

Rent Reasonableness for Tenant-Based Rental Assistance (TBRA) and Emergency Solutions Grants (ESG)

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Rent Reasonableness

What is Rent Reasonableness?

- Rent Reasonableness refers to the process used to ensure
 - Fair rent amounts are being paid for units participating in the Program
 - Reduction of waste of government funds
 - Availability of housing subsidies to more eligible Applicants
 - Program does not have the unintended effect of inflating rents in the community
 - Quality units are made available so that eligible Applicants are not restricted in where they can live
- Applies to
 - HOME Tenant-Based Rental Assistance (TBRA)
 - Emergency Solutions Grant (ESG) Programs

Rent Reasonableness

Federal Requirements

- **24 CFR 982.507** – Defines reasonable rent and gross rent
 - Specifies when to conduct Rent Reasonableness verifications
 - Identifies required comparison factors
 - Describes eligible comparable units
 - Explains owner certification
- **24 CFR 574.320** – Additional Standards for Rental Assistance
- **24 CFR 92.209(f)** – TBRA. The participating jurisdiction must disapprove a lease if the rent is not reasonable, based on rents that are charged for comparable *unassisted* rental units.
- **24 CFR 576.106(d)** – ESG. Rental assistance cannot be provided unless the rent does not exceed the Fair Market Rent established by HUD, as provided under [24 CFR part 888](#), and complies with HUD's standard of rent reasonableness, as established under [24 CFR 982.507](#).

Rent Reasonableness

State Requirements

- **10 TAC 23 – TBRA**
 - 23.61(g), as amended - Lease agreement start date must be the same as the Rental Coupon Contract (RCC) start date, and a Rent Reasonableness analysis must be conducted prior to the start date of the RCC
 - 23.61(l), as amended, is *indirectly* related to Rent Reasonableness – Administrator must not approve a unit if the owner is by consanguinity (blood), affinity (marriage), or adoption, the parent, child, grandparent, grandchild, sister, or brother of any member of the assisted Household unless approving the unit would provide reasonable accommodation for a household member who is a Person with Disabilities. This restriction applies at initial setup, not to a recertification with continued assistance in the same unit.
- **10 TAC 7, Subchapter C, RULE §7.2001 – ESG**
 - (c) ESG Subrecipients shall comply with the regulations applicable to the ESG Program as set forth in this subchapter and as set forth in 24 CFR Part 91 and 24 CFR Part 576 (the "Federal Regulations"). ESG Subrecipients must also follow all other applicable federal and state statutes and the regulations established in this chapter, as amended or supplemented.
- **TDHCA Rules and Regulations:** www.tdhca.state.tx.us/rules.htm

Rent Reasonableness

Definition of “Reasonable”

- To be considered reasonable, the rent charged:
 - Must be realistic and sensible in comparison to rents currently charged for similar units in the private *unassisted* market in the area; and
 - Must not be exceed defined limits of rent amounts charged for similar *unassisted* units; and
 - For multi-family apartment communities, must be comparable to similar units on the premises

Rent Reasonableness

Calculate Rent Reasonableness

- Rent Reasonableness is based on **Gross Rent**:
 - Contract Rent
 - + Utility Allowance (only if utilities are not included in rent)
 - Gross Rent
- Gross rent cannot exceed the FMR for the area, **and** must
- Meet the definition of reasonableness (see previous slide)
- Examples for consideration:
 - Contract Rent may be less than FMR but still be out of line with rents charged in the area

ESG – Gross Rent cannot exceed FMR

Fair Market Rent (FMR) *by itself*, cannot be used as evidence of Rent Reasonableness

Rent Reasonableness

Policy & Procedures

- Develop written Policy & Procedures that address Rent Reasonableness practices for your organization
 - Ensure fair and equal treatment by consistently applying policies and procedures to all projects
 - Ensure compliance with HUD/TDHCA requirements
 - Include methodology, checklists, forms to be used
 - Define staffing assignments
 - Address special circumstances
 - Step-by-step process for Rent Reasonableness analysis
 - Specify your definition of “reasonable”

Rent Reasonableness

Defining Rent Reasonableness

- **TBRA** – Administrator must determine and specify in the written Policy & Procedures the appropriate definition of what it considers “reasonable” for its unique Program.

SAMPLE DEFINITION OF RENT REASONABLENESS

TBRA Administrator
Policy & Procedures

Gross Rent information must be collected for at least 3 comparable unassisted rental units within the area. Rent for a proposed unit may be considered “reasonable” if its Gross Rent is no more than 5% above the average Gross Rent of the comparable units analyzed.

- **ESG** – Gross Rent cannot exceed FMR

Rent Reasonableness

When to Conduct Rent Reasonableness Analysis

- When a new application is received
 - Analyze and verify reasonableness before authorizing a rent amount to an Applicant or a owner/landlord/manager
 - Advise the Applicant not to sign a lease agreement before receiving approval
 - Must be completed and documented prior to the start date of the RCC
- When rent increases are imposed by landlord – confirm and document reasonableness of the new rate
- **TBRA – FMR decrease**
 - When annual Recertification is conducted and there has been a 10% (or more) FMR decrease from the FMR that was in effect 60 days prior to the Recert date, even if there is no rent increase
 - This provision is designed to ensure that when the market goes down by a significant amount, even if the owner does not propose a rent increase, Rent Reasonableness is re-examined and documented

Rent Reasonableness

TBRA: Example of FMR Decrease

- 12/1/2016 initial setup FMR = \$900
- 10/1/2017 new FMR published = \$800 (\$100 decrease)
- 12/1/2017 Recertification due – NO CHANGE in monthly rent amount

What is the percentage of the FMR decrease? $\$100 / \$900 = 11\%$

*Was the new FMR in effect 60 days prior to the Recert Date? **Yes***

Re-examination and documentation of Rent Reasonableness is required for this Recertification even though there is no change in monthly rent charged

Rent Reasonableness

When is Determination of Rent Reasonableness Required?

- When directed by HUD or by TDHCA
- According to Administrator/Subrecipient's Program Policy & Procedures
- Any time it is determined appropriate

Rent may not at any time during the assisted tenancy exceed the most recently determined reasonable rent amount.

- By accepting each monthly assistance payment, the property owner certifies that the rent charged is not more than the rent he/she charges for unassisted units on the premises.

Rent Reasonableness

9 Reasonableness Factors

- Rent Reasonableness determination must take into consideration the following 9 factors when identifying comparable unassisted units:
 - Location
 - Size – number of bedrooms
 - Type – apartment, house, duplex, condo, manufactured housing
 - Quality
 - Age of unit
 - Amenities
 - Housing services
 - Maintenance
 - Utilities supplied by the owner
- The manner in which these factors affect rent amounts varies depending on the marketplace

Rent Reasonableness

Comparable Units

- Only properties that are NOT federally subsidized may be used as “unassisted” comparable units when conducting the Rent Reasonableness analysis
 - Properties receiving federal subsidies are considered assisted units
 - Low Income Housing Tax Credit (LIHTC) properties
 - HOME-assisted multi-family properties
 - Sections 8, 236, 202
- If there are few rental units in a particular area, you may need to expand the geographical area of your search
 - Same size and type, broader geographical area
 - Same size and location, but other types
 - Same size, different type, broader geographical area

Rent Reasonableness

Same Size / Different Type / Broader Area

	Area A	Area B
4-bedroom apartment	None	\$1,300
4-bedroom single family home	\$1,450	\$1,725

The proposed rent for the Applicant's 4-bedroom apartment located in Area A is \$1,100 but there are no other 4-bedroom apartment rent comps in Area A.

The rent for 4-bedroom single family homes in Area A is 16% less than in Area B.

Using this percentage as an indication of the rent variance between the two areas, you determine it is reasonable to estimate the 4-bedroom apartment rent in Area A would be about 86% of the rent in Area B.

$\$1,300 \times 86\% = \$1,118$ estimated monthly apartment rent in Area A.

You determine that the proposed \$1,100 monthly rent is reasonable.

Rent Reasonableness

Obtain Area Rental Unit Data

- Create a database of unassisted rental units in your area and conduct periodic updates to your database – keep it current!
 - US Department of Housing and Urban Development (HUD)
 - www.hud.gov
 - US Census Bureau data - American Fact Finder for housing
 - https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml
 - US Department of Agriculture Rural Development Agency (USDA)
 - https://rdmfhrentals.sc.egov.usda.gov/RDMFHRentals/select_state.jsp
 - Local taxing authorities
 - Online resources
 - www.apartmentguide.com
 - www.apartments.com
 - www.move.com
 - Local newspapers and magazine advertisements

Rent Reasonableness

- Local organizations, Public Housing Authority, Chamber of Commerce
 - Property management companies and professional associations
 - Rental market studies and/or surveys
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 - Rental market studies and/or surveys
- Use your data to complete a Rent Reasonableness Certification form to be retained in your Project file
 - Optional: HUD checklist for Rent Reasonableness
<https://www.hudexchange.info/resources/documents/RentReasonableChecklist.pdf>

Rent Reasonableness

Putting it All Together!

- You are assisting a household seeking to rent a 2-bedroom apartment in Tyler, TX . The Contract Rent for the proposed unit selected by the Applicant is **\$800**.
- Your written Policy & Procedures requires that information must be collected for at least 3 comparable unassisted rental units within the area. Rent for a proposed unit may be considered reasonable if its Gross Rent is no more than 5% higher than the average Gross Rent of the comparable units analyzed
- Does the proposed rent meet Rent Reasonableness requirements for TBRA? For ESG?

Rent Reasonableness

- Step 1 – Comparison Checklist

Refer to your database of comparable units and complete a comparison checklist using at least 3 units, per your Policy

	Proposed Unit	Comp Unit #1	Comp Unit #2	Comp Unit #3
Address	123 Elm St.	456 Uptown Rd.	100 Fancy St.	200 Plain St.
Location	Tyler	Tyler	Tyler	Tyler
Size - # Bedrooms	2	2	2	2
Type of Construction	Apartment	Apartment	Apartment	Apartment
Quality	Good	Good	Very Good	Fair
Age in Years	10	12	5	15
Amenities	Basic	Basic	Cable	Basic
Housing Services	None	None	None	None
Maintenance/Condition	Good	Good	Very Good	Fair
Utilities Included	No	No	No	No
Contract Rent	\$800	\$775	\$875	\$700
Utility Allowance				
Gross Rent				

Rent Reasonableness

Locality: City of Tyler, Texas		Unit Type: Low-rise Older Multi-Family					Effective 10/01/2015
October 2015		Monthly Dollar Allowances					
Utility or Service		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	a. Natural Gas	4	5	6	6	8	8
	b. Electric	7	8	10	12	14	16
	c. Bottle Gas						
	d. Oil						
Cooking	a. Natural Gas	2	2	3	4	4	5
	b. Electric	5	6	7	8	9	11
	c. Bottle Gas						
Other Electricity	38	42	50	59	67	75	
Air Conditioning	7	8	13	18	23	28	
Water Heating	a. Natural Gas	5	6	8	10	12	13
	b. Electric	9	11	16	20	23	26
	c. Bottle Gas						
	d. Oil						
Water	16	16	21	26	31	36	
Sewer	17	17	20	24	27	30	
Trash Collection	14	14	14	14	14	14	
Range/Microwave	12	12	12	12	12	12	
Refrigerator	13	13	13	13	13	13	
Other -- specify	21	21	21	21	21	21	

Actual Family Allowances To be used by the family to compute allowance. Utility or Service per month cost

- Step 2 – Utility Allowance
Obtain the Utility Allowance Schedule applicable to voucher programs administered by the Public Housing Authority serving the area.

Circle the cost items applicable to the proposed unit.

Utility Allowance = **\$84**

Rent Reasonableness

- Step 3 – Gross Rent

Complete the checklist to determine Gross Rent for each of the subject units. The Gross Rent will be used to determine if proposed unit meets Policy requirements

$$\begin{aligned} & \text{Contract Rent} \\ + & \text{ Utility Allowance } \\ = & \text{ Gross Rent} \end{aligned}$$

	Proposed Unit	Comp Unit #1	Comp Unit #2	Comp Unit #3
Contract Rent	\$800	\$775	\$875	\$700
Utility Allowance	\$84	\$84	\$84	\$84
Gross Rent	\$884	\$859	\$959	\$784

Rent Reasonableness

- Step 4

	Proposed Unit	Comp Unit #1	Comp Unit #2	Comp Unit #3
Contract Rent	\$800	\$775	\$875	\$700
Utility Allowance	\$84	\$84	\$84	\$84
Gross Rent	\$884	\$859	\$959	\$784

Determine if the proposed unit, which has Gross Rent of **\$884**, meets your Policy requirement not to exceed 5% of the average Gross Rent of the comparable units

$$\$859 + \$959 + \$784 = \$2,602 / 3 = \$867 \text{ average Gross Rent}$$

$$\$867 \text{ average} \times 5\% = \$43$$

$$\mathbf{\$884} - \$867 = \$17$$

Gross Rent of the proposed unit is not more than 5% of the comps average

Yes! This proposed unit meets the 5% test required by your TBRA Policy

Rent Reasonableness

- Step 5 - FMR

Always use the current FMR published by HUD

<https://www.huduser.gov/portal/datasets/fmr.html>

The FY 2018 FMRs for All Bedroom Sizes

Final FY 2018 FMRs By Unit Bedrooms					
Year	<u>Efficiency</u>	<u>One-Bedroom</u>	<u>Two-Bedroom</u>	<u>Three-Bedroom</u>	<u>Four-Bedroom</u>
FY 2018 FMR	\$693	\$728	\$891	\$1,168	\$1,365
FY 2017 FMR	\$626	\$696	\$853	\$1,127	\$1,232

Rent Reasonableness

Document Rent Reasonableness

- Document the basis for your Rent Reasonableness decision in the Project File
 - Record information on the unassisted “comp” units
 - Show methods used and calculations
 - Identify the person conducting the determination
 - Record the date of determination
- Provide sufficient information about the evaluation process so that a monitor can understand how comps were determined and reasonableness established

Rent Reasonableness

	Proposed Unit	Unit #1	Unit #2	Unit #3
Address				
Number of Bedrooms				
Square Feet				
Type of Unit/Construction				
Housing Condition				
Location/Accessibility				
Amenities				
Unit:				
Site:				
Neighborhood:				
Age in Years				
Utilities (type)				
Unit Rent Utility Allowance Gross Rent				
Handicap Accessible?				
Most Recently Charged Rent For Proposed Unit		Reason for Change		

Rent Reasonableness

* Other local resources may be used to obtain information, e.g.: market surveys, classified ads.

I certify that I am not a HUD certified inspector and I have evaluated the property located at the above address to the best of my ability and find the following:

CERTIFICATION:

A. Compliance with Payment Standard

_____ + _____ = _____ Proposed
Contract Rent Utility Allowance Proposed Gross Rent

Approved rent does not exceed applicable Payment Standard of \$_____.

B. Rent Reasonableness

Based upon a comparison with rents for comparable units, I have determined that the proposed rent for the unit ____ IS ____ IS NOT reasonable.

Name: _____ Signature: _____ Date: _____

Rent Reasonableness

Rent Comparability Study

- Project file documentation
- HUD checklist for rent reasonableness
<https://www.hudexchange.info/resources/documents/RentReasonableChecklist.pdf>
- The [Project File Documentation Checklist for the TDHCA TBRA Program](#) includes the Rent Reasonableness Determination under “Right Side”, Item number 5. The Administrator must include all requested items in the file, and must provide these items to TDHCA upon request. The authority to request this documentation is outlined in 10 TAC 23.62(a)(9). When reviewing files, it is incumbent upon TDHCA to confirm that all programmatic requirements have been met. Occasionally, circumstances require staff to request further documentation or clarification to make sure that we are performing our due diligence. We are not requesting additional documents that are not already required to be kept in file, we are requesting submission of a document that should have been filed before any Rental Coupon Contract was executed.
- Please note that if and when HUD monitors TDHCA’s TBRA program, they request submission of the entire Subrecipient file, including documentation that is not typically submitted to TDHCA at the time of project setup. They specifically review rent reasonableness determinations included in every monitored file.

CONTACT INFORMATION

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	Question	Answer
1	Where can I find other webinars for ESG?	Other webinars for ESG can be found under "ESG Learning Opportunities" http://www.tdhca.state.tx.us/home-division/esgp/video-library.htm
2	I believe we have to include additional costs at bottom to cover utility charged related to gas or electric. This came up in our last audit. What about the other utilities listed such as water? for TBRA do we add the other fee electric/gas as outlined in the utility allowance worksheet if applicable?	Electric or gas fees should be included at the bottom of the Utility Allowance Worksheet under "other." Be sure to specify gas or electric. These additional fees need to be included in the overall Utility Allowance total.
3	For TBRA, is rent reasonableness based on the size of the unit they qualify for or the size unit they will occupy?	The purpose of the rent reasonableness analysis is to determine that the assisted unit is being charged rent that is in-line with market rents for comparable units, not to determine subsidy. The analysis should use unit comparable, including size, to the unit being rented by the assisted household.
4	When reviewing for Rent Reasonableness, should we compare units in the actual area or in the CoC jurisdiction?	When reviewing the area, the subrecipient/administrator may set forth the boundaries utilized to determine rent reasonableness as prudent in the areas that they serve. The sample boundary may be as small as a census tract in heavily populated areas with many rental units, or as large as an entire county or counties in rural areas with inadequate market rate units to compare to.
5	if our Public Housing Authority (PHA) uses a flat rate for utility allowance should we use what is provided or ask for the breakdown as listed on the screen?	PHAs that provide Section 8 Housing Choice Vouchers must utilize a full utility allowance worksheet. If the utility allowance schedule from the PHA includes only a flat rate, the schedule is most likely for unit of Public Housing and the subrecipient/grant administrator should contact TDHCA to obtain a utility allowance schedule when the PHA does not administer the Section 8 Housing Choice Voucher Program in the area.
6	For TBRA, doesn't the Total Tenant Payment worksheet show if rent amount is approvable?	The TTP worksheet indicates whether the rent is affordable to the tenant, and what the subsidy amount should be. The rent reasonableness analysis determines whether the unit cost is in line with cost for comparable units the area, which serves a different purpose. Documentation needs to be kept in the client file.
7	What if rents being charged for unassisted units are FAR above what we are able to pay???	This would be an acceptable variance. Further scrutiny of the lease agreement may be called for to verify that the rent as stated on the lease does not exceed the rent proposed prior to the execution of the lease and utilized for the rent reasonableness analysis.

8	when comparing apartments in the area, how does someone figure out the utility allowance for other apartments?	You will use the same Utility Allowance Worksheet from the local PHA.
9	how do we handle situation when a client's rent increases and they are no longer eligible? Would they automatically be exited from the program?	The client is able to find another unit if the rent is determined to be unreasonable.
10	Where can someone find the most current utility allowance form?	Your local Public Housing Authority that administers the Section 8 Housing Choice Voucher Program.
11	What does P.H.A mean?	Public Housing Authority.