Fahe Members working in rural areas have long reported the depressive effects of low FMRs on various aspects of their community development work. These effects are most acute in persistent poverty counties, in counties with very small populations, and in communities that are in states with concentrations of rural poverty.

Low FMRs have a depressive effect on the maximum value of a Section 8 voucher, resulting in an outright lower buying power for families looking for homes, and a limiting effect on the number of landlords willing to accept those vouchers. Low FMRs also have a depressive effect on the ability of nonprofits to develop new affordable housing. In these deeply impoverished, rural, places the mainstays of federally-assisted affordable housing development are not deployable (namely, tax-credit based systems). This leaves the HOME Investment Partnerships program as one of the few avenues for development. However, low FMRs make for low HOME rent ceilings, which in turn requires more subsidy to cashflow new housing units, lowering production.

The low FMRs for these places (again, persistent poverty counties, rural communities in states with concentrations of rural poverty) do not reflect the reality of rental prices on the ground. Poor data collection in these small places causes inaccurate FMR calculations. A place like Perry County, KY, referenced earlier, has FMRs produced by strings of 5-year estimates which are much less statistically rigorous than those available in more densely populated places, and relies on state-wide data. In fact, Perry County FMRs for 1- and 3-bedroom households went down from FY2021 to FY2022, while the base 2-bedroom, and efficiency and 4-bedroom, FMRs increased (See Figure 1, below). FMRs went down so much that they triggered the 'no more than 10% decrease' safety check in the calculation. Local nonprofit experts can attest that local rents have *increased across the board* year over year, regardless of bedroom size. No rents have gone down in Perry County. **In short, the data produced by the Census Bureau and by HUD is not reflecting reality in these places.**

There is another mechanism that disadvantages rural, persistently impoverished places, of which Perry County is an example: The State Nonmetropolitan Median FMR. Nonmetropolitan counties are prevented from having dramatically lower FMRs compared to their neighbors by a state-floor mechanism, which sets the lowest possible FMR at the median of the nonmetropolitan counties of that state. In a state with concentrated rural poverty (i.e. Kentucky, Mississippi, New Mexico), this means that the state median is depressed, preventing any counties from seriously benefiting from the state floor. There may be an opposite issue, in a well-off state, found in the required use of the national ceiling if a state median is too *high*. We are not qualified to offer an opinion on that particular issue, but highlight it as a possible counterpart to our own.

FY 2022 Fair Market Rent Documentation System

The FY 2022 Perry County, KY FMRs for All Bedroom Sizes

Final FY 2022 & Final FY 2021 FMRs By Unit Bedrooms					
Year	**Efficiency**	**One-Bedroom**	**Two-Bedroom**	**Three-Bedroom**	**Four-Bedroom**
FY 2022 FMR	$482	$518	$674	$865	$979
FY 2021 FMR	$475	$575	$663	$922	$967

Perry County, KY is a non-metropolitan county.

Figure 1: huduser.gov data for Perry County, KY's Fair Market Rents FY2021 & FY2022, showing uneven decreases for 1- and 3- bedroom households

Fahe recognizes that calls to increase FMRs sound counterintuitive from a Network of affordable housing providers. We are of course concerned with the cost of the rent for our neighbors, and work every day to ensure that they can access safe, decent, housing that they can afford in the communities we all call home.

The central problem is that the FMRs in our communities are so low, they are preventing us from building affordable housing. And the FMRs are low because of structural issues with the way we collect and analyze the data, which seems systemically to disadvantage rural communities.

We would encourage HUD to conduct a review, with a lens of rural parity, of the standard FMR system as well as their other data and metrics production systems, like the Area Median Income system, which Fahe has written on before: https://fahe.org/income-eligibility-limits/. This future review could call for improvements to data accuracy along the lines of those called for in this proposed change. This would be in line with the direction offered by the White House in Executive Order # 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, which includes rural places as those which have been historically underserved and poorly targeted via federal policy.

To conclude, Fahe appreciates HUD's willingness to improve FMR accuracy in large urban areas when facing a year of statistically-weak data, and encourages them to apply the same principle to rural places that face statistically-weak data every year.

We continue to look to HUD as a leader and partner in this work. We thank them for their efforts to improve data accuracy and for being responsive to community needs; and we welcome the opportunity to be a thought partner in how to extend this effort into Rural America, as we all strive to provide high quality affordable housing in every corner of the nation.

Federal Income Limit Fairness – A "National Floor" Proposal

Despite Congress' best intentions when they created the system that disburses federal housing and community development dollars, there is a deep unfairness inherent in that system. Poor rural counties in poor states do not have the same safety mechanism that poor rural counties in rich states have. This proposal outlines that unfairness, and suggests a legislative reform to ensure that the safety mechanism, as Congress originally intended, actually works for everyone in the nation.

Area median income and income limits

Many federal programs rely on community economic information produced by the U.S. Department of Housing and Urban Development (HUD) for targeting and eligibility based on incomes of families. These include crucial housing and community development programs that low-income families and entire towns and counties rely upon, for example the HOME Investment Partnerships program through HUD, and the Single Family Housing Direct Home Loans program ("Section 502") through the U.S. Department of Agriculture.

HUD produces, for every Metropolitan Statistical Area (MSA) and non-metropolitan county, a measure known as the Median Family Income, more popularly referred to as Area Median Income (AMI). This measure reflects the median income for families living in the area in question, and is used as the basis of the calculations which establish "income limits". The most common income limits are set at 80%, 50%, and 30% of AMI for an MSA or county, and are used to determine which families are "low-income", "very low-income", and "extremely low-income" respectively.

Because income limits are set as percentages of the AMI if the AMI calculation for a community is flawed, so too are the income limits for any program which bases eligibility on the HUD AMI figure.

MSA's and non-metropolitan counties are affected differently

In a major metropolitan area like Washington, D.C. with a high AMI, the fractional calculations set income limits with a lot of range in between them – see the table below for details. In places like Perry County, Kentucky however those income limit brackets are right on top of one another – the difference between an average family and a low income family is considered to be only $4,450 per year. The closer these numbers are to one another, the higher the indication that a community is struggling.

	Perry KY	Randolph WV	Washington DC
AMI for community	$45,400	$54,900	$121,300
"Low Income"	$40,950	$43,900	$77,600
"Very low income"	$25,600	$27,450	$60,650
"Extremely low income"	$25,600	$25,750	$36,400
Difference between "average family" income and "low income" limit	$4,450	$11,000	$43,700

This indicates that a smaller percentage of residents – not just a smaller absolute number of residents – are eligible for federal programs in these non-metropolitan counties. If the AMI system was calculated correctly, then the percentage share of the population considered "low-income" in both urban and rural areas should be roughly equal. As you can see from the table below, that was not the case. It indicates that in urban areas, 30.4% of the population qualifies as "low-income" whereas in rural areas only 16.3% of the population does. Clearly, the system is not treating urban and rural areas the same.

Cumulative Population Figures by Income Category: Rural vs. Urban Census Tracts (based on County CBSA Definitions)

Income Category	Rural Population	Urban Population	Sum	% of Rural Pop Included	% of Urban Pop Included
Very Low (<=50% AMI)	477,671	21,163,298	21,640,969	1.0%	7.7%
Low (<=80% AMI)	7,510,186	83,675,008	91,185,194	16.3%	30.4%
Moderate - Low 1 (<=90% AMI)	14,553,852	110,128,163	124,682,015	31.6%	40.1%
Moderate - Low 2 (<=100% AMI)	24,122,586	138,720,683	162,843,269	52.3%	50.5%
Moderate High (<=120% AMI)	39,522,509	189,991,841	229,514,350	85.7%	69.1%

Source: OFN, 2019; US Census Bureau, 2019; PolicyMap, 2019.

This targeting failure can be tied directly to the way we calculate the AMI's for those different areas. With a lower AMI, the income bands which make a family eligible are not only closer together, but also in real dollar terms are lower than they are in places with higher AMI. But cost of living differences are not that stark: food staples, car repair bills, and college tuition prices are broadly similar across the country. In effect, we are unjustly defining-out low-income households in rural counties. This pattern holds true in rural persistent poverty counties and is in fact even more prominent.

Congress intended to prevent this issue

In the authorizing language contained in Section 567 of the Housing and Community Development Act of 1987 (P.L. 100-242), Congress placed a "state floor" into the calculation of non-metropolitan county AMIs to prevent a particularly poor county from suffering from a depressed AMI. This state floor mechanism stated that in calculating such a county's AMI, if the median income of the entire nonmetropolitan area of the state was higher, that county shall use the higher number. This state floor mechanism works very well in states with relatively affluent non-metropolitan areas, and only a few isolated poor counties. For instance, the states of California, New York, and North Dakota are all examples of the system working as intended.

Unintended effects: communities doubly disadvantaged

Where the system breaks down, however, is in states with concentrations of rural poverty. In regions like Appalachia (e.g. Kentucky, West Virginia), the Mississippi Delta (e.g. Mississippi, Louisiana), and along the southern border (e.g. New Mexico, Arizona) concentrations of rural poverty artificially lower AMI calculations state wide.

In these instances, living in a poorer state means that Congress's intended safety mechanism fails. The people in those communities are doubly disadvantaged by living in a poor county and a poor state. The result is that in affected communities, federal assistance is not reaching exactly the people it needs to reach, as it was intended to by Congress.

The solution – a national floor

This disparity can be erased and communities in economically distressed counties in poorer states can receive the federal funding they should already be receiving by revising the original mechanism put in place by Congress. This mechanism – the state floor – can be extended to include a national floor.

Currently, when calculating AMI, HUD must use the higher of either the county number or the state number. By inserting into the Housing and Community Development Act of 1987 a new requirement that HUD also include the "national nonmetropolitan median income" number in this "higher of" check, Congress can ensure that its original intent is carried out. In places where the state nonmetropolitan median income is depressed by concentrated rural poverty, the national floor would bring that community's AMI up to the national average – wiping out disparity without privileging any community.

The national floor proposed here would increase the AMIs for 998 counties across the country. 245 of those counties are in Appalachia, and 190 are in the Mississippi Delta, where these income limit issues are most acute due to concentrated rural poverty and low state AMI floors.

The amount that the proposed change raises the income limits varies from state to state. The largest increases to the income limit, for a family of four, would raise the amount of money a family can make and still qualify as "low income" by $8,928. The smallest increase would raise the same metric by $28. This unevenness of the impact is directly related to the existing unfairness – the proposed change here levels the playing field, and reverses that unfairness, by affecting most those counties that are currently most disadvantaged.

What should Congress do?

To solve the unfairness in the income limit system, Congress should return to its original legislation and insert language that causes income limit calculations to use the higher of the county AMI, the state non-metropolitan AMI, or the national non-metropolitan AMI. Proposed legislative language that would actualize this change is below.

Section 567 of the Housing and Community Development Act of 1987 (P.L. 100-242) is amended to strike at the end:

"the State.",

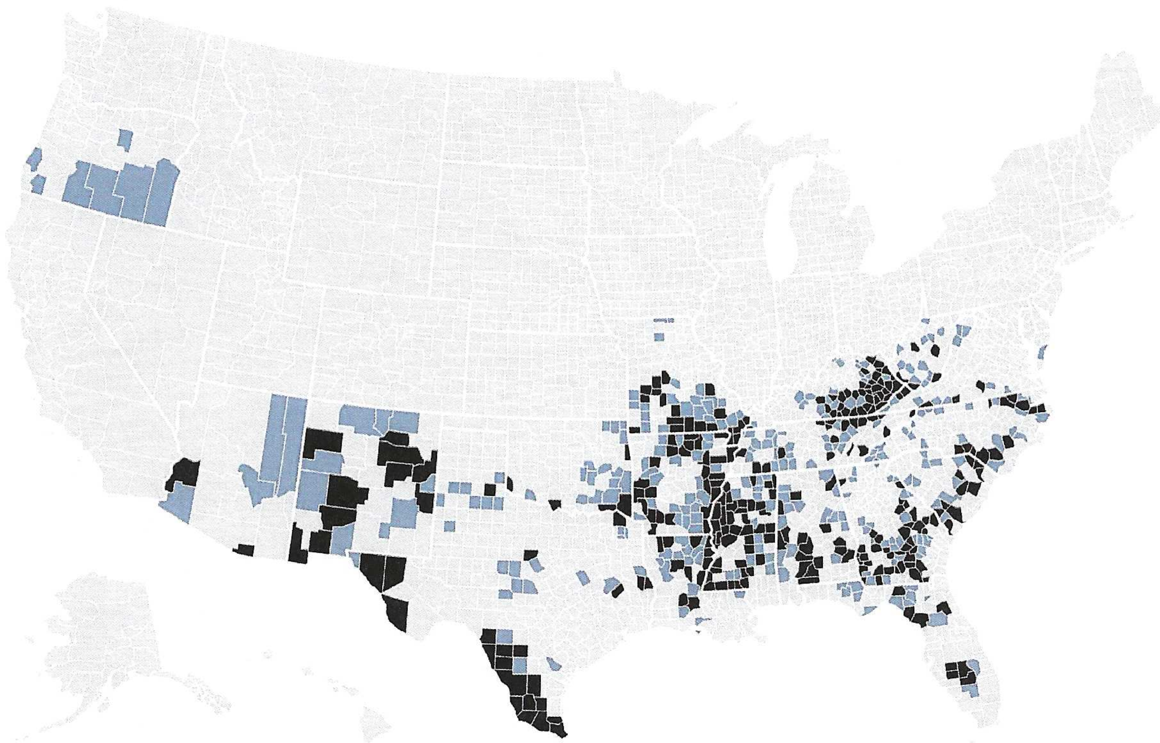
And insert "the State; or

(3) the median income of the entire nonmetropolitan area of the Nation."

For more information on this issue, including data on affected counties and states, please contact Joshua Stewart, Senior Advocacy Manager at Fahe, via email at jstewart@fahe.org or via phone at 859.986.2321 ext. 6261

The following map is included to indicate the geographic distribution of the existing issue in calculating area median incomes, and illustrates how the disparity negatively affects communities even in national emergencies. The map highlights counties where recent Treasury Department regulations prevent tens of thousands of families from accessing the Homeowners Assistance Fund from the American Rescue Plan Act of 2021.

Counties where 150% of AMI is lower than 100% of National Median Income



Black counties: $23,900-$46,700 AMI, Blue counties: $46,700-$52,300 AMI

Map: Joshua Stewart, corrected 7MAY2021 • Source: Fahe • Created with Datawrapper

Persistent Opportunity Collaborative Initiative

Rural America built this nation, but its regions represent diverse communities who struggle with the same problems: lack of investment, neglect, extraction of natural resources, and marginalization, resulting in decades of economic injustice. If we want to reach our full potential as a country, we need to invest in helping rural Americans thrive. With the commitment of the Administration to address underserved communities based on race and place there is a greater number of stakeholders than ever before who are prepared to work together to end persistent poverty and inequality.

Rural communities face consistent inequities across social indicators in areas such as health, education, and financial well-being. For example, 91 of the 100 most disadvantaged communities in the United States are rural. These inequities are the product of a range of historical, economic, political, demographic, and structural factors that are both national and region-specific.

The Rural Partnership Network (RPN) represents hope for sustainable economic growth in the poorest areas of the United States. Similar past efforts, while successful, didn't reach their full potential because they didn't understand the regionalization of these issues and didn't bring together regional partners or encourage private investment that such regions desperately need. Often overlooked by national funders, rural America faces profound inequities, but also provides an untapped source of innovation. RPN presents an opportunity to go further, to address the needs of rural persistently poor regions in profound ways. Together with regional and philanthropic partners, we can change what it means to live in rural America.

Eliminating poverty in rural America's most disadvantaged regions requires the efforts of federal agencies and programs, private investors, and regional organizations to work collaboratively. **On behalf of the Partners for Rural Transformation, we propose a collaborative "three legged" approach by bringing together USDA, investors (philanthropic and private), and the regional partner organizations.** We want to work together to empower and generate wealth for the 20 million rural people living in persistently poor counties.

1. **Federal Programs**

RPN is going deep in select counties within some of the nation's most persistently poor regions. Federal programs provide enormous benefit, but they cannot operate by themselves, they work best in communities that already have sufficient private investment and nonprofit capacity. Unlike work in urban cities, to foster economic development in rural communities, we need to build connections between communities as well as invest in capacity locally and regionally. This work is best conducted by regional partners who understand the cultures and communities where they work.

2. Philanthropic and Private Capital

In addition to Federal resources and initiatives, the second leg is philanthropic and private capital which are necessary toward systems building, collaboration and planning. There is an imperative for funders to increase their focus on rural areas, which will require a different way of working. Effective rural philanthropy challenges preconceptions about rural communities and focuses on building from within and impact over scale.

Addressing the acute challenges that rural Americans face, including racial inequities, political polarization, economic inequality, access to health care and education, and climate change, will be integral to and instructive in the challenges that we face as a country. The FB Heron Foundation is considering a sizable commitment to this work in persistent poverty regions over several years. The foundation is also willing to play a convener role, to spearhead a regional approach building on the work of RPN. In addition, the foundation will bring other philanthropic and private funders to the effort.

3. Regional Partnership

Finally, to be effective coordinating work in the region and on the ground requires the work of federal agencies and networks like RPN and philanthropy to come alongside organizations such as ourselves at Partners for Rural Transformation (PRT). PRT is comprised of CDFIs that serve three-quarters of the country's persistent poverty counties in the same priority pilot cohorts as RPN. We provide the boots-on-the-ground regional partners who are doing groundbreaking anti-poverty work across entire regions. For example, we are connecting the issues facing West Virginia to those in southeastern Kentucky and leveraging change across the Appalachian Mountains while shifting to an empowerment narrative.

What makes us unique is that our work doesn't just prioritize increasing capital in communities but amplifying local voices to change the narrative in the rural places we call home. However, to make the most impact, we need the capital investment of private funders and investors as well as the resources, expertise, and attention from federal programs like USDA.

The RPN initiative presents excellent opportunity to alleviate poverty in select rural communities. Building on this, we are confident that with our combined efforts, we can achieve success in rural regions who have experienced structural oppression. PRT's established relationships with local organizations within communities of persistent poverty, combined with the policies and priorities of USDA's RPN will empower rural people in ways we cannot accomplish alone. Therefore, we are asking for you to join a working group that will establish strategic goals to create long-term solutions.