FAQs on FY24 Income Limit Cap-on-Cap

What are Income Limits?

Every year, HUD publishes annual income limits, which are used primarily to determine the income eligibility of applicants for HUD housing assistance programs and are based on data from the American Community Survey and other sources. The income limit for federal affordable housing programs is the maximum income a household can earn to qualify or be targeted for assistance.

- **Income Limit methodology.** Income limits are based on a percent of median family income for an area and are adjusted based on how many people live in the household (including children). More information on how income limits are calculated is available here.
- **Income Limit use for setting rents.** In addition to being used to determine eligibility for federal rental housing programs, income limits are also used to determine the maximum rents allowed for the HOME and Low-Income Housing Tax Credit (LIHTC) incentive. More information on "Multifamily Tax Subsidy Projects" limits is available here.

What is new for the income limit methodology in 2024?

We are making a modification to the methodology for determining the cap on how much income limits can go up in a single year in any individual Fair Market Rent (FMR) area (FMR areas are generally metropolitan areas and non-metropolitan counties).

- **Existing cap.** Since 2009, HUD has limited the year-to-year increase in income limits as the higher of five percent or twice the percentage change in national median family income.[1] The list of annual caps on year-over-year increases since HUD instituted this policy is as follows:[2]

Year	Cap
FY 2010	5.00%
FY 2011	5.00%
FY 2012	5.00%
FY 2013	5.00%
FY 2014	5.00%
FY 2015	5.95%
FY 2016	5.00%
FY 2017	7.00%
FY 2018	11.47%

[1] Prior to FY 2022, the change in national median family income relied on American Community Survey (ACS) year-to-year change adjusted by inflation. Beginning in FY 2022 and continuing, the year-to-year change only uses ACS change.

[2] Since 2009, HUD has put a "floor" on the "cap" at 5%. Without that floor, the 5% cap in years with slower income growth would've been significantly lower.

FY 2019	10.01%
FY 2020	7.95%
FY 2021	5.00%
FY 2022	11.89%
FY 2023	5.92%

- **Modification to the cap.** This year, HUD is putting an additional parameter such that if twice the change in national median income is over 10%, the cap in that year can't be greater than 10%. We are calling this the "cap-on-cap." HUD issued a Notice in January 2024 seeking comment on this change, and after consideration of the comments has decided to move forward with the change.

HUD also conferred with the Treasury Department, which administers the LIHTC incentive, to determine how to improve the income limits methodology as applied to that incentive.

Why is HUD making this "cap-on-cap" change?

We are making this change for three reasons:

- **Tenant protection.** Because income limits are used by landlords to set rents in the HOME program and LIHTC incentive, this change protects against single-year rent increases of more than 10 percent for affordable housing properties receiving these federal benefits. By limiting increases in income limits, HUD decreases the burden on low-income households who otherwise would face a large single-year rent increase resulting from higher income limits.
- **Statistical error.** The data used to determine income limits in some FMR areas may not have a large sample size, and thus statistical error could lead to a change in the estimated local median income that is greater than actual change. If the increase is a real increase, that would likely be captured in the following year's data and result in a smoother increase in the income estimate over two years. It would be highly unusual to have multiple years of annual income growth over 10 percent, so for places with a cap and real income growth, HUD's income limits would be expected to "catch up" in years with slower income growth. If the increase is due to statistical error, then we would not have raised the income limits (and potentially lead to sharp rent increases) unnecessarily.
- **Stability and certainty**. With the adoption of this methodological change, HUD also hopes to assist affordable housing development by providing some additional certainty on future maximum income limit increases and the data used to determine that limit. In response to the Notice, several commenters indicated that this certainty will be helpful in planning for the financial viability of current and future projects.

How many areas does the cap impact in 2024?

In FY 2024, the cap of 10 percent allowed increase would apply to 21 percent of FMR areas.[3]

Does the "cap-on-cap" mean owners of LIHTC properties won't have enough rent revenue to maintain their properties?

No, we don't think the new "cap on cap" will impact LIHTC owners ability to operate and maintain their properties.

Under current Treasury rules, LIHTC owners are not required to lower their rents when incomes in an area decrease. They are also not required to raise their rents when income limits increase, but they may. We recognize that landlords have experienced increased costs associated with higher labor costs, higher material costs, and higher insurance costs. HUD calculates year-to-year change on these costs as part of its Operating Cost Adjustment Factors for HUD-assisted housing. HUD estimates of the combined increases in costs for labor, materials, and insurance in 2023 and 2024, capturing the inflationary period of 2022, never exceeded 10 percent in any state.

In properties financed with LIHTC, owners also do not typically assume annual rent growth in excess of 10 percent. In fact, financial underwriting criteria are generally much more conservative, assuming rent growth in the range of 2 or 3 percent annually. While we recognize that property owners are under financial pressure given recent increases in both development and operating costs, the 10 percent "cap on cap" appropriately balances the economic pressure on owners with the objectives of reducing risk of statistical error and protecting low-income residents from untenable rent increases described above.

In addition, because it is highly unusual to have multiple years of annual income growth over 10 percent, properties in jurisdictions with newly capped income limit increases could phase in rent increases over a multi-year period instead of implementing a larger increase all in one year. HUD's income limits would be expected to "catch up" in years with slower income growth and allow owners to raise rents as needed to cover any higher cost to operate.

Does this mean the developers of LIHTC properties won't seek credits or build housing?

No, we don't think the new "cap on cap" will impact the supply of new LIHTC properties nationally. HUD has had a cap on income limits since 2009 and we've seen no evidence that caps – even those much lower than 10 percent – have limited supply nationally. Because demand for LIHTC credits is significantly larger than the current supply of credits, the overall supply of LIHTC properties should not be affected by a cap on the cap on single-year rent increases in a limited number of places.

In comments HUD received in response to the Notice announcing the methodology change, some advocates for the LIHTC developer community noted that new developments are the most impacted by the cap because developers would be able to build more units if they are able to charge higher rents.

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[3] In areas where the very low-income limit exceeds the statutory target of 50% of median family income because of adjustments we make to income limits such as the high housing cost adjustment and state non-metropolitan minimum, the year-to-year cap of 10 percent increase also applies. For FY 2024, over 90% of the country by population is in an area where the 4-person Very Low-Income Limit is equal to or exceeds 50% of area median family income (82% of all areas).

HUD notes that the cap on income limit increases is but one component of the financing and operation of LIHTC properties. The future income level will often not be known and may result in lower income limits than planned properties have assumed, regardless of the cap on income limit increases. Developers of properties financed with LIHTC do not typically assume annual rent growth in excess of 10 percent; rather, financial underwriting criteria are much more conservative, assuming rent growth in the range of 2 or 3 percent annually.

In addition, properties in jurisdictions with newly capped income limit increases could phase in rent increases over a multi-year period instead of implementing a larger increase all in one year. At most, the capped increase on income limits would moderate exceptionally high rent growth in a limited number of areas for just one-to-two years. A cap of ten percent represents an exceptionally high value compared to historical averages, suggesting that income limits calculated using a 10% cap in one year will "catch up" in future years. For example, over 65% of all Income Limit areas that were covered by the cap in FY23 will either catch up and become uncapped in FY24 or get the full 10% capped increase that exceeds their increase in local AMFI.

We think this cap-on-cap is a very reasonable limitation. As noted above, a cap has been in place for fifteen years, usually capping at significantly less than 10 percent, and interest in credits has still exceeded demand for credits nationally. This policy change has no impact on developers who wish to build market rate housing without the LIHTC subsidy.

Will the "cap on cap" mean that people whose incomes are still low but rising faster than income limits will be ineligible for federal housing assistance?

This may impact a small number of potentially eligible households. Households on a fixed income are a large portion of the population in need of housing assistance. In general, a 10 percent cap on year-to-year increases exceeds any likely increase in income for households with fixed income cost of living adjustments (COLA). The largest Social Security COLA adjustment in recent years was 8.7 percent in 2022. Only in 1980 and 1981 was it above 10 percent.