

ADMINISTRATIVE - INTERNAL USE ONLY

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ATTACHMENT A

OMB CIRCULAR A-45

ADMINISTRATIVE - INTERNAL USE ONLY

BUREAU OF THE BUDGET

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October 31, 1964

CIRCULAR NO. A-45
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Policy governing charges for rental quarters and related facilities.

1. Purpose. The purpose of this Circular is to establish the principles and standardize the procedures by which agencies of the Federal Government set and administer rents for quarters and charges for related facilities supplied to employees and others. This revision replaces and rescinds Circular No. A-45, dated June 3, 1952.
2. Authority. This Circular is issued by virtue of the authority vested in the President by section 6 of the act of August 20, 1964 (Public Law 88-459), and delegated to the Director of the Bureau of the Budget by Executive Order 11184, dated October 13, 1964.
3. Coverage. The provisions of this Circular apply to all rental quarters located within the several States of the United States, the District of Columbia, the territories and possessions of the United States, and the Commonwealth of Puerto Rico.
4. Policy. Public Law 88-459 requires that rental rates, and charges for other facilities made available in connection with the occupancy of rental quarters "shall be based upon the reasonable value...in the circumstances under which provided, occupied, or made available". Rents or other charges may not be set so as to provide an inducement in the recruitment or retention of employees, or as an inducement to encourage the occupancy of existing Government housing (see 5 U.S.C. 71). The establishment of rates truly reflecting "reasonable value" should not operate as a barrier in recruitment or retention of employees when the principle of "comparability", as hereinafter set forth, has been properly applied.
5. Definitions.
 - a. Rental quarters. Except as specifically excluded herein, the term "rental quarters", as used in this Circular includes all quarters supplied, under specific Government direction, as an incidental service in support of Government programs. It excludes "public quarters" designated for occupancy by members of the uniformed services with loss of allowances, but it includes quarters occupied by such personnel on a rental basis under 37 U.S.C. 403(e), 42 U.S.C. 1594a(f) and 1594b, and other authority. It includes quarters owned by or leased to the Government. It includes quarters not only for Government

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employees but not for contractors, contractor employees and all other persons to whom housing is provided in connection with the performance of a Government activity. Finally, it includes housekeeping and nonhousekeeping units (including trailers but not tents), furnished and unfurnished.

b. Comparable housing. Comparable housing is housing generally equivalent in size with the rental quarters, with the same number of bedrooms, and with generally equivalent amenities and facilities, including garage. In determining comparability, it is necessary to give full consideration to all distinguishing characteristics, such as the amount of space and the utility of its arrangement, which affect the relative rental value.

c. Private housing. Private housing is housing rented on a "landlord-tenant" basis, with rental rates reflecting the fair market value of the accommodations to the tenant. This is distinguished from housing rented on an "employer-employee" basis, for which other considerations may have influenced the rental rates. Thus, such housing as other government-owned housing (Federal, state or local), housing provided by private businesses for their employees, residences of clergymen provided by churches or religious societies, and caretakers' housing are excluded from this definition of private housing, and should not be used in rental rate surveys.

d. Established communities. For the purposes of calculating a deduction under paragraph 6c(1) of this Circular, an established community is a population center offering the minimal community services listed below on a year-round basis, or, alternatively, on approximately the same seasonal basis as the occupancy of the Federal rental quarters under consideration. Conformity with this definition, without regard to population size or other criteria, is the sole basis for identification of an established community.

Services

Minimum

Medical.....	1 physician, 1 dentist.
Educational.....	Public elementary and high school (unless transportation is provided without charge to a county or district school). Public library, school library available to the public, or scheduled mobile library.
Shopping.....	Grocery, drugs, clothing, hardware and general household needs.
Religious.....	Congregations of two faiths or denominations.

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one major town or city
by common carrier.

* Minimal social, cultural,
or entertainment
facilities

e. Nearby representative private community. For the purposes of establishing comparability, a nearby representative private community is the nearest community to the rental quarters offering a rental housing market, together with the minimal services set forth in the preceding paragraph. It must be a community which is not unreasonably affected by conditions of seasonal agriculture or tourism, population explosion, severe economic depression, or other such conditions which may have created an inequitable rent structure in that community not shared by the general region in which the rental quarters are located. "Representative" is intended to recognize that comparability in housing includes such things as the economic environment of the housing. Thus, for example, housing in a small Government reservation should not be directly compared with housing located adjacent to undesirable areas in a large city. It is intended that comparable housing be selected as nearly as possible to establish a rental rate that truly represents the "reasonable value" of the quarters to the occupant.

f. Amenities. For purposes of making adjustments for amenities under paragraph 6c(2) of this Circular, amenities include:

- (1) Paved streets.
- (2) Street lighting at least at intersections.
- (3) Sidewalks.
- (4) Lawns, trees, and landscaping.
- (5) General attractiveness of the neighborhood.
- (6) Community sanitation services.
- (7) Reliability and adequacy of water safe for household use.
- (8) Reliability and adequacy of electrical service.
- (9) Reliability and adequacy of telephone service.
- (10) Reliability and adequacy of fuel for heating, hot water and cooking.
- (11) Police protection.

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(13) Unusual design features of the buildings.
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(14) Absence of disturbing noises or offensive odors.

(15) Standards of maintenance.

g. Basic rental rate. The basic rental rate is the monthly rental value of the quarters, established in accordance with the provisions of this Circular, before applying any deductions or additions.

h. Availability of alternate housing. For purposes of applying paragraphs 6c(5) and 6c(6) of this Circular, the determination of the availability of alternate housing will comply with those rules of availability of housing for rent or for sale and those concerning commuting distances contained in Bureau of the Budget Circular No. A-18.

6. Principles.

a. Basic rent principle. When rental quarters are located within or adjacent to (not more than five miles from the boundary of) an established community which offers a rental housing market, basic rental rates will be set at rates prevailing for comparable private housing in and adjacent to that community. When rental quarters are not within or adjacent to such a community, agencies may employ either of the two following methods with regard to any locality:

(1) Comparability with the nearby representative private community. Rental rates in and adjacent to the nearby representative private community may be used as a base for establishing comparable rentals.

(2) Regional basis. Basic rental rates may be set in comparison with the average of rental rates for comparable private housing in an economically homogeneous area in which the rental quarters are located. The area selected should be large enough to permit an adequate sampling of comparable quarters (it may contain several communities), but small enough to maintain economic homogeneity and the area must be permanently defined. Extremely high and extremely low private housing rents should be excluded in computing the average in each classification of housing.

b. Establishment of basic rental rates. Essentially, basic rental rates are to be established in comparison with existing private rental rates. However, agencies are authorized to employ the real estate concept of "rental value" when no rental properties are available for comparison. Only a professional real estate appraiser should be authorized to recommend a rental rate using this method. The head of each agency will establish rental rates, using as a basis impartial recommendations arrived at through one of the following methods:

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utilize their own professional staff appraisers or to make arrangements with the Federal Housing Administration for rental rate appraisals. Such appraisals permit the use of generally accepted real estate concepts insofar as they are in conformance with the basic principles of this Circular.

(2) Outside appraisers. If employee appraisers are not used, it may be desirable to secure the services of outside professional real estate appraisers on a fee basis. Such appraisals, however, must demonstrate full application of the principles set forth in this Circular.

(3) Employee committees. Agencies may form employee committees, which should include representation of the viewpoint of management responsibility, to determine rentals being charged in the private market, and to recommend rates for rental quarters and other facilities.

c. Allowable deductions. There are cases in which the direct application of the principle of comparability with private rents might result in either higher or lower rental rates than "the reasonable value of the quarters". Additions to or deductions from the basic rental rate are therefore required in the specific situations provided for below. Agency files must contain full information in support of additions to or deductions from the basic rental rate, in each such instance. The total amount deducted for all reasons must not be excessive, resulting in a rental rate to the occupant that is less than the reasonable value of the quarters, since this would constitute a supplementation of salary in contravention of law. In no instance will the rental rate, after all adjustments, be less than 50% of the basic rental rate.

(1) Locations involving unusual transportation costs. In some cases the Government supplies quarters to its employees in locations where minimal community services are available only at some distance from the location of the quarters. In this situation, the head of the agency will grant a reasonable deduction to ameliorate the direct economic effects of the unusual transportation costs incurred. The nearest established community as defined in paragraph 5d is to be used as the base community for calculating the deduction even though that community may not serve as the location of comparable private housing used in establishing basic rental rates. A community must be deficient in more than one of the listed services if a town farther away is to be selected as the base for calculating the distance deduction.

The following schedule provides the maximum monthly deduction from the basic rental rate for quarters located at various distances from the nearest established community. It should be emphasized that this deduction is related to the economic disadvantages to the employee inherent in the need for transportation to and from the community. Deductions will therefore be determined, within the

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maximum. For the purpose of this deduction scale adopted will be consistent for all quarters at that locality; no attempt will be made to set deductions individually for families or specific quarters.

<u>Distance in Miles, One Way</u>	<u>Maximum Monthly Deduction</u>
Less than 10 miles	No deduction
10 but less than 20	\$15.00
20 but less than 30	\$25.00
30 but less than 40	\$35.00
40 and more miles	\$45.00

The mileage used in computing a deduction for extraordinary distance will be that of the shortest usually traveled route from the rental quarters to the nearest shopping district of the established community. Where the shortest usually traveled route is seasonally closed, a weighted average distance will be used for the entire year, based upon the number of months each route would ordinarily be used.

In unusual cases, where travel to and from the community is fully dependent upon established and scheduled public or government-operated means of transportation, and personally owned vehicles cannot be used, the scheduled elapsed time of a round trip may serve as the basis for the deduction, rather than mileage, using the following table of maximum deductions.

<u>Elapsed Time, Round Trip</u>	<u>Maximum Monthly Deduction</u>
Less than 2 hours	No deduction
From 2 hrs. to less than 4 hrs.	\$15.00
From 4 hrs. to less than 5 hrs.	\$25.00
From 5 hrs. to less than 6 hrs.	\$35.00
6 hours and more	\$45.00

For purposes of using the foregoing table, the round trip time will be the shortest elapsed time allowed by any combination of outgoing and return trips which permits at least one hour at the established community. Trips scheduled to leave the departure point only between the hours of 9:00 a.m. and 4:00 p.m. need be considered. The round trip departure and ending point will be the scheduled stop nearest to the rental quarters.

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(2) Adjustments for amenities. Adjustments in rental rates will be made to reflect higher or lower standards of amenities which may exist for the rental quarters in relation to those of the private housing used for comparison. When appraisals are made by a professional appraiser, the record supporting his recommendations should demonstrate the extent to which amenities are reflected in the recommended rate.

When employee committees are used to recommend rates, the method of providing an adequate adjustment will be as specified herein. If the rental quarters are deficient in the amenities, as defined elsewhere in this Circular, a deduction from the basic rental rate will be made. Where the comparison is reversed, the rental rate for quarters will be increased. The addition or deduction will be determined as follows:

Each of the amenities listed in paragraph 5f will be considered in relation both to the rental quarters and to the housing used for comparison. Each of the amenities present in each case will be assigned the value of two (percentage) points. The difference in total points between the values assigned the rental quarters and those assigned to the housing used in establishing comparability will determine the deduction from, or addition to, the basic rental rate. For example, the amenities listed are all present in much the same degree for both the rental quarters and the comparable housing, except that the water service at the rental quarters is subject to frequent disruption (or the water frequently requires boiling for safe use). In this example, the total points related to the rental quarters would be lower by 2, and the rental would be reduced by 2% of the basic rental rate.

The inclusion of "Standards of maintenance" is intended to result in an increase or decrease in the rental rate in the manner provided above, whenever the maintenance supplied by the agency for its quarters is substantially superior or inferior to that supplied for the private housing used to establish comparable rental rates. Standards of maintenance considered in each case will include care of grounds as well as interior and exterior maintenance of structures. Those factors which are subject to some judgment, such as general attractiveness of the neighborhood, will not be considered as a basis for adjustment unless there is clearly a cognizable difference. When this is so, the factors will be applied whether they operate to increase or to decrease the rent.

(3) Impositions on privacy or space.

(a) Space devoted to official use. Cases in which the head of the agency determines that the use of a portion of the quarters is required for the purpose of accommodating official visitors, for office space, or for the general convenience of the public require special treatment. These would ordinarily be considered in appraisals made by professional appraisers. When committees are used, and when no com-

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... a deduction from the otherwise basic rental rate may be established by the head of the agency. The deduction shall be based on the frequency of the official demands and the extent to which the space and convenience for the private use of the occupant are restricted. In each such case the agency will make and record in its files a specific determination of the exact conditions that exist. If the imposition is virtually a daily occurrence, and the private use of the family area is seriously diminished, a deduction of 10% of the basic rental rate is allowable. Deductions of less than 10% will be adopted in direct proportion to situations of either lesser frequency or of lesser seriousness in their impact upon privacy.

" (b) Other impositions. Employees may live within the confines of a Government installation or reservation as a condition of their employment, by choice, or because of the lack of a suitable alternative. Such conditions will not serve as the basis for a rental deduction to compensate for the inconvenience to the employee or his family. Likewise, the rental rate will not be decreased to take account of so-called "institutional atmosphere" "hazards of the job or to the family," or other such conditions. Where the agency believes that extreme circumstances exist for some Federally provided housing such as to cause the rental rate established by this Circular to be unreasonable, it will refer such cases to the Bureau of the Budget for an exception under the provisions of paragraph 6d(4). "

(4) Maintenance of two households. Where it is necessary for an employee to maintain two households for the convenience of the Government, one permanent and one temporary, and no provision is made for the payment of per diem, the head of the agency is authorized to adjust the rental rates for the temporary quarters provided to the employee so that the combined rent which the employee must pay over a twelve month period is not excessively burdensome. Unless the head of the agency determines that the circumstances in any case fully justify a greater deduction, the adjustment will not exceed 20% of basic rental rate for the temporary quarters.

(5) Excessive size or quality. At some Government stations, an employee will not be able to occupy quarters of the same size or quality that he would select in a private community. Where he must accept size or quality in excess of his needs for lack of available alternate housing, the quarters will not have the "reasonable value" to him that would otherwise be reflected by comparison with private rental housing. In exceptional cases of this kind, therefore, a special adjustment to avoid placing an extra burden on the employee may be made to reduce the rent to that comparable for housing of the type that the employee needs. In these circumstances, the rent (excluding utilities) charged an employee will not exceed 20% of his gross salary (pay and allowances). Determinations of this nature will be supported in the files of the agency. This deduction will not be allowed to employees for whom suitable alternate housing is available.

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nor will it continue beyond one month subsequent to the availability of any private housing more suitable to his needs. Neither will the deduction continue beyond one month subsequent to the availability of rental quarters more suitable to his needs, unless the head of the agency determines that the reassignment of quarters in that instance will not serve to benefit the Government.

(6) Inadequate size. A deduction of up to 10% of the basic rental rate is allowable if the Government quarters are clearly inadequate in size for the needs of the employee's family, provided that more adequate private housing or rental quarters are not available to the employee. The deduction will not continue beyond one month subsequent to the availability of private housing more suitable to his needs. Neither will the deduction continue beyond one month subsequent to the availability of rental quarters more suitable to his needs, unless the head of the agency determines that the reassignment of quarters in that instance will not serve to benefit the Government.

(7) Differential between furnished and unfurnished. If there appears to be an inadequate market of comparable furnished housing for purposes of comparison with furnished quarters, the agency may use as a basis the rents on otherwise comparable unfurnished private units, and adjust these by a reasonable charge for furnishings.

(8) Lack of all-weather construction. If quarters, by reason of poor design or lack of all-weather construction, require an unreasonable additional expense to the employee for heating, a deduction is allowable under the following terms: If the rental quarters in question require expenses to the occupant in excess of \$50 per heating season over the average of heating costs for the comparable housing as determined by a suitable survey, the head of the agency may determine that 90% of the excessive costs (those in excess of \$50 over the average) may be deducted from the annual rental rates. The total deduction will be applied to rentals applicable to the months of the heating season. *

d. Qualifications and extensions: The principle of comparability with private rental practice may be modified in the cases, and under the conditions, described below:

(1) Extension of comparability. For lack of available alternative quarters, employees must sometimes occupy space for use as quarters which is generally unsuitable for that purpose. Such space may be unsuitable, for example, because it was originally built for seasonal occupancy only, or because it was not originally built for use as quarters. In other instances, quarters may be such as to be suitable only for particular types of occupancy, such as rooming houses, bunk houses, bachelor quarters, residence hotel-type structures, barracks-type structures, or guard and lookout cabins.

In any case such as the foregoing, where no comparable rental data can

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be obtained, or professional appraisals are not made, rental rates will be determined by the square footage occupied, at a rate equivalent to one-half the basic rental rate per square foot charged for the nearest adequate rental quarters of the same or any other Federal agency. This rate will apply only to the shelter rental, with additions thereto for all other facilities and services provided, (such as water, hot water, heat, light, linens, and furniture), at rates comparable to those in the area. Rental and other charges will be based upon normal capacity, and when so determined will remain in effect for each occupant without regard to fluctuations in the number of occupants from time to time either above or below normal capacity.

In buildings where space is assigned for occupancy of several persons or families, common use space in the building will be distributed to all occupants in proportion to the space assigned for the sole occupancy of each, to determine the number of square feet chargeable to each. Common-use space will include washroom, stairs, hallways, storage, lobby or lounge, etc.

(2) Transient quarters. Quarters occupied on a temporary or transient basis, that is, normally for 60 days or less, will be charged for at rates equivalent to private transient housing of comparable type and quality. These rates may be set on a nightly or weekly basis, or both. If comparable private transient housing does not exist in the area, the rental may be established by determining the reasonable monthly rental rate for the quarters through application of the other provisions of this Circular, and adding to the monthly rate an additional charge of at least 20%, the total to be divided by 30 days for the nightly rate or 4 1/3 weeks for the weekly rate.

(3) Territories and possessions. The general policy stated in this Circular is to be applied in the territories and possessions. However, the method of determining specific rates in each area will require approval of the Bureau of the Budget in advance. Proposals must demonstrate that the method to be used will be impartial and consistent for all rental quarters in the same area, and that rents and other charges will be set at the reasonable value of the quarters and other facilities.

(4) Exceptions. Efforts have been made in the preparation of this Circular to allow for the unusual circumstances that exist with respect to rental quarters. Alternatives to the requirements included in this Circular will therefore be prescribed only upon written request in those very unusual circumstances where it is demonstrated to the Director of the Bureau of the Budget that the application of the provisions of this Circular would not result in a rental rate equivalent to the "reasonable value" of the quarters to the occupant. Whenever alternative requirements may be prescribed by the Director of the Bureau of the Budget, the agency concerned will be notified in writing.

7. Quarters occupied by members of the uniformed services on a rental basis. Rental rates and other charges incident to the occupancy of quarters on a rental basis by members of the uniformed services will be established in accordance with the provisions of this Circular.

Those quarters which have been designated inadequate public quarters pursuant to law and regulations of the Secretary of Defense, require special treatment in one respect. The total of the rental rate, plus charges for furniture and utilities (except telephone), will be adjusted, if required, so as not to exceed the quarters allowance of the occupant. The rental rate, as used in the preceding sentence, is the basic rental rate after the additions or deductions required or authorized elsewhere in this Circular have been given effect, including that requirement contained in paragraph 6c, that the rental rate, after adjustments, will not be less than 50% of the basic rental rate.

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8. Utility charges. Charges to occupants of rental quarters for utilities (such as heat, electricity, gas, water, and ice), when furnished by the Government and metered or measured, will be set by application of domestic rates for similar services in the locality used for comparison. When utilities are not metered or measured, charges will be set by comparison with the cost of such services to the occupants of comparable private rental housing. Such charges will be clearly identified and distinguished from charges for rent. However, in establishing rental rates for non-housekeeping rooms, the room rent may combine shelter rent and utilities without distinction.

9. Procedures. Section 6 of Public Law 88-459 provides that "The head of each agency may prescribe and issue such regulations, not inconsistent with the regulations of the President, as may be necessary and appropriate to carry out the functions of such agency head under this Act." Each agency will formalize and record the regulations and procedures for setting rents and service charges. A copy of the regulations and procedures will be transmitted to the Bureau of the Budget, no later than March 1, 1965. A copy of each subsequent revision of such regulations will also be transmitted to the Bureau of the Budget at the time of its release.

10. Agency regulations and implementation.

a. Other guidelines. In developing agency regulations, the following guidelines should be observed in addition to the other provisions of this Circular:

(1) All appraisals should be thoroughly impartial.

(2) In no event should employee committees, used in recommending rents and other charges, include occupants of the rental quarters under consideration, or subordinates of such occupants.

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Where several different Federal agencies supply rental quarters in the same area, special care should be taken to promote a consistent local pattern in rents and utility rates. Efforts should be made to coordinate professional appraisal efforts, or when employee committees are used, to establish interagency committees.

(4) A full record of the findings and recommendations of the appraiser or committee should be kept locally by the agency concerned.

(5) Sufficient information should be maintained centrally by the agency to allow agency management to be informed of the status of administration of the requirements of this Circular.

(6) Opportunity for systematic consideration of appeals from determinations of rents and other charges should be provided.

(7) Employees on leave will continue to be charged for quarters and related facilities, unless permitted to vacate quarters and make them available for reassignment.

(8) It is in keeping with the principle of comparability that agencies assume the responsibilities customarily accompanying landlordship, and that those who occupy rental quarters assume the responsibilities of tenants of privately owned housing, not inconsistent with law.

(9) Section 5 of Public Law 88-459, is as follows:

"An employee or a member of the uniformed services shall not be required to occupy quarters on a rental basis unless the head of the agency concerned shall determine that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise."

Agency regulations should specify the conditions under which the agency head will require such occupancy.

b. Implementation. The provisions of this Circular will be applied on or before March 1, 1965. They may be applied, without re-appraisals or committee reviews in the case of quarters which were appraised or reviewed within the two years previously. A new appraisal or review is required for those quarters not appraised or reviewed within two years, or for all quarters involved if any agency intends to change to the regional basis for establishing rental rates, as authorized in paragraph 6a(2).

In cases where substantial increases in rents or other charges are being levied (20% or more), the agency may make the adjustment in proportional steps over a period up to twelve months, but in no case

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will the full increase or decrease be delayed beyond March 1, 1966.

c. Adjustments to current rates. To make sure that rent and other charges reflect changes in the private market, rent schedules will be affirmed or adjusted at least once every three years. However, utilities furnished by the Government and metered or measured will be adjusted whenever rate changes occur in the locality used for comparison.

d. Reporting. The head of each agency will furnish to the Bureau of the Budget reports as to the number of its housing units, the status of appraisals, the results of reappraisals, occupancy, amount of rents and other charges, and other related data, as may be requested from time to time.

KERMIT GORDON
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