Rent Regulations for CoC and ESG Programs

A Deeper Dive into HUD Rent Regulations

Purpose: This resource provides a comprehensive explanation of rent-related regulations for Continuum of Care (CoC) and Emergency Solutions Grants (ESG) programs. The goal is to equip agencies with the knowledge needed to confidently navigate complex rules from HUD and the CoC, and to leverage that understanding to help clients find suitable housing more quickly. This is especially critical for agencies working with participants, such as those with disabilities, who may require specific unit features that are often difficult to find within typical rental price points. Ultimately, this guide aims to help agencies maximize housing opportunities for clients and ensure full compliance.

Core Concepts: FMR and Rent Reasonableness

Before exploring the regulations, it's essential to understand two foundational HUD concepts:

- **Fair Market Rent (FMR):** FMR is HUD's estimate of the gross rent (rent plus tenant-paid utilities) for a modest, non-subsidized rental unit in a local housing market. It is set annually for different unit sizes and serves as a benchmark for rental assistance programs. FMRs exist to ensure a reasonable supply of adequate housing is accessible to program participants.
- **Rent Reasonableness:** This standard ensures the rent paid for a subsidized unit is comparable to rents for similar, unassisted units in the same market. To be "reasonable," the rent must not exceed what the same owner charges for comparable unassisted units. This is a separate, mandatory standard from FMR and applies to all HUD-assisted units.

Continuum of Care (CoC) Program Regulations

The CoC program's rent rules depend entirely on the specific budget line used.

Rental Assistance

What it is: A tenant-based subsidy where the assistance follows the program participant, allowing for greater mobility and choice.

- **The Rule:** A project using the "rental assistance" budget line **can pay rents that are above the FMR,** if the rent is "rent reasonable." This is a critical distinction that offers flexibility.
- **How it Works in Practice:**
  - The agency determines whether the unit's rent is "rent reasonable" by comparing it to similar units in the market.
  - The tenant's portion of the rent is calculated based on their income.

- **Regulatory Citation: 24 CFR 578.51(g)** states that HUD will only provide rental assistance for a unit if the rent is reasonable. This rule, which is distinct from the FMR limitation in CoC leasing, means that the rent charged for the unit must be comparable to rents for similar, unassisted units.

Leasing

What it is: A project-based subsidy where the recipient leases a specific unit or structure and then subleases it to a program participant.

- **The Rule:** Projects using this budget line **must always pay rent at or below the FMR.** This is a hard cap.
- **How it Works in Practice:**
  - Before executing a lease, the agency must verify that the gross rent is at or below the FMR for that unit size and location and pass the rent reasonableness standard.
  - If a unit's rent exceeds the FMR, it is ineligible for leasing funds, regardless of the tenant's contribution.
- **Regulatory Citation: 24 CFR 578.49(b)(2)** explicitly states that leasing funds may not be used to pay for a portion of the rent that is over FMR. Funding is to be used to pay rent that is comparable to other units.

Emergency Solutions Grants (ESG) Program Regulations

ESG-funded projects operate under a stricter set of rules than CoC rental assistance.

- **The Rule:** All ESG-funded rental assistance payments must be for a unit where the rent is at or below **both the FMR and the rent reasonableness standard.** This is a hard cap, meaning the rent must satisfy both conditions.
- **How it Works in Practice:**
  - Before a lease can be signed, the unit must pass both tests.
  - If the rent is above the FMR, or if it is deemed "not reasonable," no ESG funds can be used for that unit, regardless of the tenant's contribution.
- **Regulatory Citation: 24 CFR 576.106(d)** mandates this rule for all ESG rental assistance.

Practical Scenarios & Funding Charts

The following charts illustrate how different rent situations would be handled under each program and budget line. The numbers and calculated rent portions in the scenarios below are fictional. We used these numbers to illustrate in a simple way how these regulations work. Please do not copy these numbers when working with participants.

Hypothetical Scenario:

FMR for a 1-bedroom unit: $1,000

- Client's rent portion: $300

Chart 1: Rent is at or below FMR

- (Unit Rent: $950)

Program/Budget Line	Can the unit be rented?	Who pays what?
CoC Rental Assistance	**Yes**	The Client pays $300, CoC funds pay $650.
CoC Leasing	**Yes**	The Client pays $300, CoC funds pay $650.
ESG Rental Assistance	**Yes**	The client pays $300, ESG funds pays $650.

Chart 2: Rent is above FMR

- (Unit Rent: $1,200)

Program/Budget Line	Can the unit be rented?	Who pays what?
CoC Rental Assistance	**Yes, if rent is reasonable.**	CoC funds pay a portion of the rent that is deemed reasonable, which may be more than the FMR.
CoC Leasing	**No**	The unit is **ineligible** for this budget line because it has a hard cap at the Fair Market Rent.
ESG Rental Assistance	**No**	**The unit is ineligible for this program as it exceeds the Fair Market Rent.**

Additional Resources

- **eCFR**: CoC Program Interim Rule (24 CFR Part 578)
- **eCFR**: ESG Program Interim Rule (24 CFR Part 576)
- CoC Rent Reasonableness and Fair Market Rent. HUD Exchange:
- **HUD Exchange:** Continuum of Care (CoC) and Emergency Solutions Grants (ESG) Virtual Binders

Alternatively, to find the information by navigating the virtual binders, follow these steps:

- Go to the main CoC and ESG Virtual Binders page on the HUD Exchange website.
- Click on the "CoC Leasing and Rental Assistance Requirements" link. This will take you to the overview page for this specific topic.
- From the overview page, you can navigate to different sub-sections such as "Lease Structure," "Requirements," "Fair Market Rent (FMR)," "Rent Reasonableness," and more.