Section 8 Renewal Policy

Guidance for the Renewal of Project-Based Section 8 Contracts

Office of Multifamily Housing

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Chapter One

Section 8 Renewal Guide

Since the mid-1990's, when long-term project-based Section 8 contracts began expiring, Section 8 policy has evolved dramatically. For several years, the Department issued Notices and other guidance to implement new policy related to renewing expiring Section 8 contracts and preserving affordable housing in a piecemeal fashion.

In order to make Section 8 policy more effective and accessible for HUD's partners, this guide provides comprehensive guidance for renewing expiring Section 8 project-based contracts. It incorporates the procedures contained in previous Section 8 expiring contract Housing Notices, along with a number of changes. As a living document, over time this guide is expected to contain nearly all of the information related to the renewal of expiring Section 8 contracts.

In order to respond to the evolving nature of Section 8 renewal legislation and policy, the format of this Guide provides the opportunity to accommodate changes through revisions of one or more sections without a complete revision of the entire document. As is the case with HUD Handbooks, when legislation or policy decisions warrant modifications to this guide, HUD will issue the revisions and make them available to all users. Only those portions of the guide that are affected by the change will be modified. This Guide is available on the web at www.hudclips.org.

It is noted that the instructions in this guide apply to all Contract Administrators who are responsible for overseeing Section 8 project based contracts. This includes Contract Administrators who have performance based contracts with the Department. Contract Administrators with performance based contracts are also required to follow the Guidebook for the Section 8 Contract Administration Initiative issued to them by the Office of Housing Assistance Contract Administration Oversight.

For purposes of assisting users, a Glossary of the terms used throughout this guide can be found at Attachment 1.

CONTENTS OF THIS GUIDE

Chapter 1: Introduction

This Chapter provides the legislative history of the Multifamily Assisted Housing Reform and Affordability Act (MAHRA). It also provides a chronological listing of HUD's rule making and administrative policies for implementing statutory requirements associated with Section 8 expiring contract renewals.

Chapter 2: Contract Renewals

This chapter outlines the various ways a contract can be renewed and provides six options available to owners with expiring Section 8 contracts. It defines initial and subsequent renewals and explains how rent adjustments are made during the term of a multi-year section 524 contract. This chapter also discusses contract terms, rent calculations for short-term renewals and instructions for combining contracts.

Chapter 3: Owner Option One, Mark-Up-To-Market

This Chapter provides instructions for renewing a contract under the Mark-Up-To-Market option. It identifies who is eligible for renewal under this option and how to process the renewal request. Owners must meet certain eligibility criteria which are outlined in the chapter. This chapter also provides information on how to calculate owner distributions and future rent adjustments.

Chapter 4: Owner Option Two, Other Contract Renewals with Current Rents At or Below Comparable Market Rents

This Chapter provides instructions for renewing a contract in cases where a contract's current rents are at or below comparable market rents but the contract is not being renewed using the mark-up-to-market option. It outlines who is eligible to renew under this option and identifies documentation to be submitted by the owner to HUD/Contract Administrators for review. It also provides processing instructions and guidance for future rent adjustments.

Chapter 5, Owner Option Three, Referral to the Office of Multifamily Housing Assistance Restructuring (OMHAR)

This Chapter discusses the procedures by which a project with rents above comparable market rents is referred to the Office of OMHAR for processing and renewal. The chapter identifies items an Owner must submit with their renewal request and it outlines

what steps will be taken by OMHAR if a restructuring agreement is not reached between the owner and OMHAR.

Chapter 6, Owner Option Four, Renewal of Projects Exempted From OMHAR

This Chapter identifies "exception" projects. Exception projects are ineligible for OMHAR and as such, they are exempt from having to conduct rent comparability studies and lower rents to comparable market rents. This chapter outlines the Owners' renewal submission requirements and provides instructions for initial and subsequent renewals.

Chapter 7, Option Five, Renewal of Portfolio Reengineering Demonstration or Preservation Projects

This chapter details how to renew a contract that has been through the Demonstration program. It provides instructions for renewal in cases where the project had its rents reduced and or had its mortgage restructured and it provides instructions for processing a renewal in instances where the project failed to have a rent reduction or debt restructuring. It also provides guidance for renewing Preservation contracts according to the approved Plan of Action (POA).

Chapter 8, Option Six, Opt-Outs

This Chapter provides instructions for processing Owner opt-outs. Opt-outs are expiring Section 8 project-based contracts whose owners elect not to renew the contract. This Chapter identifies owners' responsibilities to the tenants and provides processing instructions.

Chapter 9, Rent Comparability Studies (RCS)

This Chapter provides instructions for conducting and reviewing rent comparability studies.

Chapter 10, Residual Receipts

This Chapter identifies the steps that must be taken, when appropriate, to assure that residual receipts are returned to HUD.

Chapter 11, Resident Issues

This Chapter outlines all of the steps that must be followed to assure that tenants are protected during the renewal process. This chapter defines housing conversion actions and identifies notification requirements an owner must meet. It also describes the differences between a regular voucher and an enhanced voucher.

Chapter 12, Physical Condition of the Property

This Chapter discusses how a project's physical condition impacts the contract renewal process.

Chapter 13, HUD's Refusal to Renew/Section 8 Contract Owner's Dispute and Appeal of Rejection

This Chapter outlines the circumstances under which HUD may refuse to renew an expiring Section 8 contract, and it provides Owners with an appeal process to follow in cases where their request to renew is rejected.

Chapter 14, RHS/515 Projects

This Chapter outlines how to renew a Farmers Home 515 project.

Chapter 15, Nonprofit Rent Increases

This Chapter outlines the procedure for providing budget-based rent increases to nonprofit owners. The Chapter identifies eligibility requirements for "marking up to budget" and provides instructions for future rent adjustments.

Chapter 16, Other Issues

This Chapter discusses miscellaneous issues that have not been included in previous chapters of this guide. This Chapter includes rent increases for non-Section 8 rents, and REMS reporting requirements. It also addresses the effect of refinancing FHA insured properties on Mark-to-Market eligibility and how any new debt should be addressed in a projects operating budget.

LEGISLATIVE HISTORY

Section 1-1

A. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), Title V of the HUD Fiscal Year 1998 Appropriations Act, Pub. L. 105-65, was enacted on October 27, 1997. This was a major change as MAHRA established new policies for the renewal of Section 8 project-based contracts based on market rents instead of the Fair Market Rent (FMR) standard. For most insured projects with rents above market, the Act transferred Section 8 processing functions from the Multifamily Hubs and Program Centers to the Office of Multifamily Housing Assistance Restructuring (OMHAR). For further information on renewals by OMHAR, see Chapter Five.

In general, MAHRA required that expiring Section 8 project-based contracts be renewed under Section 524(a)(1) or 524(a)(2).

1. **Section 524(a)(1)** renewals required a Rent Comparability Study (RCS). If the RCS indicated rents were at or below comparable market rents, the contract was renewed at current rents adjusted by OCAF, unless the Owner submitted documentation justifying a budget-based rent increase or participation in mark-up-to-market In no case could renewal rents exceed comparable market rents. If the RCS indicated rents above comparable market rents, the contract was referred to OMHAR for debt restructuring and/or rent reduction.

2. **Section 524(a)(2)** renewals were for projects identified as "exception" projects that were not eligible for OMHAR. In some cases these projects had rents greater than market. No RCS was required except for certain FHA insured projects whose contracts were being renewed under 524(a)(2)(E) (projects that do not qualify as eligible multifamily housing projects pursuant to section 512(2) of MAHRA). Examples of projects that do not qualify as eligible multifamily housing projects pursuant to Section 512(2) of MAHRA include a project that is not subject to a HUD-held or insured mortgage; or, a project that has FHA mortgage insurance or is HUD-held with rents at or below comparable market rents.

B. The Preserving Affordable Housing for Senior Citizens and Families Into the 21st Century Act of 1999, Titles II and V of the HUD Fiscal Year 2000 Appropriations Act, Pub. L. 106-74, was enacted on October 20, 1999. This legislation made modifications to the previous Section 8 renewal policies and established specific provisions for rent adjustments in subsequent years after an initial renewal under MAHRA. On December 29, 1999, Notice H99-36 was issued to implement these changes. Specifically,

1. The Act modified Sections 524(a)(1) and 524(a)(2) of the original MAHRA. Projects that previously fell under section 524(a)(1), are now covered under section 524(a), and projects that previously fell under section 524(a)(2), are now covered by section 524(b).

2. Preservation projects and Portfolio Reengineering Demonstration projects are for the first time specifically addressed by sections 524(e)(1)a and 524(e)(2).

3 Notice H99-36 created six renewal options for Owners to choose from when renewing their expiring Section 8 contracts. These options are detailed throughout this Guide.

C. The Quality Housing and Work Responsibility Act (QHWRA) of 1998, Title V of HUD's Fiscal Year 1999 Appropriations Act, enacted on October 21, 1998, made only minor modifications to the tenant notification requirements stated in MAHRA. On May 27, 1999, HUD issued Notice H 99-08 implementing these changes. Specifically, QHWRA:

1. Required Owners who intended to renew their expiring Section 8 contract to notify their tenants of their intent to do so. This requirement was amended by subsequent legislation (see Chapter Eleven for tenant notification requirements)

2. For contracts that were renewed for five year terms, QHWRA changed the tenant notification requirement from one year to six months. The six month notification was to be provided to the tenants by the owners six months before expiration of the five year contract. This requirement was changed back to a one-year notification by subsequent legislation.

D. The FY 2001 Military Construction and FY 2000 Emergency Supplemental Appropriations Act , amended the enhanced voucher statute at Section 8(t) of the United States Housing Act to grant enhanced voucher families the right to remain.

RULE MAKING

Section 1-3

A. Interim Rule. An Interim Rule implementing the Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark-to-Market), was published in the Federal Register on September 11, 1998, at 63 FR 48925. This Rule discussed the 524 requirements and governed the renewal or restructuring of expiring Section 8 project-based contracts. At the Final Rule stage, the sections of the Interim Rule that governed the renewal of Section 8 that were not participating in the Mark-to-Market program and the sections addressing the Mark-to-Market program are separated into two Final Rules, Part 401 and Part 402.

1. **24 CFR Part 401**. The Final Rule implementing the Mark-to-Market program was published on March 22, 2000. This Rule details how the Section 8 rents for eligible multifamily projects with HUD-insured or HUD-held mortgages will be reduced. The Mark-to-Market Program Operating Procedures Guide is available on the Office of Multifamily Housing Assistance Restructuring (OMHAR) Webpage at http://www.hud.gov/omhar. The Guide may also be obtained by contacting the Multifamily Housing Clearinghouse at 1-800-685-8470.

2. **24 CFR Part 402**. The Final Rule for Part 402 authorizes the renewal of expiring Section 8 project-based assistance contracts for projects without Restructuring Plans under the Mark-to-Market Program, including projects that are not eligible for Restructuring Plans and eligible projects for which the owners require contract renewals without Restructuring Plans.

ADMINISTRATIVE POLICY

Section 1-4

HUD Notices. Since the enactment of MAHRA the Department has issued a number of Housing Notices which established Section 8 renewal policies. With the publication of this Guide, these Notices are no longer in effect.

- **H98-34**. On October 16, 1998, HUD published Housing Notice H 98-34 which provided instructions for renewing Section 8 contracts expiring in FY 1999.

- **H99-08**. On May 27, 1999, HUD published Housing Notice H 99-08 which made several modifications to H 98-34.

- **H99-15**. On June 16, 1999, HUD published Housing Notice H 99-15 which implemented the Mark-Up-To-Market Option for Owners of projects with expiring Section 8 contracts.

- **H99-25**. This Notice, published on September 22, 1999, extended Notices H98-34 and H99-08.

- **H99-32**. This Notice, published December 1, 1999, clarified existing renewal policies.

- **H99-36**. On December 29, 1999, Notice H99-36 was issued to implement changes to Section 8 renewal policies pursuant to the HUD Fiscal year 2000 Appropriations Act.

- **H00-12** On June 29, 2000, HUD published Housing Notice H 00-12 which provided policies and procedures for preparing, submitting and reviewing Rent Comparability Studies (RCS) associated with renewals of expiring Section 8 contracts.

- **H 00-21** On October 13, 2000, HUD published Housing Notice H 00-21 which provided Guidelines for Mark-Up-To-Market Nonprofit Transfers and Budget-Based Rent Increase for Capital Repairs by Nonprofit Owners.

APPLICABILITY

Section 1-5

This document applies to all Multifamily Housing Projects with expiring project-based Section 8 assistance contracts, unless otherwise noted. It does not apply to Moderate Rehabilitation projects, Section 8 project-based certificate contracts, Section 8 project based voucher contracts or former Section 23 projects administered by the Office of Public and

Indian Housing or to any projects administered by the Office of Community Planning and Development.

POLICY CHANGES FROM FISCAL YEAR 2000

Section 1-6

A. The terms "initial renewal" and "subsequent renewal" have been clarified and a new term, "multi-year rent adjustment" has been added. These terms are defined in Chapter 2, Section 2-1.

B. Mark-Up-to-Market has been broken into two options: Option 1A which is an Owner entitlement if the statutory requirements are met; and, Option 1B, which is a discretionary mark-up-to-market option which the Department utilizes to preserve scarce affordable housing resources. See Chapter Three for details.

C. Under Option One, the original criteria for participation was that a project have current rents that exceed 110% of FMR. HUD was given authority to adjust this percentage upon determination and written notification to the Congress. HUD has determined and notified Congress that, in an effort to preserve scarce housing resources, it is necessary to lower the 110% threshold to 100%. This Guidebook implements this change.

D. Owner Distributions. The issuance of the *Increased Distributions to Owners of Certain HUD-Assisted Multifamily Rental Projects final rule, published October 13, 2000*, gave the Department the authority to allow Owners of certain Section 8 Assisted properties to take all surplus cash on Section 8 units participating in Mark-Up-To-Market Owners of properties with 100% project-based Section 8 units and Owners of partially-assisted properties that are not Section 236, 221(d)(3) BMIR, nor Section 515 may take all surplus cash generated on all units in any project year. Owners of partially-assisted Section 236, 221(d)(3), or Section 515 will continue to calculate their distribution as identified in previous Notices 99-15 and 99-36, which allows an increased distribution in the amount of the rent increase for the Section 8 units under Mark-Up-To-Market.

E. Owners **must** provide HUD/Contract Administrators and tenants with one year notification of their **intent to opt-out** of their Section 8 contract in order to opt-out.

F. The one year notification letter from HUD to Owners reminding the owners to notify tenants that their Section 8 contracts will be expiring are no longer being provided. However, the field office will review and approve the notices provided by the Owner.

G. HUD has provided, as attachments to this guide, revised HAP contracts that may be used for terms up to 20 years.

H. When a Renewal Contract is executed by a PHA in accordance with the instructions provided in this Guidebook, and in the forms prescribed by HUD, HUD is contractually bound by the Renewal Contract provisions that specify HUD's role in accordance to the Renewal Contract.

I. Owners must certify on the Option 6 Renewal Form that they will comply with the requirement to allow families receiving enhanced vouchers who elect to remain to do so as long as the property remains a rental property, unless the owner has just cause for eviction.

Chapter Two

Section 8 Renewals

The passage of MAHRA by Congress signaled an important shift in the Section 8 program: Section 8 rents, to the extent possible, must be comparable to unsubsidized rents in the area where the project is located. In some cases, this meant the rents can be adjusted upward. With the establishment of OMHAR, Congress also clearly recognized that the rents at some Section 8 projects needed to be reduced. To ascertain where a project's Section 8 rents are relative to market rent levels, for most projects MAHRA requires the preparation of a rent comparability study, (RCS).

In order to reduce administrative burden, MAHRA does not require an RCS every year. Instead, beginning with the date of the initial renewal of the expiring Section 8 project-based contract, the RCS will start a maximum five-year "life cycle" before a new RCS is required. (see Chapter Nine for details on the RCS).

Types of Renewals

Section 2-1

A. Initial Renewals. The first renewal of a project's contract or stage that is processed under the rules established by MAHRA is considered the initial renewal of the contract.

1. **Exceptions**. If an Owner is eligible for the Mark-Up-to-Market Option (see Chapter Three), but previously renewed under another option, s/he may request a renewal under the MU2M provisions at any time. The first renewal under the Mark-Up-to-Market Option will also be considered the initial renewal for the contract.

2. **"Exception Projects**. Owners of "exception projects" have a choice of having their initial renewal processed under Option One, (see Chapter Three) Option Two, (see Chapter Four), or Option Four (see Chapter Six).

B. Subsequent Renewals. A subsequent renewal is the renewal of an expiring Section 524 contract at the end of its term. A contract that received its initial renewal under

MAHRA, will, at subsequent renewal, be renewed under any option that the contract is eligible for at the time of renewal. The Owner should follow procedures in place at time of renewal and submit the contract Renewal Request Form and OCAF Worksheet found at Attachment 3 of this guide to the PM/CA for processing.

C. Rent Adjustments. Annual adjustments to contract rents that occur during the term of a multi-year Section 524 contract are called rent adjustments during the term of the 524 contract. These adjustments may be by application of the published OCAF or by a budget-based adjustment if applicable.

D. The RCS. A RCS that is submitted at initial renewal is good for five years. It establishes the market rent for renewals of staged contracts and it can be used for any expiring contracts that were not combined (see Section 2-5 below) at initial renewal that may be expiring during the five year life cycle of the RCS. In order to take advantage of this opportunity, the original RCS must include all of the Section 8 units in the project. The cost of this RCS is an eligible project expense.

E. "Exception Projects". If an "exception project" initially elected to renew under Option One or Two, the contract can not be renewed under Option Four at subsequent renewal. Once an Owner elects to renew under the comparable market rent procedure, it can not revert back to an "exception status."

Owner Options

Section 2-2

A. Six Owner Options. At the time of the initial renewal, Owners have six renewal options to consider; not all of which they will be eligible for:

1. Option One is Mark-Up-To-Market;

2. Option Two is the renewal of other contracts with rents at or below comparable market rents;

3. Option Three is referral to OMHAR for processing because the contract has rents greater than market;

4. Option Four is renewal of contracts for "exception" projects, which are exempt from OMHAR;

5. Option Five is the renewal of contracts for Portfolio Reengineering Demonstration or Preservation projects; and

6. Option Six is to opt-out of the Section 8 contract.

B. Determining Option. When determining which option to select, Owners should be aware that the contract renewal options are determined by their eligibility at the expiration date of the HAP contract which is under consideration. For example: An FHA-insured project referred to OMHAR for processing will have its rents reduced to market even if the owner secures non-FHA insured financing after contract expiration but prior to OMHAR completing its processing. While non-FHA insured projects are not eligible for OMHAR, this project was insured at the time of expiration, and therefore must have its rents reduced to market.

C. Selection Submission. Regardless of the option selected, Owners **must** submit their selection and the required documentation to HUD or the Contract Administrator at least 120 days prior to the expiration of the contract. Owners should be aware that failure to submit their option election to HUD/CA at least 120 days before contract expiration may result in an interruption of subsidy to the project.

If at any time the PM feels that the contract should not be renewed, they should refer to Chapter 13, of this Guidebook. If the Performance Based Contract Administrator (PBCA) feels that the contract should not be renewed, the procedures in Section 2-4 of the Section 8 Contract Administrators Guide Book should be followed.

D. Option Descriptions. The Owner options are outlined in Chapters Three through Eight of this Guide. As statutory and administrative requirements for each option evolve, these Chapters will be revised.

Contract Terms

Section 2-3

A. General Contract Terms. Generally, contract terms shall be for one year or five years subject to appropriations. The Department believes contracts with terms greater than five years can assist in preserving affordable housing in certain situations. Where an owner is required by HUD to accept renewal for more than five years, use longer terms, such as with the non-profit options in chapter Fifteen. OMHAR Full Restructurings may also have longer term contracts, but in no case can the term of the contract exceed the remaining life of the mortgage. Requests for longer term contracts on OMHAR "Fulls" or where owners are required to accept renewals for more than five years do not require HUB approval. For other situations, Program Centers should submit these requests to the HUB Director. The HUB Director should review these requests to ensure that approval will assist in furthering the Departments goal of preserving affordable housing.

1. If an Owner chooses a contract term of more than one year, the contract will be funded for one year with the balance of years selected by the Owner being subject to annual appropriations.

2. The effective date of the new contract is the day following the expiration date of the previous contract. For renewals of OMHAR-lites, the original contract is terminated at the end of the month following the month in which the owner is offered a new contract at the market rents. For renewals in conjunction with a Full debt restructuring, the new contract will become effective on the earlier of the expiration of the interim contract or the first day of the month following closing.

B. Aligning Contracts. HUD/CA's should make every effort to align contract renewal terms with the five-year life cycle of the RCS. For example, if an Owner renewed the contract in FY 2000 under Option Two for a one-year term, and in FY 2001 the Owner wishes to renew the contract for a five-year term, the Owner has several options:

1. They may renew the contract for four years, using the RCS submitted at initial renewal (the Option Two renewal in FY 00) and adjusting it by OCAF annually, or,

2. The Owner may submit a new RCS and renew the contract for a five-year term,

C. Short-term Contracts. Short term contracts are for less than one year. The words "short term " refer to the term of the contract, not the "type" of contract. Short-term renewals may be provided for the following:

1. To protect the residents (see Chapter Eleven). For example, to allow additional time to cover a delay in providing tenant-based assistance in cases of Owner opt-outs, or in cases where the project is subject to enforcement actions.

2. To align multiple contracts or stages in a project.

3. To provide HUD/CA with adequate time to process an Owner's request to renew under the Mark-Up-To-Market Procedure.

4. To extend the contract of a project that has been referred to OMHAR for renewal, but has yet to close. In order to receive a short term renewal under these conditions, the owner must request and receive waiver approval.

D. Initial Renewals. For all projects, the short-term renewal discussed above will be considered the contract's "initial" renewal if it is the first renewal under MAHRA.

1. Owners requesting a short term renewal under Option Two must submit a RCS and all documentation required in the Renewal Worksheet.

2. Owners requesting a short term renewal under Option Four must submit all documentation required in the Contract Renewal Request Form and OCAF Worksheet.

3. Exception project renewal rents will be subject to the "lesser of" test (as described in Chapter 6, Section 6-2 B) only at initial renewal.

4. Hub, Program Center Directors and CA's should use their discretion when determining whether or not to grant a short-term renewal.

E. Short-term Contract Execution. Where a short-term contract is executed, it should be renewed in increments of months, not days. The project files should adequately document the need for the short-term renewal.

F. Multi-Year Contracts: For multi-year contracts, Owners must submit the OCAF Worksheet on an annual basis. If the Owner is requesting a budget-based rent increase, all documentation required in the OCAF Worksheet must be submitted annually as well.

Calculating Rents For Short Term Renewals

Section 2-4

A. In cases where HUD/CA/PAE has made a determination as to market rents for the project, the short-term renewal rents will be capped at market.

B Section 524 contracts. If the project is eligible for an Operating Cost Adjustment Factor (OCAF) rent adjustment, a pro-rated OCAF should be applied to the contract instead of a full OCAF. By law, Owners are entitled to receive a rent increase at initial renewal, however, the law does not entitle the project to more than one full OCAF increase within a 12-month period. Because the project is entitled to a full OCAF increase at the first anniversary date of a multi-year contract, the OCAF increase for the short-term initial renewal must be pro-rated. Pro-rated budget-based rent adjustments for short-term renewals are ***not*** permitted.

C Calculating a pro-rated OCAF. Take the full OCAF, divide it by 12 and multiply that number by the number of months needed for the short-term renewal.

Example:

Full OCAF: 2.5%
Months in Year: 12
Term of Short-term contract: 8 months

2.5 divided by 12 = .21 x 8 = 1.68

The Pro-rated OCAF to apply to the short-term renewal is 1.68%.

After determining the pro-rated OCAF, follow the instructions in the Renewal Worksheets for applying the OCAF to the Section 8 units being renewed.

D Applicability. This method of calculating the rents for short-term renewals is only for projects renewing under Section 524 of MAHRA. It is not for Section 514(c) contracts which are used for projects that must be processed by OMHAR, (see Chapter Five) or generic contract renewals which are in very limited circumstances primarily to protect the residents, (See Chapter Eleven).

Combining Contracts

Section 2-5

A. Goal. The Office of Multifamily Housing believes that a desirable goal is to have only one Section 8 contract per project. To achieve this goal, Owners may elect to combine multiple contracts or stages. Owners cannot be required to combine contracts. However, the benefits of combining multiple contracts in the same project should be pointed out to Owners.

B. Requesting Combination. The Renewal Worksheet includes a checklist format which can be used by Owners to request a contract renewal. The cover sheet of this format has a space for the Owner to designate its choice regarding the combination of multiple contracts or stages.

C. Combining. At the Owner's request, multiple contracts or stages that are expiring in the same fiscal year may be combined into one contract. This combination can be achieved in one of two ways:

1. **Short-term renewals**. At the time of renewal of the first stage or contract, the Owner may request a short-term renewal to bring the earliest expiring contract in line with the latest expiring contract. If the Owner elects to do so, they must meet the appropriate renewal requirements (See Section 2-3 C). Only contracts that are at or below market or that are exempt from OMHAR may take a short-term renewal to align contracts.

    a. Renew the first contract/stage for the period of time necessary to bring it coterminous with the later expiring contract (Remember, only contracts expiring in the same FY may be combined). The rent for the early expiration will be adjusted following the option selected by the Owner and supported by a RCS, if required. If OCAF is appropriate for the first contract, the rent will be adjusted by prorating the OCAF (See above).

    b. Apply the pro-rated OCAF to the early terminating contract or stage and if applicable, to the RCS. When the contracts or stages expire, they will be combined and renewed for the a minimum term of one year. If an OCAF adjustment is appropriate, the full OCAF should be applied to all the renewing units.

2. **Early Termination**. The Owner's second option would be to terminate the later expiring contract early, roll those units into the earlier expiring contract and renew all of the units for a one or five year term.

D. Not Combining. If an Owner has multiple stages or contracts that they do not want to combine, the contracts or stages that expire during the five-year life cycle of the earlier RCS may use that earlier RCS at the initial renewal of the later expiring contract or stages. The RCS should be adjusted by OCAF, provided that the RCS included all of the Section 8 unit types in the project. If the Owner believes that rents have changed since the initial renewal, he/she may submit an updated RCS for the later expiring contract(s). ***The cost of the updated RCS is not an eligible project expense.***

E. Adjusting the RCS. The RCS is good for five years.

1. During the five-year period, the PM/CA may need to adjust the original comparable market rent to reflect the effects of time.

   a. Adjust the original comparable market rent when there are multiple Section 8 contracts expiring in different years or the Owner wants a budget based rent increase in later years (See 2 below).

   b. An adjustment to the original comparable market rent will not be needed if the project has a single Section 8 contract and the Owner is willing to accept annual OCAF adjusted rent increases.

2. The PM/CA adjusts the comparable market rent by the OCAF using the Worksheet for OCAF Adjusted Rents under Option Two in the Renewal Worksheet of this guide.

   a. Use the subject project's debt service in the formula.

   b. If more than one year has passed since the submission of the RCS, the PM/CA will have to reprocess the worksheet for each additional year that has passed.

3. HUD Requires New RCS. If the PM/CA believes the OCAF adjusted comparable market rent is not an accurate reflection of the market, they have the authority to request one additional rent comparability study during the 5 year period. The cost of this RCS is a project expense.

   NOTE: In general, when HUD requires an RCS, the cost of conducting the RCS is an eligible project expense. However, if an Owner elects to conduct and submit an RCS during the five-year life cycle of the original RCS when HUD does NOT require one, the cost of conducting the updated RCS is NOT an eligible project expense.

F. Different Fiscal Years. Contracts and stages that expire in different fiscal years may not be combined. However, if an Owner requests a contract renewal to bring multiple contracts or stages in line so that they may be combined more easily in future years, HUD will permit this. An example would be a property which has a contract that expires in January 2001 and another that expires in March 2002. The Owner may request a 15 month renewal for the January 2001 contract to bring it coterminous with the March 2002 expiration.

G. OMHAR. Owners with contracts or stages that expire in the same fiscal year may be referred to OMHAR for processing if the Owner requests to do so. Contracts may be combined for OMHAR Lites or debt restructuring. Where contracts are being administered by CAs, the CA must refer the contract back to the PM with a recommendation that the contract be sent to OMHAR for processing. **PB*CA's can not refer contracts directly to OMHAR for processing.***

For OMHAR-Lites, only contracts that expire in the same fiscal year can be combined. For full restructures, OMHAR requires that all contracts be combined, including those that expire in later fiscal years.

H. Exception. An exception to HUD's preference to combine contracts is when there are pre-and post-October 1, 1981 contracts involved. Due to conflicting income eligibility requirements for these two categories of contracts, it is not practical at this time to allow Owners to combine a pre-October 1981 contract or stage with a post-October 1981 contract or stage.

Note: See Chapter Thirteen of this Guide for instructions on Rural Housing Service (RHS) contracts.

Preemption of State Laws Limiting Owner Distributions

Section 2-6

For consistency in administering the program as it relates to Owner distributions, Section 524(f) of MAHRA preempts State and local laws and regulations that limit or restrict owner distributions to an amount less than that provided for under regulations of the Secretary.

This preemption is now available to all projects which have Section 8 contracts renewed under any section of 524 of MAHRA and which have distributions of surplus funds accruing after October 20, 1999. Preemption does not apply to State-financed projects. An Owner may elect to waive the preemption.

HUD Responsibility for Contract Administrators

Section 2-7

The owner enters a Renewal Contract with the contract administrator. The contract administrator may be HUD, or may be a PHA that executes the Renewal Contract as contract administrator under an annual contributions contract (ACC) with HUD. The Renewal Contract describes the contractual obligations of the contract administrator (whether HUD or a PHA), and also separately defines HUD's contractual role - regardless of whether the contract administrator is HUD or a PHA.

In both cases, the contractual commitment to the owner is the same – that the contract administrator (HUD or PHA) will live up to its contractual responsibilities in accordance with the terms of the HAP contract, and that HUD will live up to its role as defined by the terms of the Renewal Contract.

When a Renewal Contract is executed by a PHA pursuant to this Guidebook, in accordance with HUD requirements and on the form prescribed by HUD, HUD is contractually bound by the Renewal Contract provisions that specify HUD's role pursuant to the Renewal Contract (including provisions concerning applicable HUD requirements, statutory changes during the term, distributions and PHA default).

For example, the Renewal Contract provides that if HUD determines that the PHA contract administrator has committed a material and substantial obligation of the PHA's obligation to pay amounts due to the owner, "HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract." This provision defines HUD's role in the event of PHA default. HUD is contractually bound to carry out this role as defined in the contract, and the Owner may sue to enforce HUD's contractual obligation.

If the Renewal Contract is originally executed by HUD, HUD may assign the Renewal Contract to a PHA contract administrator, for the purpose of PHA administration of the Renewal Contract. Such an assignment does not affect the owner's contractual rights – to enforce the contract administrator's contractual obligations against the new contract administrator, and to enforce HUD's contractual obligation to carry out HUD's role as defined in the Renewal Contract.

Chapter Three

Option One *Mark-Up-To-Market*

Overview

Section 3-1

A. The Mark-Up-To-Market Option was introduced as an Emergency Initiative in June 1999 to provide Owners of certain below-market properties located in strong markets, an incentive to renew the Section 8 contract and continue providing affordable housing. Because the cost of marking all below-market Section 8 properties up to market would likely have exceeded available resources, Mark-Up-To-Market was made available to only a limited universe of properties. Section 524(a)(4)(A) of MAHRA made Mark-Up-To-Market a permanent program and required the Department to mark rents up to market on properties meeting specific eligibility criteria as described in Section 3-2. Contract renewals under Mark-Up-To-Market as authorized by 524(a)(4)(A) are renewed under Option One-A.

B. To protect those most vulnerable and in an effort to further preserve affordable housing, Section 524(a)(4)(C) of MAHRA gave the Department discretionary authority to extend the option of marking rents up to market for properties not meeting the eligibility criteria under Option One-A but still considered an important affordable housing resource. The eligibility criteria for marking rents up to market using the Department's discretionary authority is described in Section 3-3. Contract renewals under the discretionary authority to mark rents up to market are renewed under Option One-B.

C. In order to limit rent increases to reasonable levels, rents will be renewed at the lesser of comparable market rents or 150% of the FMR. Exceptions to this cap on rent increases are discussed under Option One-B.

D. In addition to the eligibility criteria for Option One-A or Option One-B, the property must be decent, safe, sanitary, and in good repair. It also must have management satisfactory to the Department.

E. Under Mark-Up-to-Market, Owners must renew the Section 8 contract for a minimum five-year term. Chapter Fifteen of this guide outlines the procedures for marking rents up to budget for nonprofit organizations and for marking rents up to market when a transfer to a nonprofit organization is pending.

Option One-A: Entitlement Mark-Up-To-Market Eligibility

Section 3-2

All properties that meet the following criteria are eligible for a Section 8 contract renewal under Mark-Up-To-Market:

A. Property Condition. A Real Estate Assessment Center (REAC) physical inspection score of 60 or above with no uncorrected Exigent Health and Safety (EHS) violations.

B. Ownership. The property owner must be a profit-motivated or limited-distribution entity.

C. Market Rents. The RCS must demonstrate that the comparable market rents are at or above 100% of the FMR potential. Use the FMR figures calculated for the fiscal year in which the contract is expiring to demonstrate eligibility.

1. *Excel Worksheets*. Fillable worksheets are available on the internet for Owners and Contract Administrators. The site address is http://www.hud.gov/fha/mfh/mfhsec8.html.

2. *REMS*. PM/CAs can use the Real Estate Management System (REMS) to establish initial eligibility. The worksheets in Appendices 3-1 and 3-2 are available in REMS.

D. Use Restrictions. The project does not have a low-and moderate-income use restriction that cannot be eliminated by unilateral action by the Owner. Examples of use restrictions would be the existence of a Rent Supplement Contract, prior or present Flexible Subsidy assistance, or Low-Income Housing Tax Credits.

Note 1: *Where the use restricted rent levels are greater than the projects Section 8 rents, the new Section 8 rents may be marked up to the use restricted level. For example, project Owners with Flexible Subsidy Agreements that provide rent levels greater than the approved Section 8 contract rent, may request an increase in rents up to, but not exceeding, the approved Flexible Subsidy rent level as indicated in the Use Agreement, and the property must meet the criteria described in Option One-B. These types of transactions do not require Headquarters approval. However, Field Offices must submit a copy of the approval and supporting documentation for a post review for quality control purposes.*

Note 2: If an owner of an FHA-insured project is not eligible to prepay an FHA-subsidized mortgage, the project is not eligible to Mark-Up-To-Market, under

the Entitlement Option One-A or the Discretionary Option One-B. An example of a property that is ineligible to prepay its mortgage would be a Section 236 or Section 221(d)(3) that was originally owned by a nonprofit Owner who transferred ownership to a profit motivated entity. If the change in ownership did not result in the elimination of the low and moderate income use restrictions for the project, the new owner is not entitled to prepay and as a result, is ineligible to Mark-Up-To-Market.

E. Once a contract has received its initial renewal under MAHRA, the Owner may request to enter into Mark-Up-To-Market at any time.

F. Nonprofit Transfers. In addition to the qualifying criteria above, HUD will use its discretionary authority to mark rents up to market to facilitate a change in ownership from a for-profit Owner or limited-dividend Owner to a nonprofit; or from one nonprofit Owner to another nonprofit Owner (See eligibility criteria and instructions contained in Chapter Fifteen of this Guide).

Option One-B: Discretionary Authority Eligibility

Section 3-3

A. To further preserve the affordable housing stock, the Secretary has the discretionary authority under Section 524(a)(4)(C) of MAHRA to mark rents up to market for projects that meet certain criteria. In addition, if there is an expectation that rent increases will exceed the amount of appropriations available, HUD may give preference to projects that meet more than one of the characteristics described below. At this time however, HUD expects adequate funding to be available and field offices and contract administrators should ***not*** limit discretionary requests due to funding concerns.

B. For Owners who request participation in Option One-B, and for Owners of projects that request an increase in rents above the cap on comparable rents of 150% of FMR, HUD will consider these requests if the project meets at least one of the following three characteristics:

1. **Vulnerable Populations**. The tenants of the property are a particularly vulnerable population, demonstrated by a high percentage (at least 50%) of the units rented to elderly families, disabled families, or large families (large family is defined as a family of five or more persons);

2. **Vacancy Rates**. The property is located in a low-vacancy market area (or in a rural area with no comparable rental housing) where there is a lack of affordable housing and where Housing Choice vouchers would be difficult to use.

   The determination of a low vacancy area should be made using the most recent available data on the rental inventory, renter households, rental vacancy rates and other factors as appropriate. A market with a rental vacancy rate of less than 3

percent is considered a low vacancy area. Confirm the vacancy rate with HUD EMAS staff/CA staff; or

3. **Community Support**. The property is a high priority for the local community as demonstrated by a contribution of State or local funds to the property. This matching requirement may be in the form of tax abatements, capital improvement funds etc.

C. Submit discretionary Mark-Up-to-Market requests to Willie Spearmon, Director, Office of Housing Assistance and Grant Administration in Headquarters after the requests are reviewed to determine that the discretionary criteria have been met. The request submitted to HQ must be accompanied by the supporting documentation and a recommendation from the Hub Director/Program Center Manager stating why the request should be approved. Renewals under Option Option One-B may not take place until approval of the request is provided by Headquarters.

Initial Renewals

Section 3-4

At least 120 days before the expiration of the contract, the Owner submits a **Renewal Request Worksheet** and a **Rent Comparability Study**. The RCS is prepared following the instructions found in Chapter Nine of this Guide.

Annual Adjustments in Years 2 through 5 or Multiple Year Contracts

Section 3-5

At least 120 days before the anniversary date of the contract, the Owner submits the OCAF renewal worksheet found at Attachment 3 of this Guide In years two through five, rents are adjusted by the published OCAF. No budget-based rent increases shall be approved for contracts that Mark-Up-To-Market.

To adjust contract rents during the term of the section 524 contract, after receipt and processing of the OCAF worksheet, the PM/CA shall provide the owner with the revised section 524 Exhibit A, “Identification Of Units By Size And Applicable Contract Rents”, rent schedule. The revised Exhibit A will amend the existing section 524 contract and the new rents will go into effect.

Subsequent Renewals

Section 3-6

Upon expiration of the contract, Owners may elect to renew under any of the options available at that time. Owners are encouraged to enter into another multi-year contract but they are not required to do so.

Processing Instructions

Section 3-7

A. Initially Eligible. For Option One-A, if the property meets the initial eligibility criteria, the PM/CA orders a comparability study from the Department's independent third-party contractor to determine ultimate eligibility for Mark-Up-To-Market. ***Note: CAs must go through the PM to order the third party RCS.*** For Option One-B, this process may not begin until HQ approval is obtained. For both Option One-A and One-B, if required, the PM/CA may grant a short-term renewal to the Owner (using a prorated OCAF adjustment) to afford the Owner and HUD time to complete the eligibility analysis.

B. Not Eligible. If the property is not eligible for Option One-A, but meets the discretionary criteria for Option One-B, the rents may be marked up to market. A written recommendation from the Field Office requesting Headquarters approval of the Owners request for the discretionary Mark-Up-To-Market Option One-B, along with supporting evidence, must be submitted to Willie Spearmon, Director, Office of Housing Assistance and Grant Administration in Headquarters. As noted above, the RCS should not be ordered until HQ issues approval to process the owner's rent increase request under the discretionary Mark-Up-To Market option.

C. HUD has 120 days to process an Owner's request and is not obligated to complete the process any sooner. If the rent increase process is not completed within the 120 days, through no fault of the Owner, then the Owner is due a retroactive rent increase for any time over the 120 days that it may take HUD to process the renewal request. If however, the Owner submits the request less than 120 days prior to expiration of the contract, (e.g., 30 days late) HUD has 120 days from the date of submission of the paperwork to process the request. ***The renewal date of the contract will be the day following expiration of the original contract, however, owners will not be provided with retroactive rent increases.***

   Example: An Owner submits his/her request 90 days prior to contract expiration, HUD has the full 120 days to process the request. If HUD's processing is timely, the renewal rents shall take effect 30 days after the expiration date with no retroactive rent increase permitted. If HUD takes 150 days to process the request, the renewal rents

shall take place 60 days after the expiration date with the Owner due retroactive rent increase for only 30 days. The net effect of this policy is that, in all cases, owners who fail to submit their renewal request to HUD 120 days before contract expiration, will not receive increased rents for the period of time that it takes HUD to process the renewal request. The effective date of the renewal will continue to be the day immediately following the expiration date of the contract. ***NOTE: This policy applies only to contracts renewing under Option One, Mark-Up-to-Market.***

D. Contract Term. An Owner must accept, at a minimum, a five-year Section 8 contract, subject to annual appropriations. During the term of the MU2M five-year contract, the Owner of a Section 236 or a 221(d)(3) BMIR project agrees not to prepay any FHA-insured mortgage on this project, except where HUD, in its sole discretion, approves the prepayment as a component of a transaction where the project is preserved as affordable housing.
Note: Request for prepayments should be forwarded to the attention of the Director, Office of Portfolio Management, Headquarters.

E. Notification. Upon signing a multi-year contract renewal, Owners must notify tenants in writing that they have agreed to a multi-year contract renewal agreement with the Department. This letter must also state that the contract is subject to the availability of annual appropriations. The letter shall advise the tenants that they will receive a one-year written notification prior to expiration of the Section 8 contract.

F. Comparability Studies. Along with a request to Mark-Up-To-Market, the Owner must submit a RCS prepared following the guidelines detailed in Chapter Nine of this Guide.

1. **Accurate Comparable Market Rents**. Use the following process to establish comparable market rents. For Option One-A, immediately upon receipt of the Owners request for renewal and for Option One-B, after approval of HQ:

   a. The PM/CA uses the Owner's study as an initial determining factor for participation. HUD will accept the Owner's study without analysis. This initial study is only for determining initial eligibility.

   b. If the Owner's comparable gross rent potential is below 100% of the FMR potential, the Owner is not eligible for participation in Option One-A.

   c. If the Owner's comparable gross rent potential is at or above 100% of the FMR potential, the PM/CA immediately orders a HUD comparability study (not applicable for One-B).

   d. HUD will hire an independent third-party appraiser through its Contracting Officer. Since the RCSs will be done for both insured and uninsured properties, contract funds to pay for the studies will come from the sources below. The PM/CA will rely, without an in-depth review, upon the information contained in the third-party appraisal in implementing Mark-Up-To-Market.

i. FHA Insured: Technical Discipline Contract PAS Code: MTF.

ii. Noninsured: Section 8 program funds. PAS Code: CRE

2. **Differences in Comparability Studies**. There are no negotiations allowed nor is there an appeal process when there are differences between comparability studies.

   a. When the HUD comparable gross rent potential is greater than the Owner's comparable gross rent potential, the final comparable market rents will be the Owner's comparable market rents.

   b. When the HUD comparable gross rent potential is less than the Owner's comparable gross rent potential, if the Owner's comparable rent potential is:

      i. less than 105% of the HUD comparable rent potential, the final comparable market rents will be the Owner comparable market rents;

      ii. greater than or equal to 105% of the HUD comparable rent potential, the final comparable market rents will be 105% of the HUD comparable market rents.

   c. When the HUD Comparable Gross Rent Potential is below the owner Comparable Gross Rent Potential and below 100% of the FMR potential, the property is ***not*** eligible for Option One-A.

3. **Utilities**. FMRs are housing market-wide estimates of the rent plus the cost of utilities (excluding telephone). Therefore, where contracts have separately calculated Utility Allowances, add the Utility Allowance amount to the comparable market rents to reach the comparable gross rents to compare them to the FMRs'. Rents arrived at in the comparability studies use the same assumptions about payment of utilities as the Section 8 contract rents.

4. **REMS**. Use REMS for comparing the Owner and HUD comparability studies, determining the final comparable market rents and determining final eligibility.

Rents

Section 3-8

A. Section 8 Rents. Under Mark-Up-To-Market, the comparable market rents are capped at 150% of the FMR (unless the discretionary criteria outlined in Section 3-5 are met) to limit rent increases to a reasonable level. Use the worksheets provided in Appendices 3-1, and 3-2 to perform all of the calculations.

1. **Section 236, 221(d)(3)BMIR and 515 Properties**. For properties with subsidized FHA loans, the comparable market rents are reduced to take into account the benefits which the property is already receiving from the below-market interest rate mortgage by using an Interest Subsidy Adjustment Factor. To ensure that this Adjustment Factor is applied consistently between properties with subsidized FHA loans and those without these loans, the 150% of FMR cap on comparable rents is calculated *before* applying the Interest Subsidy Adjustment Factor. If the final comparable gross rent potential is:

   a. Greater than 150% of the FMR potential, set the New Section 8 Gross Rents at 150% of FMRs multiplied by the Interest Subsidy Adjustment Factor.

   b. Equal to or less than 150% of the FMR Potential, set the New Section 8 Gross Rents at the Final Comparable Gross Rents multiplied by the Interest Subsidy Adjustment Factor.

   Note: It is possible that using the Interest Subsidy Adjustment Factor would cut the rents below the level they would have been under a traditional budget-based renewal. In no case shall the Section 8 rents be lower as a result of Mark-Up-To-Market. If the New Section 8 Gross Rents, as calculated above, are less than the New Authorized Gross Rents, then set the New Section 8 Gross Rents at the New Authorized Gross Rents.

2. **Other New Construction/Sub Rehab Properties**. If the Final Comparable Gross Rent Potential is:

   a. Greater than 150% of the FMR Potential, set the New Section 8 Gross Rents at 150% of the FMRs.

   b. Equal to or less than 150% of the FMR Potential, set the New Section 8 Gross Rents at the Final Comparable Gross Rents.

B. Non-Section 8 Rents. In Section 236, 221(d)(3)BMIR and Section 515 properties, to protect low and moderate income tenants who do not receive Section 8 assistance but live in affordable units, rent increases for these units are restricted.

1. **Section 236 Properties**. For Section 236 properties, the increased distribution under Mark-Up-To-Market will be added as an additional expense to the New Authorized Rents to reach the New Section 8 Rents, which will also be the new Section 236 Basic Rents for the Section 8 units under contracts eligible for Mark-Up-To-Market. This increase, however, will only affect the Section 236 Basic and Market Rents for the Section 8 units under contracts eligible for Mark-Up-To-Market. To protect non-Section 8 tenants from the hardship of increased rents, the Basic and Market rents for the non-Section 8 units (and for Section 8 units under contracts that are not currently expiring) will not be increased as a result of the increased distribution. Instead, they will be set at the New Authorized Rents.

2. **Other New Construction/Sub Rehab Properties**. Mark-Up-To-Market should have no effect on the non-Section 8 units or units under contracts that are not currently expiring.

Owner Distributions for 100% Section 8 Assisted Properties

Section 3-9

In an effort to encourage owners to preserve affordable housing, a final rule was issued October 13, 2000, giving authority to the Department to increase distributions for owners of projects participating in Mark-Up-To-Market or other programs to preserve assisted housing where the rents are below market.

The Department is using the authority granted in the final rule to allow Owners of projects with 100% Section 8 project-based assistance, who participate in Mark-Up-To-Market and were subject to limited distributions, to take increased distributions. Owners should follow existing guidance in Handbook 4370.2 REV1, paragraph 2-8 for computing surplus cash. Owners are allowed to keep all surplus cash available each year during the term of the contract for distribution. .

Owners of Section 8 properties must maintain the property in good condition, as demonstrated by a REAC score of 60 or higher on their most recent inspection, in order to take distributions.

Owner Distributions for Partially-Assisted Properties

Section 3-10

Partially-Assisted Properties that are neither Section 236, 221(d)(3) BMIR, nor Section 515.

Owners of these properties may take all surplus cash generated on all units in any project year. The Section 8 rents must not exceed the non-Section 8 rents.

Section 221(d)(3) BMIR, 236, and Section 515.

Owners of partially-assisted Section 221(d)(3), 236, and 515 projects are eligible for an increased distribution in the amount of the rent increase for the Section 8 units under Mark-Up-to-Market. This amount will be added to the current limited distribution to reach the total distribution.

Initial Eligibility Worksheet

Property: _____

Section 8 #: _____

Section 8 Units in Contracts Eligible Under this Notice Only

(A) Unit Type	(B) # of Units	(C) Current Section 8 Rents	(D) Owner Comparable Market Rents	(E) Utility Allowance	(F) Owner Comparable Gross Rents (D + E)	(G) Fair Market Rents	(H) Current Section 8 Rent Potential (C x B)	(I) Owner Comparable Rent Potential (D x B)	(J) Owner Comp. Gross Rent Potential (F x B)	(K) FMR Potential (G x B)
Monthly Total										
Annual Total										

			Notes
(A)	Owner Comparable Rent Potential is:	% of Current	Total of Column I divided by total of Column H
(B)	This contract is:		If Row A > 100%, then contract is below market
(C)	Owner Comparable Gross Rent Potential is:	% of FMR	Total of Column J divided by total of Column K
(D)	This contract is initially:		If Row C >= 100% and contract below market, then eligible

Comparability Study Comparison Worksheet

Property: _____

Section 8 #: _____

Section 8 Units in Contracts Eligible for this Initiative

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)
Unit Type	# of Units	Current Section 8 Rents	Owner Comparable Market Rents	HUD Comparable Market Rents	Utility Allowance	HUD Comparable Gross Rents (E + F)	Fair Market Rents	Current Section 8 Rent Potential (C x B)	Owner Comparable Rent Potential (D x B)	HUD Comparable Rent Potential (E x B)	HUD Comp. Gross Rent Potential (G x B)	FMR Potential (H x B)	Final Comparable Market Rents (See Row F)
Monthly Total													
Annual Total													

Final Eligibility Test

			Notes
(A)	HUD Comparable Rent Potential is:	% of Current	Total of Column K divided by total of Column I
(B)	This contract is:		If Row A > 100%, then contract is below market
(C)	HUD Comparable Gross Rent Potential is:	% of FMR	Total of Column L divided by total of Column M
(D)	This property is:		If Row C >= 100% and contract below market, then property is eligible

Final Comparable Rents

			Notes
(E)	Owner Comparable Rent Potential is:	% of HUD	Total of Column J divided by total of Column K
(F)	Final Comparable Market Rents are:	% of HUD	If Row E < 105%, then Column N equals Column D, else Column N equals 105% of Column E

Section 236, Section 515 & Section 221(d)(3) BMIR Worksheet

Property: _____

Section 8 #: _____

Section 8 Units in Contracts Eligible for this Initiative

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)
Unit Type	# of Units	New Authorized Rents	Final Comparable Market Rents	Utility Allowance	Final Comparable Gross Rents (D + E)	Fair Market Rents	New Authorized Rent Potential (C x B)	Final Comp. Gross Rent Potential (F x B)	FMR Potential (G x B)	Capped Comparable Gross Rents (See Row B)	Capped Comp. Gross Rent Potential (K x B)	New Section 8 Gross Rents (K x Row N)	New Section 8 Rents (M - E)	New Section 8 Rent Potential (N x B)
Monthly Total														
Annual Total														

Note: **If the New Section 8 Rent Potential is lower than the New Authorized Rent Potential, set the New Section 8 Rents at the New Authorized Rents.**

Capped Comparable Gross Rents

			Notes
(A)	Final Comparable Gross Rent Potential is:	% of FMR	Total of Column I divided by total of Column J
(B)	Capped Comparable Gross Rents are:	% of Final	If Row A > 150%, then Column K equals 150% of Column G, else Column K equals Column F

Section 236, Section 515 & Section 221(d)(3) BMIR Worksheet

Property: _____

Section 8 #: _____

Calculation of Annual Interest Subsidy

			Notes
(C)	Original Market Interest Rate:		If not available, set at 7%
(D)	Minus Subsidized Interest Rate:		Usually 1% for Section 236 & 515, 3% for BMIR
(E)	Equals Interest Rate Differential:		Row C minus Row D
(F)	Multiplied by Unpaid Principal Balance:		Current Unpaid Principal Balance
(G)	Equals Annual Interest Subsidy:		If Annual IRP Amount available, then use it here. Otherwise, Row E multiplied by Row F
(H)	Multiplied by Number of Units in Contract:		Use total number of units eligible under this Initiative
(I)	Divided by Total Number of Units in Property:		Use total number of units in the property covered by the subsidized loan
(J)	Equals Annual Eligible Interest Subsidy:		Row G multiplied by Row H divided by Row I

Calculation of Interest Subsidy Adjustment Factor

			Notes
(K)	Annual Capped Comparable Gross Rent Potential:		Annual Total of Column L
(L)	Minus Annual Eligible Interest Subsidy:		Row J
(M)	Annual New Section 8 Gross Rent Potential:		Row K minus Row L
(N)	Divided by Annual Capped Comparable Gross Rent Potential:		Row K
(O)	Interest Subsidy Adjustment Factor:		Row M divided by Row N

Calculation of Increased Distribution

			Notes
(P)	Annual New Section 8 Rent Potential:		Annual Total of Column O
(Q)	Minus Annual New Authorized Rent Potential:		Annual Total of Column H
(R)	Equals Increased Annual Distribution:		Row P minus Row Q

Other New Construction and Sub Rehab Worksheet

Property: _____

Section 8 #: _____

Section 8 Units in Contracts Eligible Under this Notice Only

(A) Unit Type	(B) # of Units	(C) Current Section 8 Rents	(D) Final Comparable Market Rents	(E) Utility Allowance	(F) Final Comparable Gross Rents (D + E)	(G) Fair Market Rents	(H) Current Section 8 Rent Potential (C x B)	(I) Final Comp. Gross Rent Potential (F x B)	(J) FMR Potential (G x B)	(K) New Section 8 Gross Rents (See Row B)	(L) New Section 8 Rents (K - E)	(M) New Section 8 Rent Potential (L x B)
Monthly Total												
Annual Total												

New Section 8 Gross Rents

			Notes
(A)	Final Comparable Gross Rent Potential is:	% of FMR	Total of Column I divided by total of Column J
(B)	New Section 8 Gross Rents are:	% of Final	If Row A > 150%, then Column K equals 150% of Column G, else Column K equals Column

Calculation of Increased Distribution

			Notes
(C)	Annual New Section 8 Rent Potential:		Annual Total of Column M
(D)	Minus Annual Current Section 8 Rent Potential:		Annual Total of Column H
(E)	Equals Increased Annual Distribution:		Row C Minus Row D

INPUTS WORKSHEET

ENTER DATA IN SHADED CELLS ONLY

Property:	**Green Acres**
City/State:	**Anytown, USA**
Section 8 #:	**999-99999**
Total Units in Property:	**100**

Section 236, 515 & BMIR Properties Only

Annual IRP Amount:		(For 236 properties only. If not available, leave blank)
Original Mkt. Interest Rate:	7%	(If not available, use 7%)
Subsidized Interest Rate:	3%	(Usually 1% for Section 236 & 515, 3% for BMIR)
Unpaid Principal Balance:	1,000,000	

Section 8 Units in Contracts Eligible Under this Notice Only

(A) Unit Type	(B) # of Units	(C) Current Section 8 Rents	(D) Utility Allowance	(E) Current Section 8 Gross Rents (C + D)	(F) New Authorized Rents (236, 515 & BMIR)	(G) New Authorized Gross Rents (F + D)	(H) Owner Comparable Market Rents	(I) Owner Comparable Gross Rents (H + D)	(J) HUD Comparable Market Rents	(K) HUD Comparable Gross Rents (J + D)	(L) Fair Market Rents
One Bedrooms	12	400	50	450	410	460	500	550	450	500	450
Two Bedrooms	32	450	75	525	465	540	550	625	500	575	500
Three Bedrooms	16	500	100	600	520	620	600	700	550	650	550
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
				0		0		0		0	0
Monthly Total	60	27,200	4,600	31,800	28,120	32,720	33,200	37,800	30,200	34,800	30,200
Annual Total	60	326,400	55,200	381,600	337,440	392,640	398,400	453,600	362,400	417,600	362,400

Initial Eligibility Worksheet

Property: Green Acres
Section 8 #: 999-99999

Section 8 Units in Contracts Eligible Under this Notice Only

(A) Unit Type	(B) # of Units	(C) Current Section 8 Rents	(D) Owner Comparable Market Rents	(E) Utility Allowance	(F) Owner Comparable Gross Rents (D + E)	(G) Fair Market Rents	(H) Current Section 8 Rent Potential (C x B)	(I) Owner Comparable Rent Potential (D x B)	(J) Owner Comp. Gross Rent Potential (F x B)	(K) FMR Potential (G x B)
One Bedrooms	12	400	500	50	550	450	4,800	6,000	6,600	5,400
Two Bedrooms	32	450	550	75	625	500	14,400	17,600	20,000	16,000
Three Bedrooms	16	500	600	100	700	550	8,000	9,600	11,200	8,800
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0
Monthly Total	60						27,200	33,200	37,800	30,200
Annual Total	60						326,400	398,400	453,600	362,400

			Notes
(A)	Owner Comparable Rent Potential is:	122.1% of Current	Total of Column I divided by total of Column H
(B)	This contract is:	Below Market	If Row A > 100%, then contract is below market
(C)	Owner Comparable Gross Rent Potential is:	125.2% of FMR	Total of Column J divided by total of Column K
(D)	This contract is initially:	Eligible	If Row C >= 100% and contract below market, then eligible

Comparability Study Comparison Worksheet

Property: Green Acres
Section 8 #: 999-99999

Section 8 Units in Contracts Eligible for this Initiative

(A) Unit Type	(B) # of Units	(C) Current Section 8 Rents	(D) Owner Comparable Market Rents	(E) HUD Comparable Market Rents	(F) Utility Allowance	(G) HUD Comparable Gross Rents (E + F)	(H) Fair Market Rents	(I) Current Section 8 Rent Potential (C x B)	(J) Owner Comparable Rent Potential (D x B)	(K) HUD Comparable Rent Potential (E x B)	(L) HUD Comp. Gross Rent Potential (G x B)	(M) FMR Potential (H x B)	(N) Final Comparable Market Rents (See Row F)
One Bedrooms	12	400	500	450	50	500	450	4,800	6,000	5,400	6,000	5,400	473
Two Bedrooms	32	450	550	500	75	575	500	14,400	17,600	16,000	18,400	16,000	525
Three Bedrooms	16	500	600	550	100	650	550	8,000	9,600	8,800	10,400	8,800	578
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
Monthly Total	60							27,200	33,200	30,200	34,800	30,200	
Annual Total	60							326,400	398,400	362,400	417,600	362,400	

Final Eligibility Test

			Notes
(A)	HUD Comparable Rent Potential is:	111.0% of Current	Total of Column K divided by total of Column I
(B)	This contract is:	Below Market	If Row A > 100%, then contract is below market
(C)	HUD Comparable Gross Rent Potential is:	115.2% of FMR	Total of Column L divided by total of Column M
(D)	This property is:	Eligible	If Row C >= 100% and contract below market, then property is eligible

Final Comparable Rents

			Notes
(E)	Owner Comparable Rent Potential is:	109.9% of HUD	Total of Column J divided by total of Column K
(F)	Final Comparable Market Rents are:	105.0% of HUD	If Row E < 105%, then Column N equals Column D, else Column N equals 105% of Column E

Section 236, Section 515 & Section 221(d)(3) BMIR Worksheet

Property: Green Acres
Section 8 #: 999-99999

Section 8 Units in Contracts Eligible for this Initiative

(A) Unit Type	(B) # of Units	(C) New Authorized Rents	(D) Final Comparable Market Rents	(E) Utility Allowance	(F) Final Comparable Gross Rents (D + E)	(G) Fair Market Rents	(H) New Authorized Rent Potential (C x B)	(I) Final Comp. Gross Rent Potential (F x B)	(J) FMR Potential (G x B)	(K) Capped Comparable Gross Rents (See Row B)	(L) Capped Comp. Gross Rent Potential (K x B)	(M) New Section 8 Gross Rents (K x Row N)	(N) New Section 8 Rents (M - E)	(O) New Section 8 Rent Potential (N x B)
One Bedrooms	12	410	473	50	523	450	4,920	6,270	5,400	523	6,270	494	444	5,325
Two Bedrooms	32	465	525	75	600	500	14,880	19,200	16,000	600	19,200	567	492	15,742
Three Bedrooms	16	520	578	100	678	550	8,320	10,840	8,800	678	10,840	640	540	8,643
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Monthly Total	60						28,120	36,310	30,200		36,310			29,710
Annual Total	60						337,440	435,720	362,400		435,720			356,520

Note: **If the New Section 8 Rent Potential is lower than the New Authorized Rent Potential, set the New Section 8 Rents at the New Authorized Rents.**

Capped Comparable Gross Rents

			Notes
(A)	Final Comparable Gross Rent Potential is:	120.2% of FMR	Total of Column I divided by total of Column J
(B)	Capped Comparable Gross Rents are:	100.0% of Final	If Row A > 150%, then Column K equals 150% of Column G, else Column K equals Column F

Section 236, Section 515 & Section 221(d)(3) BMIR Worksheet

Property: Green Acres
Section 8 #: 999-99999

Calculation of Annual Interest Subsidy

			Notes
(C)	Original Market Interest Rate:	7%	If not available, set at 7%
(D)	Minus Subsidized Interest Rate:	3%	Usually 1% for Section 236 & 515, 3% for BMIR
(E)	Equals Interest Rate Differential:	4%	Row C minus Row D
(F)	Multiplied by Unpaid Principal Balance:	1,000,000	Current Unpaid Principal Balance
(G)	Equals Annual Interest Subsidy:	40,000	If Annual IRP Amount available, then use it here. Otherwise, Row E multiplied by Row F
(H)	Multiplied by Number of Units in Contract:	60	Use total number of units eligible under this Initiative
(I)	Divided by Total Number of Units in Property:	100	Use total number of units in the property covered by the subsidized loan
(J)	Equals Annual Eligible Interest Subsidy:	24,000	Row G multiplied by Row H divided by Row I

Calculation of Interest Subsidy Adjustment Factor

			Notes
(K)	Annual Capped Comparable Gross Rent Potential:	435,720	Annual Total of Column L
(L)	Minus Annual Eligible Interest Subsidy:	24,000	Row J
(M)	Annual New Section 8 Gross Rent Potential:	411,720	Row K minus Row L
(N)	Divided by Annual Capped Comparable Gross Rent Potential:	435,720	Row K
(O)	Interest Subsidy Adjustment Factor:	0.9449	Row M divided by Row N

Calculation of Increased Distribution

			Notes
(P)	Annual New Section 8 Rent Potential:	356,520	Annual Total of Column O
(Q)	Minus Annual New Authorized Rent Potential:	337,440	Annual Total of Column H
(R)	Equals Increased Annual Distribution:	19,080	Row P minus Row Q

Other New Construction and Sub Rehab Worksheet

Property: Green Acres
Section 8 #: 999-99999

Section 8 Units in Contracts Eligible Under this Notice Only

(A) Unit Type	(B) # of Units	(C) Current Section 8 Rents	(D) Final Comparable Market Rents	(E) Utility Allowance	(F) Final Comparable Gross Rents (D + E)	(G) Fair Market Rents	(H) Current Section 8 Rent Potential (C x B)	(I) Final Comp. Gross Rent Potential (F x B)	(J) FMR Potential (G x B)	(K) New Section 8 Gross Rents (See Row B)	(L) New Section 8 Rents (K - E)	(M) New Section 8 Rent Potential (L x B)
One Bedrooms	12	400	473	50	523	450	4,800	6,270	5,400	523	473	5,670
Two Bedrooms	32	450	525	75	600	500	14,400	19,200	16,000	600	525	16,800
Three Bedrooms	16	500	578	100	678	550	8,000	10,840	8,800	678	578	9,240
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0
Monthly Total	60						27,200	36,310	30,200			31,710
Annual Total	60						326,400	435,720	362,400			380,520

New Section 8 Gross Rents

			Notes
(A)	Final Comparable Gross Rent Potential is:	120.2% of FMR	Total of Column I divided by total of Column J
(B)	New Section 8 Gross Rents are:	100.0% of Final	If Row A > 150%, then Column K equals 150% of Column G, else Column K equals Column

Calculation of Increased Distribution

			Notes
(C)	Annual New Section 8 Rent Potential:	380,520	Annual Total of Column M
(D)	Minus Annual Current Section 8 Rent Potential:	326,400	Annual Total of Column H
(E)	Equals Increased Annual Distribution:	54,120	Row C Minus Row D

Chapter Four

Option Two *Contract Renewals for Other Projects with Current Rents At or Below Comparable Market Rents*

Eligibility

Section 4-1

Option Two is for Owners who request a renewal of their Section 8 contract where the RCS indicates that the contract's current rents are at or below comparable market rents, but who are not applying for Mark-Up-To-Market.

Owners of "exception projects" (See Chapter Six) have a choice of having their initial renewal processed under Option One, Option Two, or Option Four. However, if an owner of an exception project elects to initially renew the contract under Option One or Two, the owner may not switch back to Option Four at a later date.

Initial Renewal

Section 4-2

A. Owner Submission. At least 120 days before contract expiration, the Owner submits:

1. **Contract Renewal Request Form**. Owner's Option Checklist and OCAF Worksheet;

2. **RCS.** A RCS prepared following the instructions found in Chapter Nine of this Guide; and

3. **Budget.** If applicable, a budget-based rent increase request in accordance with the requirements of HUD Handbook 4350.1, Chapter 7, and Attachment 5 of this Guide.

NOTE: Unlike Owners who participate in Mark-Up-To-Market, if a rent increase through an OCAF or budget-based increase brings rents up to market, owners are not required to renew their contract for five years.

Rent Adjustments for Multi-Year Contracts

Section 4-3

A. For rent adjustments for existing multi-year contracts, at least 120 days before the anniversary date of the contract, the Owner submits:

1. **OCAF Worksheet.** Attachment 3; or

2. **Budget**. If applicable, a budget-based rent increase request in accordance with the requirements of HUD Handbook 4350.1, Chapter 7, and Attachment 5 of this Guide. The resulting rents must remain below the OCAF-adjusted RCS discussed in Chapter Two of this Guide. If the rents are above the RCS, HUD will not approve the budget-based request. The OCAF-adjusted RCS serves as the market cap.

Note 1: If a contract receives an OCAF rent adjustment, a proportionate amount of any OCAF-adjustment to the rent must be applied to the project's reserve for replacement account. For Example: If the OCAF worksheet found at Attachment 3 indicates that the rent adjustment for a one bedroom unit is 2.3%, then 2.3 % of the rent increase for the one bedroom unit should be deposited into the reserve for replacement account.

Note 2: If the contract is for a period greater than 5 years, the owner must complete a new RCS every 5 years and the rents in the following years will be adjusted, if necessary, to ensure that the rents at the project are not greater than comparable market rents.

3. **Discretionary.** In addition to the comparability analysis and adjustment of contract rents at the fifth year anniversary, HUD may, at its discretion, require or permit the PM/CA to conduct a RCS one time within each 5-year period.

B. For one year contracts, at expiration of the initial contract, the contract should follow the instructions for subsequent renewals found below.

Note: In no case shall application of an OCAF result in negative rent adjustments.

Subsequent Renewals

Section 4-4

A. Owner Submission. At least 120 days before expiration of the Section 8 contract, the Owner should submit:

1. Contract Renewal Request Form and OCAF Worksheet.

2. If the existing RCS is five years old, a new RCS following the instructions found in Chapter Nine of this Guide; and

3. If the Owner requests a budget-based rent increase, a budget prepared in accordance with HUD Handbook 4350.1, Chapter 7.

Processing Instructions

Section 4-5

A. PM/CA Review. The review should be completed within 45 calendar days. If the PM/CA intends to utilize OMHAR's PAE to assist in the review, the PM must notify the OMHAR staff within 14 calendar days of receipt of the owner's package.

B. The PM checks to see:

1. That the owner selected to renew under Option Two.

2. If the owner is eligible to renew the Section 8 project-based contract under the Option selected.

3. If the owner has provided all required documentation. For example:

   a. Contract Renewal Request Form and OCAF Worksheet.

   b. A Rent Comparability Study, if required, prepared in accordance Chapter Nine of this Guide.

   c. A budget-based adjustment, if required, prepared in accordance with Chapter 7 of HUD Handbook 4350.1.

4. If the owner specified on the Cover Sheet whether they wanted any multiple stages or contracts combined at this time. See instructions provided in Chapter Two of this Guide.

C. Review the Owner's certification regarding suspension or debarment on the worksheet. If the Owner checked that they are not suspended or debarred, verify that information by using the www.ARNet.gov/epls/.

1. If it is determined that the Owner is suspended or debarred, HUD will permit the Owner to renew the Section 8 contract if the projects in question are adequately managed and maintained, and activities there were not the cause of the administrative actions against the Owner.

2. Where there are material violations and the enforcement process has progressed to the point that the PM has decided to terminate the existing contract or refuse to renew the contract, the PM should deny the renewal request.

D. Log the owner's request as indicated on Renewal Worksheet and any other relevant information in the REMS system.

E. Non-renewal determination: If at any time the PM feels that the contract should not be renewed they should prepare a notice advising the Owner of the basis for rejection, giving the Owner 30 days to object to the reasons or to cure the problems identified. If the PM's concern is resolved renew the contract.

F. Review the RCS to make sure that the study was done in accordance with the requirements included in Chapter Nine of this Guide and that the conclusions are reasonable. Record finding in REMS

G. Review the RCS and the charts on the worksheet to verify that the calculations provided include only those Section 8 units in the expiring contract and the accuracy of the computations.

If the charts show that the current contract rent potential of the project is greater than the market rent potential of the comparable rents, the project is eligible for, and should be referred to, OMHAR for processing.

H. Prepare a contract renewal.

1. Apply the appropriate rent adjustment method.

   a. Application of OCAF, or

   b. Application of budget based method

2. For the appropriate term:

   a. Less than one year

   b. One to five years

c. Other

3. Subsequent Renewal, Apply the appropriate rent adjustment method

a.. OCAF, or

b. Budget based method

c. Apply the appropriate contract term

Chapter Five

Option Three *Referral to OMHAR*

Eligibility

Section 5-1

A. FHA insured projects with above market rents that are not identified as an "exception project" in Chapter Six, must be referred to OMHAR.

B. "Exception Projects" as defined in Chapter Six, as well as Section 542(c) Risk Sharing projects are ineligible for OMHAR, and, therefore, should NOT be sent to OMHAR for renewal.

C. Project owners who are suspended or debarred and who refuse to sell their properties are ineligible for OMHAR Fulls. However, they remain eligible for OMHAR-lites. As a result, these contracts should be referred to OMHAR for a rent determination. Based on the results of the RCS, the contract will be handled on a case by case basis. If OMHAR returns the contract to the PM/CA, the PM/CA should renew the contracts at rents that do not exceed comparable market rents. These projects should be designated and monitored as "potentially troubled" in REMS.

D. OMHAR Processing. Information can be found in the Mark-To-Market Program Operating Procedures Guide, which addresses processing OHMAR-Lites and rent renewals without debt restructuring. The Guide can be found on the Web at:

www.hud.gov/omhar/readingrm/opglinks.html.

Entry Into OMHAR

Section 5-2

A. The Owner of an eligible above market project requests either:

1. A renewal of the contract without debt restructuring, with the rents marked down to market (OMHAR-Lite); Use the Interim-Lite contract found at Attachment 15 of this Guide. for entry into OMHAR as a Lite.

2. A debt restructuring and contract renewal with the rents marked down to market. Use the Interim Full Mark-To-Market Contract found at Attachment 14 of this Guide for entry into OMHAR as a Full.

<u>NOTE #1</u>: No matter what renewal option an Owner selects, if HUD determines that contract rents exceed comparable market rents and the project is eligible for OMHAR, the PM/CA must forward the project to OMHAR for processing.

<u>NOTE # 1A</u> In cases where a CA makes a determination that a project should be referred to OMHAR, the CA must return the contract to the PM with the recommendation that the project be referred to OMHAR for restructuring or rent reduction.

<u>NOTE #2:</u> An Owner may request that contracts with out-year expirations be forwarded to OMHAR for restructuring.

B. The Owner Submits:

1. For OMHAR-Lites and Fulls: the Contract Renewal Request Form including a certification that project rents exceed comparable market rents and neither the Owner nor any affiliate is suspended or debarred. If the Owner or any affiliate is suspended or debarred, the project may continue to be eligible for restructuring at OMHAR's discretion.

2. If the owner is requesting an OMHAR Lite:

   a. A physical inspection report, if available,

   b. The most recent audited financial statements, and

   c. A RCS

   The PM/CA renews the contract for six months using the Interim Lite Mark-To-Market contract found at Attachment 15 of this guide.

Note: The CA forwards the contract to the PM who will forward to OMHAR for processing.

C. For OMHAR Full Restructuring:

The Owner submits: the Contract Renewal Request Form including a certification that project rents exceed comparable market rents and neither the Owner nor any

affiliate is suspended or debarred. If the Owner or any affiliate is suspended or debarred, the project may continue to be eligible for restructuring at OMHAR's discretion.

The PM/CA: Renews the contract for 12 months using the Interim Full Mark-To-Market found as Attachment 14 of this guide and forwards it to OMHAR for processing. OMHAR contracts are binding commitments on the part of the Owners for purposes of Section 579 of MAHRA.

D. Additional renewal considerations while a project is at OMHAR:

1. Once a contract has been referred to OMHAR for processing, if the contract was renewed for six months as a Lite, OMHAR may renew the contract for up to an additional six months to complete processing. OMHAR-Lites with approved waivers must use the Interim Mark-To-Market contract found at Attachment 14.

2. The PM, OMHAR or the PAE may request a waiver to extend the contract at above market rents for any project that has exceeded the one year period, provided that the delay is attributed to OMHAR and/or the PAE. Extensions may <u>not</u> exceed the approved waiver expiration date. Refer to Appendix 5-1 for further guidance on OMHAR Waivers and to Appendix 5-2 for OMHAR processing instructions. As provided in the waiver guidance, OMHAR projects with approved waivers must use the appropriate interim contracts found at Attachments 14 or 15 of this Guide.

Note: In general, consistent with the mission of OMHAR, once the comparable market rent has been determined any contract prepared should reflect this rent level.

E. Post-OMHAR Renewals. Once OMHAR or the PAE completes processing, the Section 8 contract for Lites and Fulls will be renewed in one of the following ways:

1. <u>OMHAR Lites</u>: OMHAR completes the Basic Renewal Contract (Attachment 11) with market rents, forwards the contract to the PAE and submits a copy to the PM to begin the fund reservation process. CA contracts will be forwarded through the PM. The PAE will forward the contract to the owner for signature with instructions to return the contract to the PM/CA for processing. An Owner Certification Form must be attached to the Section 8 HAP Contract in which the owner certifies that the vouchers submitted for payment are at market rent levels.

2. <u>OMHAR Fulls</u>: OMHAR completes the Full Mark-to-Market Renewal contract (Attachment 16) and owner certification form at market rents, forwards the contract to the PM/CA to begin the fund reservation process and submits a copy to the PAE. Two weeks prior to closing, the PM/CA will forward the <u>executed</u> contract to the designated Escrow Agent.

3. Interim Section 8 Processing Guidance for OMHAR Projects: Processing Section 8 contracts for OMHAR Lites and Fulls should be done in accordance with the Interim Guidance issued in October, 2000. See Appendix 5-2.

4. PAE as CA: Once the contract is renewed and the PAE is acting as a CA, the contract will be assigned to the PAE during the next quarterly assignment. For renewals, the PM will begin the fund reservation process upon receipt of a copy of the contract from OMHAR.

5. Existing Contract Administrator**:** In most cases, ACCs with existing CAs and where no PBCA is in place, will be extended for 6 months to 1 year depending on whether a new RFP CA or PAE as CA is in place and operational in the State where the project is located. For these renewals, the FMC will execute the ACC as well as complete the fund reservation process.

6. Contract Types:

   a. Interim lite for contracts eligible for Mark-to-Market, but where the owner believes that the project is viable without a debt restructuring, use the contract found at Attachment 15.

   b. Interim Full Renewal Contract is for contracts that are eligible for Mark-to-Market, but where the owner believes that debt restructuring will be necessary, use the contract found at Attachment 14.

   c. Basic Renewal Contract. For contracts that have completed the interim processing and the debt is not restructured, use the contract found at Attachment 11. (these terms may be from 1-5 years)

   d. Full Mark-to-Market Renewal contract. For contracts that have completed the interim processing, and the debt has been restructured , use the contract found at Attachment 16. (These contracts may have terms up to 20 years)

   e. Potentially Troubled Contract is used for contracts that have completed the interim processing, and the determination has been made that the debt should be restructured, the owner disagrees with the determination, or refuses to change his/her election or where the owner refuses to execute a restructuring commitment or close on a full. Use the contract found at Attachment 17. These contract are limited to one year terms only. Please note that these

projects retain their eligibility under the Mark-to-Market program until August 31, 2001, (see section 4d (2) of Attachment 17.

Note: An Owner Certification Form found at Appendix 5-3 must be attached to all OMHAR renewals.

Potentially Troubled OMHAR Projects

Section 5-3

A. Certain situations may cause an OMHAR project to become potentially troubled. This can occur when OMHAR or the PAE determines that the project is only approvable as a full restructure but the owner refuses to change his/her election, or when the owner refuses to execute a Restructuring Commitment or close on a Full.

1. In these situations, the PAE completes the processing, OMHAR prepares a new one year Potentially Troubled contract (Attachment 17) and forwards copy to PM/CA. The Owner Certification found at Appendix 5-3 must be included with the Potentially Troubled contract. Multi-year contract terms are not permitted for projects placed on the potentially troubled list.

   The Potentially Troubled contract reduces the rents to market and requires the owner to submit monthly accounting reports. The project is placed on the "potentially troubled" list. These contracts are limited to one year terms only.

   The contract maintains the project's eligibility for OMHAR through August 31, 2001 (see section 4d(2) of Attachment 17). If, after the effective date of this potentially troubled contract, the owner chooses a full debt restructuring, he/she must submit a Contract Renewal Request Form (Attachment 3A-2), prior to August 31, 2001. Thereafter, the owner must execute a Interim Full contract at current rents.

B. Projects on the "potentially troubled" list are considered to be at greater risk and have questionable long-term financial viability. As a result, these projects must be monitored closely. Refer to the Mark-To-Market Program Operating Procedures Guide for procedures that ***must*** be applied to all projects on the potentially troubled list:

   Note: Since these projects involve mortgage insurance, not only must the physical condition of the property be closely be monitored, but the

financial condition of the property must also be closely monitored to assure that the project does not slip into default.

D. File Return and REMS Documentation: The PAE will return project files to the appropriate PM/CA who is responsible for entering the following information in the problem statement screen in REMS: (1) the monitoring category the project was placed in and the reason(s) why; and (2) any other relevant information provided by the PAE/OMHAR process that clearly show where physical, financial and/or management problems may arise over the term of the contract.

If any of items listed above are determined to be less than satisfactory, the PM/CA should take immediate action to begin the Section 8 contract abatement process. (see Chapter 13 of this Guide)

E. Owner Optouts:

If an Owner has decided to opt out while assigned to OMHAR for a rent or debt restructuring, the PAE will complete the rent determination and return the project to Housing. The PM will prepare a short term contract at market rents if additional time is required to either process vouchers or to complete the tenant notification period.

F. OMHAR Processing. Information can be found in the Mark-To-Market Program Operating Procedures Guide, which addresses processing OHMAR-Lites and rent renewals without debt restructuring. The Guide can be found on the Web at:

www.hud.gov/omhar/readingrm/opglinks.html.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

MEMORANDUM FOR: All Multifamily Hub Directors
All Multifamily Program Center Directors
All Performance-Based Contract Administrators
All Property Disposition Centers
All OMHAR Regional Offices
All OMHAR Participating Administrative Entities

FROM: Frederick Tombar III, Acting Deputy Assistant Secretary for Multifamily Housing, HT

Ira Peppercorn, Director, Office of Multifamily Housing Assistance Restructuring, Y

SUBJECT: Revised Guidance on Monitoring OMHAR Watch List Properties

The August 15, 2000 Monitoring Guidance outlined the monitoring protocol to be used by Multifamily Field Offices for OMHAR properties with potentially troubled Section 8 contracts. This revised guidance clarifies the OMHAR properties that are covered, how the field will classify and monitor these properties, and who is responsible for monitoring during the terms of these contracts.

New Terminology: Up to this point, OHMAR has referred to certain properties as "potentially troubled" because with rents reduced to market without mortgage restructuring, the long-term viability of these properties is a major concern. OMHAR is replacing the term "potentially troubled" with "Watch List" when referring to these particular properties. The "Potentially Troubled HAP Renewal Contract" is relabeled as the "OMHAR Watch List Renewal Contract." All references in the *Guidance for the Renewal of Project-Based Section 8 Contracts*, dated January 19, 2001, as well as the OMHAR *Operations Procedures Guide* are changed to reflect the new terminology.

Watch List Project Type: The mark-to-market restructuring process can result in the owner being offered an OMHAR Watch List Renewal Contract. Generally, this can occur under three distinct transaction situations:

1. Determination of Ineligibility: OMHAR must declare the property ineligible for restructuring if an owner has been suspended or debarred as defined in Section 516 of MAHRA and is unwilling to transfer the property. Other grounds for an ineligibility determination may include: a) an owner, affiliate or purchaser has engaged in material adverse financial or managerial actions or omissions or has any outstanding Civil Rights violations, and/or b) the physical condition of the property is unacceptable.

2. Discontinuance of the Restructuring Process: For reasons other than above, OMHAR may conclude that it is appropriate to discontinue the restructuring process. Examples where this action may be appropriate include:

    a. Non-Responsive Owner: An owner is uncooperative if, for example, the owner fails to perform or respond during the mark-to-market process; fails to convert from a Lite to a Full restructuring; fails to address critical repair needs in a timely manner; or fails to close an otherwise viable transaction. When confronted with an uncooperative owner of this type, OMHAR may discontinue the restructuring process and offer the owner a Watch List HAP Contract *at market rents*. In some of these situations, the immediate reduction in rents, without debt restructuring, may severely impact the tenants as well as the physical and financial condition of the properties. The impact may be immediate (within the first renewal year) or occur in later years. OMHAR also has the option of considering an elective referral to the Departmental Enforcement Center (DEC) if a particular owner has been determined to be uncooperative.

    b. Economic Conditions: Situations where high exception rents are needed but the property is not sufficiently "preservation worthy[1]," or where the demand for housing is so reduced that the property could not be made financially viable may cause OMHAR to discontinue the restructuring process.

Monitoring Responsibilities: All Watch List properties *must* be assigned to a Senior Project Manager for the term of the contract including any subsequent renewals as a Watch List property. The Senior Project Manager must discuss the property's current condition and status with the OMHAR Regional Office and obtain from OMHAR copies of all relevant data. OMHAR is responsible for scheduling the initial discussion, meeting or conference call and for insuring that all relevant information is submitted to the Senior Project Manager.

Senior Project Managers are encouraged to closely review Handbook 4350.1, *Multifamily Asset Management and Project Servicing,* Chapter 5, Initial Servicing (paying particular attention to Chapter 5, Section 2, Preventing Defaults, 5-4 and 5-5); and Chapter 6, Reserve Funds for Replacements.

[1] Generally, "preservation worthy" should be measured against the availability of affordable housing locally (market conditions relating to overbuilt conditions or lack of demand) and/or repair costs per unit (restoration costs are too expensive to make the property financially viable.)

Field Offices will be required to respond to reporting requirements to be developed by Headquarters to track the status of all OMHAR Watch List properties.

PAEs are required to return property files to the appropriate Senior Project Manager once an OMHAR Watch List Renewal Contract has been executed.

REMS Classification and Documentation: All Watch List properties must be identified in REMS as Watch List and be reviewed accordingly. Senior Project Managers are responsible for entering the following information in the Project Action screen in REMS:

1. The monitoring category of Watch List and the reason(s) why the asset is a Watch List property;
2. The identification of the specific monitoring factor(s) applicable to the property;
3. Any other relevant information provided by OMHAR or the PAE that clearly show where physical, financial, and/or management problems may arise over the term on the contract; and
4. Documentation of their ongoing monitoring activities and findings by logging physical inspection follow-up actions, management review results, and FASS compliance actions in the appropriate REMS Screen. Future REMS enhancements may include specific data fields for Watch List projects.

Quarterly Reporting Requirements: Since Watch List properties will not match all required Housing conditions to be classified as troubled or potentially troubled properties in REMS and because these projects are at risk, these properties will require *close* monitoring and must be singled out for reporting purposes. Senior Project Managers will be required to prepare quarterly status reports on all Watch List properties. The format for these reports will be developed and disseminated to the field shortly. These reports are to be submitted to HUB Directors (and to the OMHAR Regional Directors) for their review. Any issues or concerns must be reported to the Asset Management Desk Officers in Headquarters.

Contract Administration: HUD will continue to be the Contract Administrator (CA) or will become the CA on any property currently with a non-performance-based contract administrator when an OMHAR Watch List Renewal Contracts is executed. All current Watch List properties subject to this notice will <u>not</u> be assigned to a Performance-Based Contract Administrator (PBCA). However, if a property currently assigned to a PBCA is subsequently referred to OMHAR and is classified as a Watch List property, the PBCA will continue to perform the tasks detailed below:

1. <u>Role and Responsibilities of the Performance-Based Contract Administrator (PBCA):</u> For any property on the Watch List that has Section 8 contracts assigned to a Performance-Based Contract Administrator, the PBCA will continue to perform the following tasks:

a. Review, verify and authorize monthly Section 8 voucher payments;
b. Notify owner of any corrective action needed (relative to the voucher);
c. Respond to life threatening and non-life threatening health and safety issues;[2]
d. Complete year-end statements and annual audit: and
e. Provide general reporting per the Annual Contributions Contract (ACC).

All other tasks otherwise stated in the ACC become the responsibility of the Senior Project Manager as outlined below. Continuing coordination with the field offices is essential.

Questions or concerns with regard to the role of PBCAs should be directed to the appropriate Contract Administration Oversight Monitor (CAOM). A listing of CAOMs by field office can be found on the Contract Administration website.

2. Role of the Participating Administrative Entity (PAE): Any PAE, who is selected to become a Contract Administrator and who also was assigned a Watch List property during the restructuring process, will not be assigned any of these properties for contract administration purposes.

Monitoring Factors: Since rents were reduced to market without debt restructuring, Watch List properties may experience some degree of stress. The indicators used to monitor these types of projects must be consistent with:

1. The attached *Guidance on Monitoring OMHAR Watch List Properties*, *September, 2001*, issued with this memorandum;
2. Handbook 4350.1, *Multifamily Asset Management and Project Servicing;* and,
3. *The Revised Guidance for Oversight of Multifamily Housing Physical Inspections*, issued on May 24, 2001.

During the contract term, the Senior Project Manager (SPM) assigned to a Watch List property will be responsible for evaluation and ongoing monitoring. At a minimum, the monitoring must be consistent with the appropriate guidance listed above and should also include the following:

1. Physical Condition: The Senior Project Manager must pay special attention to the physical condition of the property especially if the REAC PASS score falls below 60. The SPM must follow-up with the owner to assure that all exigent deficiencies (health and safety issues) are corrected in three (3) business days. The SPM is encouraged to make site visits in order to monitor repairs, and must review repair, maintenance and rehabilitation costs on the Annual Financial Statement. A decline in repair and/or maintenance or an increase in the usage of Reserves for Replacement may indicate physical problems. The SPM should also address tenant complaints concerning repairs appropriately.

[2] Follow-up on life threatening health and safety issues can be found in the PBCA ACC, Exhibit A, Part 3, "Statement of Work" Section 3.6 (health and safety). The ACC is posted on the Section 8 Contract Administration website.

The last physical inspection score dictates the inspection cycle for each property as defined in *The Revised Guidance for Oversight of Multifamily Housing Physical Inspections*. The highest performing properties with physical inspection scores 90 and above are inspected every 3 years; properties with scores 80 to 89 are inspected every 2 years and properties with scores 79 and below are inspected every year. If annual management reviews or subsequent physical inspections reveal the potential or existence of diminished property viability, consideration should be given to (a) requesting an interim ("on demand") inspection to Headquarters when a property is not on an annual cycle; (b) making an elective referral to the Departmental Enforcement Center (DEC); or (c) continuing to monitor the property in the HUB/PC. Handbook 4350.1 also refers to REAC physical inspections. Senior Project Managers should (a) closely monitor the result of REAC inspections especially if the score falls or is under 60 and (b) review the scores over the last three years to monitor problems and trends.

2. Property Management: The Senior Project Manager should also monitor and work with the owner if there is any decline in management operations, such as increases in tenant, local government and/or vendor complaints, neighborhood deterioration, as well as police issues, etc.. The SPM will conduct a Management Review annually on his or her assigned properties on the Watch List *if one or more indicators of impending default outlined in Chapter 5, 5-4, Handbook 4350.1, becomes evident.*

3. Financial Performance: As rents have been reduced, the Senior Project Manager must review and monitor financial performance. Monthly accounting reports are required for a minimum of at least one year. The SPM must review these reports within ten (10) business days, and, if not acceptable, follow up with a letter of rejection to the owner within fifteen (15) business days. Owner failure to make monthly mortgage payments on time, or a pattern of late payments over time can be indicative of financial stress. The SPM must handle and resolve compliance and performance problems if revealed by the FASS review. The additional review done by the SPM must be thorough. Requests by the owner to use Reserves for Replacement or Residual Receipts to augment cash flow should be carefully considered prior to a decision to approve or disapprove the request and should be consistent with existing policies.

Contract Terms Relating to Continuing Eligibility: The OMHAR Watch List Renewal Contract continues the property's eligibility for debt restructuring, in the event the owner decides to return to OMHAR to complete the process. However, OMHAR reserves the right to determine which types of situations warrant re-entry into the program. For example, if a suspended or debarred owner is willing to do a Transfer of Physical Assets (TPA) with a negotiated sales contract in hand, there may be sufficient reason to allow for the restructuring to resume. The Senior Project Manager and OMHAR will jointly review these TPAs.

Additional Contract Terms: The OMHAR Watch List Renewal Contract reduces the rents to market; has a term of one year; and requires the owner to submit monthly accounting reports to Multifamily Housing. Once the owner executes the contract, the property is returned to Multifamily Housing for monitoring. There are no rent adjustments during the term of the contract. The owner may be entitled to OCAF adjustments if Housing has determined to renew the Watch List Contract for an additional year provided such adjustment does not exceed market rents.

Re-Entering OMHAR: During the term of the contract, if HUD and the owner agree to resume the restructuring process, the owner must submit a Contract Renewal Request form[3] (Option Three) to Multifamily Housing. Multifamily Housing will refer the property to OMHAR using the Interim Full Renewal/Re-Entry Contract found in Attachment 14(a) of the *Guidance for the Renewal of Project-Based Section 8 Contracts*, dated January 19, 2001. Current market rents without OCAF adjustment will be used in the Interim Re-Entry contract.

Term of Interim Re-Entry Contract: Prior to issuing the interim contract, the field office must obtain a determination from OMHAR on how much time is needed to complete the restructuring process from the point when the process was discontinued. If OMHAR reaches agreement with the owner on restructuring, Multifamily Housing will be notified to issue the Interim Full Renewal/Re-Entry Contract *at market rents* for the time required to complete the restructuring process and close the deal. In most cases, an Interim Contract will not be issued if the property is in the Departmental Enforcement Center (DEC) or if the owners (or affiliates) are suspended or debarred unless the owners are proposing a TPA and have a sales agreement in hand.

Subsequent Renewals Based on Owner Decision not to Re-Enter OMHAR: Continuing eligibility in OMHAR is contingent on the property not having deteriorated while on the Watch List to the point that an M2M restructuring is no longer appropriate. A Watch List property may be renewed annually for up to three years, or for the duration of OMHAR restructuring authority, if longer. The renewal terms and conditions may be found in Sections 4 d (2) and 4 d (3) of the revised Watch List Renewal Contract.

Continued Deterioration: If, however, the property is experiencing more stress, that is, showing physical, financial or management signs of deterioration, Multifamily Housing may decide against renewing the contract for another year and may refer the property to the Departmental Enforcement Center to initiate appropriate enforcement actions. In some selected cases, Multifamily Housing or the DEC may offer the owner an option to return to OMHAR for restructuring purposes. Prior to making a final decision, Housing must notify OMHAR to re-contact the owner to suggest that the owner re-enter the restructuring process. (Refer to the process outlined in the attached *Guidance on Monitoring OMHAR Watch List Properties, September 2001.)*

[3] HUD reserves the right to reassess the project's eligibility for debt restructuring at the time such Request form for Reelection is submitted.

Signs of deterioration that may trigger a referral to DEC may include any of the following:

1. No surplus cash (as evidenced from audited financial statements).
2. Accounts payable in excess of cash on hand (evidenced by monthly accounting reports).
3. REAC PASS score dropping below 60 or a significant drop while still above 60.
4. Increase in REAC FASS no-compliance flags.
5. Local Code Violations
6. Increasing Crime in the area
7. Increasing Payables
8. Increasing Vacancy Rates
9. Non-economic rents in non-subsidized units
10. Any combination of the above

Stabilization: Under certain circumstances after the third renewal, Multifamily Housing may determine that the property has stabilized for three consecutive years and no longer should be on the Watch List. If such determination is made at that time, Housing may offer the owner a basic renewal contract for a term of up to five years.

Additional Questions: HUD staff should contact their Headquarters' Desk Officer in Asset Management with any questions or concerns.

Attachments

1. Revised: *Watch List* Renewal Contract
   (Attachment 17 of the *Guidance for the Renewal of Project-Based Section 8 Contracts*)

2. New: Interim Full Renewal/Re-Entry Contract
   (Attachment 14(a) of the *Guidance for the Renewal of Project-Based Section 8 Contracts*)

3. *Guidance on Monitoring OMHAR Watch List Properties*, dated September, 2001

4. Chapter 5: Referral to OMHAR (Revised)
   Section 8 Renewal Policy, Guidance for the Renewal of Project-Based Section 8 Contracts, January 19, 2001

cc: Beverly Miller, HTG
Willie Spearmon, HTH
Ken Hannon, HTG
Cyndy Zemitis, HTC
Paige Warren, OMHAR, Y
Alberta Zinno, OMHAR, YA
Dan Sullivan, OMHAR, YA
Matthew Minelli, OGC, CDH

Extension Letter at Above Market Rents

U.S. Department of Housing and Urban Development

Multifamily Program Center

Dear:

SUBJECT:

Please be advised that the expiration dates of the subject Housing Assistance Payments Renewal Contract and Rider which were executed by the Department of Housing and Urban Development (HUD) and became effective on _____, are hereby extended as follows:

This Contract and Rider expire on the earlier of *(ENTER DATE OF CONTRACT EXPIRATION)* or *(ENTER DATE OF CLOSING*), the date of closing under the Restructuring Commitment.

Please sign on the bottom of this page and return this letter within ten days to HUD, to the attention of _____, Project Manager. Please note that a delay in returning this letter to HUD may result in delayed payments.

If you have any questions, please feel free to contact _____.

Sincerely,

Director

HAP Contract Extension

OWNER:

By: _____

_____ **Date:** _____

Official Title

Extension Letter at Market Rents

U.S. Department of Housing and Urban Development

Multifamily Program Center

Dear:

SUBJECT:

Please be advised that the expiration dates of the subject Housing Assistance Payments Renewal Contract and Rider which were executed by the Department of Housing and Urban Development (HUD) and became effective on _____, are hereby extended as follows:

This Contract and Rider expire on the earlier of *(ENTER DATE OF CONTRACT EXPIRATION)* or *(ENTER DATE OF CLOSING)*, the date of closing under the Restructuring Commitment.

The terms and conditions of the HAP Renewal Contract and Rider are unchanged except for the Contract Rent and Rent Adjustment Provisions (see attached). To avoid payment disruption, promptly sign and return this extension letter along with a new Gross Rent Change (HUD-900-11A); and new Schedule of Units, Rents and utilities (HUD-92458) and a certification that your payment vouchers under this contract reflect the market rents lists in the attached.

Please sign on the bottom of this page and return this letter within ten days to HUD, to the attention of _____, Project Manager. Please note that a delay in returning this letter to HUD may result in delayed payments.

If you have any questions, please feel free to contact _____.

Sincerely,

Director

HAP Contract Extension with Attachment

OWNER:
By: _____

_____ Date: _____
Official Title

Interim Processing Procedures for OMHAR Section 8 Renewal Contracts Until New Contract Administrators are Operational

OMHAR Lites AND Fulls:
Processing New Section 8 HAP Contracts with New Market Rents

HUD as Contract Administrator:
The following procedures will be used by Housing field staff, OMHAR regional staff and PAEs until the conversion to a PERFORMANCE-BASED Contract Administrator is complete.

PHAs as Contract Administrators:
A different set of procedures will be available later that will provide guidance on how to process Section 8 HAP contracts under HUDCAPs using PHAs as Contract Administrators. Please call the Office of Housing Assistance Contract Administration Oversight (Fred Tombar, 202.708.1490 x 5248) if you have specific questions relating to ACC's affecting OMHAR Lite completions or OMHAR Full closings occurring prior to the availability of these procedures. In the interim, PMs are to notify the FMC to initiate the funds reservation process and prepare an ACC for OMHAR projects that are currently assigned to old Contract Administrators.

OMHAR Section 8 Contracts:
A complete set of OMHAR Section 8 contracts can be found on OMHAR's web site. The site contains the following set of contracts: (1) the Interim Lite Renewal Contract; (2) the Interim Full Renewal Contract; (3) The Basic Renewal Contract for completed OMHAR Lites; (4) the Full Mark-to-Market Renewal Contract; and (5) the Potentially Troubled Renewal Contract. These contracts can also be found as attachments to Housing's *Guidance for the Renewal of Project-Based Section 8 Contracts.*

OMHAR LITES

Processing New Section 8 HAP Contracts with New Market Rents:

PROCESS A: OWNER EXECUTES CONTRACT

1. OMHAR prepares the Section 8 Basic Renewal Contract for completed OMHAR Lites:
   - Contract includes the approved market rents
   - The ***"effective date" -*** for the contract is the first day of the 2nd full month
   - An Owner Certification Form (certifying that the gross rent change has been completed by the Owner) is attached to the Renewal Contract
   - PAE sends a copy of the Notification Letter to PM and OMHAR

2. OMHAR forwards the Lite Basic Renewal Contract to PAE and sends a copy to PM

3. PAE sends Notification to Owner - Form 10.4(a) - with new Renewal Contract:
   - Notification instructs Owner to submit new rent schedule reflecting the approved rents and gross rent change certifications for tenants
   - The ***"due date" -*** is the date Owner executes & returns the renewal contract to PM
   - The "***rent expiration date" -*** is the last day of the next full month
   - Owner MUST execute by "*due date*" and return contract to PM - copy to PAE
   - PAE enters all appropriate tracking data in OMHAR MIS system

4. PM "suspends" voucher payments in TRACS as of the "*rent expiration date." O*nce the PM has received the certification that a Gross Rent change has been made and received the executed contract, the PM must process a 'Restore' action to restore the contract. The contract that has been suspended will have to be updated to have the expiration date be the last day of the month prior to the effective date of the new contract. (i.e. Contract expiration date in TRACS is May 31, 2001. The effective date of the new renewal contract is February 1, 2001, the expiration date of the contract expiring May 31, 2001, will have to be modified to January 31, 2001) (THIS MUST BE CONFIRMED WITH THE TRACS TEAM).

5. PM starts the Funds Reservation process:
   - Enters new rent data in REMS from Exhibit A of the contract
   - Verifies rent schedule is correct
   - Accepts rents as final in REMS
   - Advances existing Pending reservation in ARAMS to "approved" or creates a reservation in ARAMS
   - PM must adjust the threshold in TRACS Intranet. This calculation is 1/10th of the amount of contract authority for the renewal contract at market rents.
   - PM confirms that the Owner has submitted the certification that the gross rent change has been completed.

✍ *Note: The PM will suspend the contract in TRACS until the Owner has submitted a certification form that the gross rent change has been completed and submitted an executed contract.*

6. Owner sends executed Lite Basic Renewal Contract to PM on or before the "*due date*." The Owner is also required to transmit the gross rent change and submit the Rent Schedule to the PM.

7. ARAMS budget data is automatically forwarded to PAS (accounting system) to process reservation.

8. When the contract is executed, go to Step 9 below. If the Owner decides to opt out, go to Process B. If the Owner refuses full restructuring, go to Process C. In all cases, go to Process D to stop the above market rents under the old contract.

9. Once funds reservation is confirmed, HUB/PC Director executes Lite Basic Renewal Contract with the *effective date* of the new rents.

10. PM enters contract status as executed (***"Execution Status")*** into ARAMS. ARAMS feeds information to TRACS. This action obligates and liquidates the reservation associated with this contract renewal.

11. TRACS verifies that each automated voucher is supported by an executed Renewal contract then forwards the payment data to LOCCS.

✍ *Note: If the old contract has NOT expired or has NOT been "suspended" in TRACS, payments at above market rents will continue to be made to the Owner via TRACS and PAS/LOCCS.*

12. LOCCS checks the voucher to determine if it exceeds a system-generated program or project-specific threshold - if passes threshold, LOCCS makes payment.

13. Owner draws funds (market rents) monthly from LOCCS.

PROCESS B: OWNER DECIDES TO OPT OUT INSTEAD OF EXECUTING CONTRACT

1. Follow steps 1-4 in Process A.

2. Owner fails or refuses to execute contract by the *due date.* OMHAR or PAE notifies HUB/PC Director that Owner has missed the *due date* - (and the reverse, HUB/PC Director or PM can notify OMHAR/PAE) Does Owner intend to opt out?

3. If so, the HUB/PC verifies if Owner is complying with 12 month notice to tenants.

4. HUB/PC contacts Owner to change his election using the Contract Renewal Request Form (Option 6) as outlined in Housing's *Guidance for the Renewal of Project-Based Section 8 Contracts* - sends letter to Owner describing opt out process and the Request form if necessary.

5. Owner has 20 business days to change his election to Option 6.

6. HUB/PC prepares a "bridge" short-term Basic Renewal contract ***at market rents*** - dated to expire to allow for compliance with one year notice to tenants and/or to process tenant vouchers.

7. HUB/PC sends bridge contract to Owner with a copy forwarded to the PAE.

8. Old above market contract will expire if Owner fails to execute bridge contract. If Owner does not execute the bridge contract, remember to stop payments (see Process D).

9. HUB/PC starts tenant voucher process (Refer to Chapters 8 and 11 in the *Guidance for the Renewal of Project-Based Section 8 Contracts*).

10. Owner sends executed bridge contract to HUB/PC.

11. HUB/PC places project on the "potentially troubled list." (See attached guidance memorandum on monitoring potentially troubled OMHAR projects).

PROCESS C: OWNER FAILS AS A "LITE" AND IS UNWILLING TO CONVERT TO A "FULL"

1. After approval from OMHAR, PAE notifies PM that the project can only be approved as a "Full Restructuring."

2. PAE sends a notification to the Owner - Form 10.6(a) - asking the Owner to submit a Contract Renewal Request Form (Option 3B) in the *Guidance for the Renewal of Project-Based Section 8 Contracts* - Owner has 20 business days to change election to full restructuring.

3. Owner ignores or refuses a "Full" election.

4. Upon rent approval, OMHAR prepares a Potentially Troubled Contract:
    - With the approved market rents.
    - The "*Effective date*" - is the first day of the 2nd full month.
    - An Owner Certification Form (certifying that the gross rent change has been completed by the Owner) is attached to the Potentially Troubled Renewal Contract.
    - Contract maintains Owner eligibility in OMHAR through August 31, 2001 and the project is placed on Housing "potentially troubled list."
    - Contract requires Owner to submit monthly accounting reports.
    - If HUD suspends or abates, Owner is required to execute "bridge" short-term contract in order to process tenant vouchers.

5. OMHAR forwards the Potentially Troubled Renewal Contract to PAE and sends a copy to PM.

6. PAE sends Notification to Owner - Form 10.4(a) - with new Potentially Troubled Renewal Contract:
    - Notification instructs Owner to submit new rent schedule reflecting the approved rents and gross rent change certifications for tenants.
    - The "*rent expiration date*" - is the last day of the next full month.
    - Owner to execute by "*due date*" and send to PM - copy to PAE.
    - PAE enters all appropriate tracking data in OMHAR MIS system.

7. PM starts the Funds Reservation process - PM enters new rent data and effective date in REMS and verifies that rent schedule is correct and gross rent changes for tenant has been submitted in TRACS.

8. Follow Steps 5 through 13 under Process A..

PROCESS D: PROCESS TO STOP OLD HAP CONTRACT WITH ABOVE MARKET RENTS:

1. PM "suspends" voucher payments in TRACS as of the *effective date* of the new Renewal Contract.

2. *Execution Status* is entered into ARAMS which auto feeds PAS and triggers ARAMS.

OMHAR Full Debt Restructuring

Processing New Section 8 HAP Contracts with New Market Rents:

OWNER COMPLETES CLOSING

1. PAE prepares Restructuring Commitment (RC) and forwards copies to OMHAR and PM.

2. OMHAR approves RC and prepares the Full Mark-to-Market Renewal Contract:
   - With the approved market rents.
   - New "*effective date*" (first day of the 2nd full month).
   - An Owner Certification Form (certifying that the gross rent change has been completed by the Owner) is attached to the Renewal Contract.

3. OMHAR notifies PM that it has approved RC - with or without modifications - forwards changes, if any, to PAE.

4. OMHAR forwards the RC and Full Renewal Contract to PM and sends a copy of the contract to PAE.

5. PM accepts RC to begin funds reservation process - Follow steps 4-13 in Process A..

6. PAE officially notifies HUB/PC Director of the closing date - and provides name and address of Escrow Agent (notice given 2 weeks before closing).

7. HUB/PC Director executes the Full Renewal Contract and forwards to Escrow Agent to hold for closing (generally 1 week before closing).

8. Immediately after closing, Escrow Agent forwards executed Full Renewal Contract to the HUD Accounting Center in Ft. Worth with copies going to FO, PAE, Owner, and OMHAR. (If any old CAs are involved - escrow agent sends executed Full Renewal Contract to Kansas City.)

ATTACHMENT
Potentially Troubled Memorandum, dated August 15, 2000

MEMORANDUM FOR: All Multifamily Hub Directors
All Multifamily Program Center Directors

FROM: Shaun Donovan, Deputy Assistant Secretary for
Multifamily Housing Programs, HT

SUBJECT: Guidance on Monitoring "Potentially Troubled" OMHAR Projects

An OMHAR Lite is designed to allow an Owner to renew the Section 8 HAP contract at market rents without debt restructuring where OMHAR determines that the reduced rents will not negatively affect the operation of the property. In the coming months, we may see situations where OMHAR has determined that certain projects submitted as Lites can only be approved as Full Debt Restructurings because there is not enough NOI to cover debt service and ongoing repair needs. In some of these situations, the immediate reduction in rents, without debt restructuring, can severely impact the tenants as well as the physical and financial condition of the properties. Generally, the debt service coverage ratio for these projects will be less than 1.0.

Amended Section 524(a) Section 8 HAP Contract: If a project Owner rejects full restructuring or fails to respond, the Owner will be offered a Potentially Troubled Renewal Contract[1] at market rents. The Renewal Contract reduces the rents to market, has a term of 1 year and continues the project's eligibility in OMHAR in the event the Owner decides, during the contract term, to convert to full restructuring and requires the Owner to submit monthly accounting reports to the Housing Office. If the Owner decides to change his/her election to Full Debt Restructuring, the project will be reevaluated and returned to OMHAR using the Interim Full Renewal Contract found in Housing's *Guidance on the Renewal of Project-Based Section 8 Contracts.*

Monitoring Responsibilities: Multifamily Hubs and Program Centers will be required to monitor OMHAR projects where Potentially Troubled Renewal Contracts have been executed (see attached contract). Upon execution of the contract, the Project Manager should discuss the project's current condition and status with the OMHAR Regional Office and review all relevant data supporting OMHAR's determinations. The OMHAR Regional Office is responsible for ensuring that the Project Manager has all relevant and current project information.

Monitoring Factors: Project Managers will be responsible for an initial evaluation and ongoing monitoring of the following factors in relation to the project's viability:

1. Physical Condition: including reports of physical inspections with lower scores (60 or below), site visits, tenant complaints, noticeable physical decline, exigent conditions and known code enforcement violations.

[1] Owners who elected Full Debt Restructuring but who failed to go to closing may also be offered the Potentially Troubled Renewal Contract.

2. Owner/Manager Performance: including decline in management operations, increase in tenant/management complaints, neighborhood, police or local government complaints, vendor complaints.

3. Financial Performance: negative trends on monthly accounting reports, Owner failure to submit annual financial statements, Owner failure to make mortgage payments, negative net cash flow, depletion of reserves or escalation of accounts payable expenses, REAC compliance or performance flags or referral to DEC. Generally, the project manager should evaluate whether the property, using reserves, accumulated surplus cash and/or residual receipts can cover the estimated cash flow deficit projected for the next year.

Potentially Troubled Classifications: Based on this review and the specific factors discussed below, OMHAR projects will be grouped in three monitoring categories: (1) normal monitoring, (2) potentially troubled, and (3) troubled. HUB and Program Center Directors will be responsible for making these determinations as well as for evaluating whether projects should be transferred to Senior Project Managers, or reclassified during the Section 8 contract year.

The following guidelines should be considered to determine which category applies:

1. Normal: In some cases, the property may appear to be healthy for this contract period, but it is the longer term physical needs that have placed it in the full debt restructuring category. Generally, a project in this category is in acceptable physical condition (60-100 REAC score), with corrected exigent conditions; has a DSCR of 1.0-1.l0; has normal and/or sufficient reserves (more than 24 months); had surplus cash as of the last accounting period, has residual receipts, has satisfactory Owner/manager performance; Owner submits annual financial statements, and is not likely to experience negative cash flow during the term of the contract.

2. Potentially Troubled: Generally, more properties will fall in this category. Any of the following is cause for concern: the project is in only fair physical condition (46-59 REAC score); has an estimated debt service coverage ratio of between .90-.99; has minimal reserves (12 to 24 months); may experience negative cash flow; accounts payable show increases; or there are valid tenant complaints.

3. Troubled: Any project that has less than a .90 DSCR; has less than 4 months reserves; is in default; has a REAC score of 45 or below; or could experience project losses for the next 12 months in excess of current reserves should be automatically placed in the troubled category.

Required Actions: For these OMHAR-related potentially troubled and troubled projects, monthly accounting reports must be required. For potentially troubled, at least one site visit must be performed during the year. For troubled projects, a management review must be performed.

File Return and REMS Documentation: The PAE will return project files to the appropriate Project Manager who is responsible for entering the following information in the problem statement screen in REMS: (1) the monitoring category the project was placed in and the reason(s) why; and (2) any other relevant information provided by the PAE/OMHAR process that clearly show where physical, financial and/or management problems may arise over the term on the contract.

CERTIFICATION OF REDUCTION OF RENTS IN ACCORDANCE WITH MORTGAGE RESTRUCTURING

In accordance with the provisions of the Mortgage Restructuring and/or Rent Reduction for _____ (Property Name), which became effective on _____, I, _____ (Owner) certify that gross rent changes have been completed for all residents receiving Section 8 Housing Assistance Payments under contract number _____ from the Department of Housing and Urban Development. The Voucher for Rental Assistance Payments reflects the new rental amounts.

By: _____
Name of Owner (Print)

_____

BY _____
Signature of Authorized Representative

_____
Name and Official Title (Print)

_____
Date

GUIDANCE ON MONITORING OMHAR WATCH LIST PROPERTIES
September 2001

The following guidance is consistent with the Office of Housing's general guidance on the assessment and analysis of "troubled and potentially troubled" properties in the Multifamily Housing portfolio. While OMHAR properties are labeled as "watch list," there are similarities to troubled and potentially troubled indicators that should be applied to these properties in the monitoring process.

I. ASSESSMENT

Using the Troubled Property Indicators listed below, Senior Project Managers will be able to assess whether the Watch List property is failing (physically and/or financially deteriorating).

A. If the project is stable, that is experiencing no change since the rents were reduced, continue to monitor as usual.

B. If the project is failing, move to action below.

II. ACTION

A. During the term of the Watch List Renewal Contract, take the following action if the property shows clear signs of physical, financial or managerial deterioration based on the indicated listed below.

1. Notify OMHAR to re-contact the owner to suggest that the owner re-enter the program. Contact can take the form of a site visit, conference call or meeting with the owner. Wherever possible, the Senior Project Manager, HUB Director or his designee should be present during these discussions.

2. If physical deterioration is evident, Housing may require an "on demand" physical inspection conducted by REAC prior to making any final decisions on a course of action to take.

3. Require the owner to bring payables current within 30 days or re-enter OMHAR.

4. If the owner fails or refuses to make payables current or re-enter OMHAR, the owner forfeits his rights to re-enter OMHAR at the end of the current renewal period.

5. Owner failure or refusal to act will cause Housing to begin the tenant vouchering process and abate the Section 8 unless the owner re-enters OMHAR.

B. At the end of the Watch List renewal period, take the following actions if the property shows clear signs of physical, financial or managerial deterioration based on the Indicators listed below.

1. Housing may decide not to offer the owner a renewal contract, particularly if the owner has forfeited his rights to re-enter OMHAR, and begin the tenant vouchering process.

2. Housing may return the property to OMHAR without the consent or election of the owner.

3. Housing may refer the property to the Departmental Enforcement Center.

4. In all cases, Housing must seek the advice and counsel of OMHAR prior to making a final determination.

III. TROUBLED PROPERTY INDICATORS

A. **HIGH RISK INDICATORS**:There are certain indicators that are used to review and analyze "high risk" properties that could become troubled. These indicators can help Senior Project Managers assess the degree of risk involved for OMHAR Watch List properties as well. There are six general indicator groups:

1. Residents and Neighborhood
2. Ownership
3. Financial
4. Physical
5. Property Management
6. Subsidy

B. **RESIDENTS AND NEIGHBORHOOD INDICATORS**

1. Resident complaints about conditions at the property to HUD, local officials, news media, management agent, or owner.

2. Police interviews and reports indicate serious crime and drug problems at the property and in the neighborhood.

3. Reports from state and local government, private research firms, and the media that document problems in the neighborhood including:

   a. Declining property value
   b. High crime
   c. High vacancy rates and property abandonment
   d. Substandard commercial facilities and public transportation services.

4. Calls from the Mayor, other local officials, or neighborhood leaders about serious problems in the neighborhood and/or the property.

C. **OWNERSHIP INDICATORS**

1. Abandoned or threatens to abandon property.

2. Declared bankruptcy or threatens to declare bankruptcy.

3. Principals are suspended or debarred.

4. Not exercising oversight control of management entity.

5. Lacks oversight and reporting systems to monitor project performance.

6. Principals' relationship with identities-of-interest firms doing business with the property makes it difficult for owner to exercise independent oversight of expenditures and performance.

7. Principals have interest in other properties subject to enforcement action, 2530 flags, and limited denials of participation.

8. The owner of record is not in control of the property mortgages and/or land sales contracts. The Management Company is acting as the owner.

9. Owner has not completed all requirements for a Transfer of Physical Assets (TPA).

10. Evidence that the for-profit, no-profit, or cooperative owner is not acting in accordance with their organizational documents, i.e., corporate, partnership, or cooperative by-laws that govern the operation of the owner entity.

D. **FINANCIAL INDICATORS**

1. Mortgage payments are not current.

2. Liens and judgments filed against property.

3. High accounts payable.

4. High accounts receivable.

5. High vacancy costs – in excess of 10% of gross potential.

6. Improper withdrawal of project funds by owners.

7. No New Cash Throw-off: profit or loss before depreciation minus payments to mortgage principal and reserve for replacement deposits equals a negative number.

8. No Surplus Cash: available cash minus obligations of property equals a negative number.

9. Negative cash in bank.

10. Inadequate internal controls for budgeting, financial performance reviews, purchasing, cash dispersal and accounts payable and receivables.

11. Financial statements contain negative findings and/or questioned costs.

12. Failure to consistently submit monthly accounting reports to HUD.

13. Failure to submit annual audited financial statements to HUD.

14. Missing financial statements.

15. Independent auditor opinion contains “qualified,” “disclaimer,” or “adverse” qualifications.

16. FASS non-compliance flags.

E. **PHYSICAL INDICATORS**

1. One or more major systems require replacement or major repair.

2. Conditions that pose a serious health or safety threat to the residents. For example, EHS violations uncovered by PASS including but not limited to: unsafe electrical outlets and fixtures, sanitary sewer backups, trip hazards, gas leaks or inadequate heating.

3. Common areas, buildings and units not secure – inadequate fencing, lighting, building access controls, and apartment entry door lock systems.

4. Resident repair requests not properly recorded or responded to in a timely manner.

5. Unit and property inspections not conducted on at least an annual cycle, depending on the most recent PASS score.

6. No preventative maintenance program.

7. No capital improvements program.

8. Inadequately funded reserve for replacement fund.

9. Repair work is unprofessional – either not completed, and/or completed with shoddy workmanship and materials.

10. Repairs or improvement funded with Drug Elimination Grants and Flexible Subsidy/Loans Grants not complete in accordance with the contracts.

11. Poor curb appeal: property grounds, exterior surfaces, parking lots and walkways in poor condition.

12. Complex lacks facilities required by resident population: play areas, laundry facilities, learning and day care centers.

13. HUD PASS scores have decreased over time.

F. **PROPERTY MANAGEMENT**

1. Evidence that management is not properly screening incoming residents and/or taking eviction action against current lease-holders who violate their lease including:

a. Resident complaints and police reports of serious drug and crime activity at the property.
b. No home visits, credit checks, or interviews before new residents are permitted to lease units.
c. High incidence of resident caused damage in units and common areas and on grounds.
d. High accounts receivable.
e. High vacancy.

2. Inadequate or nonexistent staff and/or systems for:
   a. Responding to resident requests and complaints.
   b. Waiting lists and marketing.
   c. Rent collection.
      i. Move in, out, and make ready procedures for vacant units.
      ii. Cleaning common areas and grounds maintenance.
   d. Vendor selection and supervision.
   e. Staff recruitment, training and supervision.

3. Documented resident complaints that management staff does not act in a professional manner.

G. **SUBSIDY**

1. Section 8 has been abated, redirected, suspended or terminated.

2. Owner is:
   a. Vouchering for units that do not meet the *Good Repair Standards.*
   b. Vouchering for units in excess of the number specified in the Watch List Renewal Contract.
   c. Discriminating against potential and current residents based on race, color, creed, religion, sex, age, national origin or handicap.
   d. Changing, suspending or terminating a family's housing assistance in violation of HUD regulations.
   e. Terminating tenancies of families in violation of applicable State and local law and HUD regulations and procedures.
   f. Denying permission to HUD or its duly authorized representatives for access to the premises for the purpose of audit and examination of all aspects of the Watch List Renewal Contract.

3. Owner is <u>not:</u>
   a. Marketing units in compliance with the project's Affirmative Fair Housing Market Plan.
   b. Correctly determining applicants' eligibility for assistance.
   c. Selecting, admitting and placing residents in units in accordance with HUD requirements.
   d. Executing HUD approved leases with new residents.
   e. Maintaining the units and related facilities in a manner that provides decent, safe and sanitary housing as defined by HUD.
   f. Regularly cleaning and maintaining all common areas or equipment or making repairs with reasonable promptness.

g. Responding promptly to HUD's PASS findings by correcting cited problems within the time allotted.
h. Providing the utilities, services and equipment specified in the Watch List Renewal Contract.
i. Charging residents the correct rent.
j. Evaluating the accuracy of utility bills at least annually.
k. Completing resident income recertifications annually and adjusting family gross contributions in accordance with HUD regulations or administrative procedures.
l. Promptly following up with families that do not provide required recertifications and initiating HUD-prescribed enforcement actions.
m. Retaining all correspondence, documentation and materials required by the Watch List Renewal Contract.
n. Submitting to HUD an annual financial statement prepared by an independent auditor.

Chapter Six

Option Four *Renewal of Projects Exempted from OMHAR*

ELIGIBILITY

Section 6-1

Certain project types are not eligible for OMHAR even though the contract rents may exceed market. Projects without FHA-insured loans are exempt, as are certain FHA-insured properties.

Specifically, the following projects are identified by the statute as "exception projects."

A. Definition. Section 524(b) of MAHRA defines "exception projects" as those that may be renewed at rents above market. Projects fitting one of the following characteristics may renew under Option Four as an "exception project."

1. State or Local Government financing. Projects for which the primary financing or mortgage insurance was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of either) and is not insured under the National Housing Act.

   However, if the primary financing or mortgage insurance is provided by a State government or a unit of general local government, and the financing involves mortgage insurance under the National Housing Act, a determination must be made by OMHAR as to whether or not implementation of a Mark-to-Market Restructuring Plan is in conflict with applicable law, or agreements governing such financing. In these cases, the contract and supporting documentation of the potential conflict must be referred to OMHAR for review. The owner (or lender) must submit an opinion of counsel in a form acceptable to HUD, along with copies of the relevant financing documents or applicable local or State legal authority.

Upon receipt of the Owners documentation, OMHAR will complete its review and notify the PM/CA of its determination generally within 5 business days.

In cases where OMHAR determines that the contract is eligible for a restructure, the PM/CA will notify the owner that a RCS is required. If the RCS demonstrates that the rents are above market, the project will be renewed for six months using the Contract for Entry Into OMHAR and OMHAR will process the renewal.

Note: In cases where referral to OMHAR is necessary, CAs must return the contract to the PM with the recommendation that the PM forward the contract to OMHAR for review.

In cases where OMHAR determines that the Restructuring Plan would be in conflict with applicable laws and/or agreements, OMHAR will return the case to the Project Manager or Contract Administrator for a renewal under the Option Four provisions.

2. Section 202/8 and 515/8 Projects. Projects currently financed under Section 202 of the Housing Act of 1959 or Section 515 of the Housing Act of 1949. However, these projects can be eligible for restructuring if refinanced with FHA mortgage insurance. Section 202 and 811 Capital Advance projects are not eligible because they do not have Section 8 contracts.

3. SRO Mod Rehab. Projects that have an expiring contract under Section 8 of the United States Housing Act of 1937 pursuant to Section 441 of the Stewart B. McKinney Homeless Assistance Act.

4. Section512 (2) of MAHRA. Projects that do not qualify as eligible multifamily housing projects pursuant to Section 512(2) of MAHRA include:

   a. a project that is not subject to a HUD-held or insured mortgage; or,

   b. a project that has FHA mortgage insurance or is HUD-held with rents at or below comparable market rents.

   For an Owner of an FHA-insured or HUD-held project to claim eligibility under 4b, they must obtain a RCS.

B. Owners of "exception projects" have a choice of having their initial renewal processed under Option One, Two or Four. However, if an exception project owner elects to initially renew his/her contract under Option One or Two, he/she may not switch back to Option Four at a later date.

INITIAL RENEWALS

Section 6-2

A. Owner submission. At least 120 days before contract expiration, the owner submits:

1. **Contract Renewal Request Form and OCAF Worksheet**. The Renewal Worksheet documents the owner's option selection and the OCAF-adjusted rent potential.

2. **Budget**. A Budget and rent schedule must be completed in accordance with the requirements of HUD Handbook 4350.1, Chapter 7, or the RHS approved budget, and Attachment 5.

3. **RCS**. For an FHA-insured or HUD-held project that is requesting renewal (as described in Section A.4. above), a RCS must demonstrate that the project's current rents are at or below comparable market rents.

4. If the primary financing or mortgage insurance is provided by a State government or a unit of general local government, and the financing involves mortgage insurance under the National Housing Act:

   1. Copies of the original financing documents and,
   2. The under lying statutory authority which the Owner believes conflicts with a mark-to-market restructuring plan, and,
   3. Counsel's opinion as to the conflict

B. Rent Determination. Based on the documentation submitted by the owner, the initial renewal rents shall be set at the lesser of:

1. **Current Rents + OCAF**. The current rent potential of the expiring Section 8 contract(s) adjusted by the published OCAF; or

2. **Budget**. The rent level required to meet operating expenses based on the format required by HUD Handbook 4350.1, Chapter 7 and Attachment 5**,** and submitted with the request for renewal.

   a. If the project had a budget approved by HUD less than one year before processing the initial renewal, a copy of that budget may be submitted in lieu of a new budget, unless the Owner refinanced the project.

   b. The "lesser of" test is conducted only once, at the contract's initial renewal under section 524 of MAHRA. Once the contract undergoes the "lesser of" test, it does not have to repeat the test again at subsequent renewal or at any rent adjustments during a multi year contract.

RENT ADJUSTMENTS FOR MULTI YEAR CONTRACTS

Section 6-3

For multi year contracts, at least 120 days before the anniversary date of the contract, the owner should submit:

1. OCAF Worksheet, Attachment 3; or

2. A budget-based rent increase request. If requesting a budget based rent adjustment, the rent level required to meet operating expenses based on the format required by HUD Handbook 4350.1, Chapter 7 and Attachment 5**,** must be submitted with the request.

SUBSEQUENT RENEWALS

Section 6-4

A. No "lesser of" test is required at subsequent renewal. An owner can receive either an OCAF adjustment or a budget based adjustment to the rent.

B. Owner Submission. At least 120 days before expiration of the Section 8 contract, the owner should submit:

1. The Contract Renewal Request Form and OCAF Worksheet.

2. If the Owner requests a budget-based rent increase, a budget prepared in accordance with HUD Handbook 4350.1, Chapter 7.

PROCESSING INSTRUCTIONS

Section 6-5

A. PM/CA Review. The PM should complete his/her review within 45 calendar days or whatever period is required to allow sufficient time for processing the contract renewal.

B. The PM/CA checks to see:

1. That the owner requested to renew under Option Four, *Renewal of Contract for Projects Exempted From OMHAR;*

2. If the Owner is eligible to renew the section 8 project-based contract under Option Four;

3. That the Owner submitted all the required documentation. For example:

   a. Contract Renewal Request Form and OCAF Worksheet;

b. A Rent Comparability Study, if applicable, prepared in accordance with Chapter Nine of this Guide;

c. A budget-based rent adjustment, prepared in accordance with Chapter Seven of HUD Handbook 4350.1.

4. If the Owner specified on the Cover Sheet of the Contract Renewal Request Form whether they wanted any multiple stages or contracts combined at this time. See instructions provided in Chapter Two of this Guide.

C. Review the Owner's certification regarding suspension or debarment on the worksheet. If the Owner checked that they are not suspended or debarred, verify that information by using the www.ARNet.gov/epls/.

D. If it is determined that the Owner is suspended or debarred, HUD will permit the Owner to renew the Section 8 contract if the project(s) in question were not the cause of the administrative actions against the Owner.

E. Log the owner's request as indicated on Contract Renewal Request Form and any other relevant information in the REMS system.

F. Prepare a 524(b) contract renewal.

1. Initial renewals shall be at the lesser of the current rents adjusted by OCAF or the budget-based rent level.

2. Rent Adjustments during term of multi year contracts shall be by:

a. Application of OCAF, or

b. Application of budget-based method.

3. At subsequent renewals, apply the appropriate rent adjustment method:

a. OCAF; or

b. budget-based and;

c. Apply the appropriate term for the contract.

Chapter Seven

Option Five *Renewal of Portfolio Reengineering Demonstration or Preservation Projects*

Eligibility

Section 7-1

Preservation Projects primarily consist of Section 236 and 221d3 BMIR projects whose Owners entered into long-term use agreements with HUD under the Preservation Program.

A Portfolio Reengineering Demonstration Project is any project that completed the Demonstration Program. If a project entered the Portfolio Reengineering Demonstration Program but did not complete the program, it is not eligible for renewal under Option Five.

Renewal of Portfolio Reengineering Demonstration Projects

Section 7-2

A. Mortgage Restructured/Rents Reduced. Projects that closed a transaction under the Portfolio Reengineering Demonstration Program and had their mortgages restructured and/or had rents reduced to market should not be forwarded to OMHAR. They should be renewed as follows:

1. **OCAF**. Each year for the four years following the execution of the Demonstration Contract, rents will be adjusted by the published OCAF.

2. At the end of each 5 year period the owner must obtain an RCS to ensure that the rents are not above comparable rents. The owner will be eligible to renew under Option 1 or 2. If necessary, the rents will be reduced to comparable rents.

B. No Restructuring/No Rent Reduction. If the mortgage was not restructured and the project's rents were not reduced to market, the Owner must submit a rationale as to why debt restructuring is inappropriate. The rationale and the renewal request should be submitted to Headquarters, Office of Housing Assistance and Grant Administration, attention Willie Spearmon. If the rationale is not acceptable the project will be referred to OMHAR for restructuring.

Owner Submission for Demonstration Projects

Section 7-3

Initial Renewal: HUD is no longer doing initial renewals under the Portfolio Reengineering Demonstration Program.

Rent Adjustments: OCAF only, years two through five.

At the end of each 5 year period the owner must obtain an RCS to ensure that the rents are not above comparable rents. The owner will be eligible to renew under Option 1 or 2. If necessary the rents will be reduced to comparable rents.

Processing Instructions for Demonstration Projects

Section 7-4

Portfolio Reengineering Demonstration Contract when debt was restructured (OMHAR ineligible)

A. PM Review. The PM should complete their review within 45 calendar days or whatever period is required to allow sufficient time for contract renewal or to obtain tenant based assistance if the Owner is opting out of its Section 8 project-based contract. Note: Owners who had their debt restructured under the Portfolio Reengineering Demonstration Program are required to accept Section 8 renewals for 20 years, and therefore cannot opt-out of their contracts.

B. The PM/CA checks to see

1. That the owner selected to renew under Option Five, *Renewal of Portfolio Reengineering and Preservation Contracts.*

2. If the Owner is eligible to renew the Section 8 project-based contract under Option Five.

C. The PM/CA checks to see that the Owners has provided the required documentation, for example:

   At rent adjustment, the Owner must submit the OCAF worksheet, and at Subsequent renewal, the Owner must submit a new Contract Renewal Request Form.

D. The PM/CA must check to see if the owner specified on the Cover sheet of the Contract Renewal Request Form whether or not they wanted any multiple stages or contracts combined at this time. (see instructions provided in Chapter Two of this Guide)

E. Review the Owner's certification regarding suspension or debarment on the worksheet. If the Owner checked that they are not suspended or debarred, verify that information by using the www.ARNet.gov/epls/.

   1. If it is determined that the Owner is suspended or debarred, HUD will permit the Owner to renew the Section 8 contract if the projects in question are adequately managed and maintained, and activities there were not the cause of the administrative actions against the Owner.

   2. If the Owner is suspended or debarred for actions involving the project, and who expressed their willingness to sell the project as part of the restructuring transaction, the certification will be acceptable.

   3. Where there are material violations and the enforcement process has progressed to the point that the field staff is in a position to terminate the existing contract or refuse to renew the contract, the PM should deny the request.

F. Log the owners request as indicated on the Contract Renewal Request Form and any other relevant information in the REMS system.

G. Prepare a contract renewal using the Basic Renewal Contract for the appropriate term.

H. Apply OCAF as the rent adjustment method during years two through four of the contract.

PRESERVATION PROJECTS *(LIPHRA and ELIHPA)*

Section 7-5

When Owners entered into long-term use agreements with HUD under the Preservation Program, HUD agreed to certain items which were outlined in the Preservation property's approved Plan of Action (POA).

In a majority of Preservation contracts, the POA allows for either a budget-based rent adjustment or an Annual Adjustment Factor (AAF) rent adjustment. Initially, MAHRA limited rent adjustments to OCAF for all preservation projects and in many cases required a renewal under 524(a) that would have resulted in rent reductions for the contract. As a result, some Preservation Owners would have been denied the benefits called for in the POA. Legislation in FY2000 provided a means for rectifying this situation.

A. POA. At both initial and subsequent renewals Preservation projects shall be renewed for one year terms according to all provisions outlined in the project's POA.

B. Corrections. There are instances where some contracts of Preservation projects were renewed under terms different than the terms in the approved POA. In these cases PM/CA's should calculate the rent as it would have been if the contract(s) had been renewed under terms consistent with the POA. This is the "current rent" that should be used as the basis for determining the renewal rent. There is no reimbursement for income lost due to past renewals.

C. Opt-Outs/Prepayments. In general, POAs do not permit the Owner to opt-out of the Section 8 contract. However, if a Preservation project Owner believes they have the authority to opt-out of the Section 8 contract or prepay:

1. **Plan**. The Owner must submit a detailed plan to the PM/CA that indicates how they intend to honor their obligations under the Use Agreement to maintain the project as affordable housing.

   a. This plan should detail how the Owner intends to maintain the appropriate income mix.

   b. Owners must be made aware that should they elect to opt-out or prepay, they are not released from their obligations set forth under the long-term Use Agreement to provide affordable housing**.**

2. **Local HUD**. The Hub or Program Center (or Contract Administrators) should take the following steps:

a. The PM/CA should review the POA to determine if it provides the right for the Owner to opt-out of the Section 8 contract. In general, opt-outs were precluded, but each Preservation POA was structured differently, and as a result, the PM/CA must review each POA and Use Agreement to determine whether or not the project is eligible to opt-out of the Section 8 contract.

b. If the POA does not allow the Owner to opt-out, the PM/CA should advise the Owner that they must renew the Section 8 contract.

c. If the POA allows the Owner to opt- out, the owner must provide the standard one year notification to the tenants. Eligible families will be issued enhanced vouchers.

3. **Plan Submission to HQ**: If after review of the owners plan, the PM/CA agrees that the Owner is allowed to prepay and opt out, the PM/CA forwards a copy of the plan to Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Headquarters.

D. Conflicting Documents. The Use Agreement was recorded to implement the terms of the POA. However, there may be instances where the terms of the POA and the Use Agreement conflict.

1. Since the Use Agreement is a recorded instrument, binding on all third parties, in the event of a discrepancy between the Use Agreement and the POA, the Use Agreement prevails, and is binding on all third parties.

2. POAs are far more extensive and cover many more items than are covered in a Use Agreement. As a result, in cases where there are items contained in the POA that are not addressed in the Use Agreement, the terms of the POA, as they relate to the specific item, are binding on all parties.

Owner Submission for Preservation Projects

Section 7-7

Under the current Statute, preservation contracts may only renew under section 524 of MAHRA for one year terms. As a result, unless future law provides otherwise, all Owners with reservation 524 contracts must annually submit, at least 120 days before contract expiration, the Contract Renewal Request Form and, if applicable, the OCAF Worksheet.

Processing Instructions for Preservation Projects

Section 7-8

Preservation Contracts (OMHAR ineligible)

A. PM Review. The PM should complete their review within 45 calendar days or whatever period is required to allow sufficient time for contract renewal or to obtain tenant based assistance if the Owner is opting out of its Section 8 project-based contract.

B. The PM checks to see:

   1. That the owner selected to renew under Option Five, *Renewal of Portfolio Reengineering and Preservation Contracts;*

   2. If the Owner is eligible to renew the Section 8 project-based contract under Option Five.

C. If the Owner has provided all required documentation, including the Contract Renewal Request Form, found at Attachment 3 of this Guide.

D. If the Owner specified on the Cover Sheet of the Form whether they wanted any multiple stages or contracts combined at this time. See instructions provided in Chapter Two of this Guide.

E. Review the Owner's certification regarding suspension or debarment on the Worksheet. If the Owner checked that they are not suspended or debarred, verify that information by using the www.ARNet.gov/epls/.

   1. If it is determined that the Owner is suspended or debarred, HUD will permit the Owner to renew the Section 8 contract if the projects in question are adequately managed and maintained, and activities there were not the cause of the administrative actions against the Owner.

   2. Where there are material violations and the enforcement process has progressed to the point that the field staff is in a position to terminate the existing contract or refuse to renew the contract, the PM should deny the request. (See Chapter Thirteen for additional guidance.)

F. Log the owner's request as indicated on the Contract Renewal Request Form and any other relevant information in the REMS system.

G. If at any time the PM/CA feels that the contract should not be renewed they should prepare a notice advising the Owner of the basis for rejection, giving the Owner 30 days to object to the reasons or to cure the problems identified. If the PM/CA's concern is resolved, renew the contract.

H. Prepare a renewal contract using the Preservation Renewal Contract for the appropriate The rent adjustment method provided in the approved plan of action should be used for adjusting contract rents.

Chapter Eight

Option Six *Opt-Outs*

HUD is committed to preserving affordable housing. Local Offices should make every effort to inform Owners of all available options, including Mark-Up-To-Market. However, if an Owner ultimately chooses to opt-out of the Section 8 contract, and has satisfied the relevant requirements, the Owner may request to opt-out of the Section 8 program by providing the Contract Renewal Request Form and electing Option Six. Owners should be aware of their obligation to honor the right of residents to remain.

The request is sent to the Director of the Multifamily Program Center, Hub or CA which has jurisdiction over the project, 120 days before contract expiration. The PM/CA should ensure that the Owner has no restriction from opting-out, for example, Preservation properties, Portfolio Reengineering Demonstration properties, etc.

Processing Instructions

Section 8-1

A. PM/CA Review. The PM/CA should complete their review in a timely fashion in order to allow sufficient time to obtain tenant-based assistance and to assure that tenants have adequate search time to locate another unit should they desire to relocate.

1. The PM/CA checks to see that the owner elected to opt-out under Option Six;

2. Ensures that the Owner has provided all required documentation (Contract Renewal request Form, Option 6, certification);

3. Makes sure that the owner is eligible to opt-out of the Section 8 contract.

    a. Are there any restrictions stated in the Section 8 HAP contract or Use Agreement that prohibit the owner from opting-out? For example, Portfolio Reengineering Demonstration projects are required to accept Section 8 contracts offered by the Department, and as such, they may not opt-out if HUD offers to renew.

b. Did the Owner provide an acceptable one-year notification to the tenants and HUD/CA that they intended to opt-out of the Section 8 project-based contract? Does the letter state that the owner will honor the right of residents to remain? **If proper notification was not provided, the owner must provide acceptable one-year written notification to HUD/CA and the families. During this one-year period**:

i. The families' contribution to the rent cannot be increased for the period of time necessary to fulfill the full notification time frame.

ii. HUD/CA will offer the owner a short-term contract. See Chapter Two for information on rent setting for the short-term renewal.

c. Does the owner certify that it will honor the tenants right to remain at the property as long as it continues to be offered for rental housing if the PHA approves a rent equal to the new rent charged for the unit, unless the owner has grounds for eviction under State or local law?

4. Logs the owner's request as indicated on the Contract Renewal Request Form and any other relevant information in the REMS system.

B. To ensure adequate processing time, the process of providing tenant-based assistance should begin 120 days before the expiration of the project-based contract (please refer to Chapter 11 for information on tenant-based assistance, enhanced vouchers, tenant notification requirements, etc.). If there is a delay in the provision of tenant-based assistance, offer the owner a short-term contact. It is imperative that the PM/CA coordinate this effort with the Public and Indian Housing (PIH) staff. Refer to PIH Notice 00-9 for detailed guidance of the conversion process.

C. OMHAR Projects. If an Owner has decided to opt out while the project is assigned to OMHAR for a rent reduction or debt restructuring, the PAE will complete the rent determination and return the project to Housing. If additional time is required to either process tenant-based vouchers or to complete the tenant notification period, the PM/CA will prepare a short term contract at market rent.

Chapter Nine

Rent Comparability Studies

BACKGROUND APPLICABILITY AND OVERVIEW

Section 9-1

As a requirement for renewal under Section 524(a) of MAHRA, most project Owners with expiring Section 8 project-based contracts must submit a RCS at initial renewal to demonstrate that current rents are at or below comparable market rents.

Beginning with the date of the initial renewal of the expiring Section 8 project-based contract, the RCS will start a maximum five-year "life cycle" before a new RCS is required. In general, any contract that renews during the five year life cycle can only be renewed for a term that does not exceed the remaining life of the RCS. An exception is when the owner submits a new RCS when requesting permission to mark rents up to market.

APPLICABILITY

Section 9-2

A. This Chapter applies to all RCSs required by this guide regardless of who [HUD Housing staff, Contract Administrator (CA) or OMHAR] reviews the RCS.

B. The Office of Multifamily Housing Assistance and Restructuring (OMHAR) has agreed to amend its Operating Guide and will apply the Rent Comparability Grid and policies similar to those in Sections 9-7 through 9-16 of this guide to RCSs OMHAR processes or purchases.

C. When HUD Notice H 97-14 (AAF Rent Adjustment Procedures) requires Owners of new construction/ substantial rehabilitation projects to submit a HUD 92273, Estimates of Market Rent by Comparison, Owners instead must either:

1. Submit the new Rent Comparability Grid (HUD 92273-**S8**) and other materials required by Section 9-14 of this Chapter. Owners must require appraisers preparing the reports to do so in accordance with the guidance in Sections 9-7 through 9-13 of this Chapter, but should follow instructions provided in HUD Notice H 97-14 to determine which units must be included in the RCS.

or

2. Ask to use non-Section 8 units at the Section 8 project to set the market rent ceiling instead of performing a RCS if the project meets all of the conditions in Section 9-6A 2 through 6 of this Chapter for all unit types for which HUD Notice H 97-14 requires a HUD 92273 rent comparison. The Owner must submit a request in the format shown in Appendix 9-6, but should delete references to renewals and instead refer to rent comparisons required by HUD Notice H 97-14 (also substitute rent comparisons for references to renewals when reading Section 9-6).

   Other provisions of HUD Notice H 97-14 (e.g., adding initial difference to the rent resulting from the analysis in Paragraph 1 or 2 above) still apply and HUD Notice H 97-14 determines which units the RCS must cover.

D. This Chapter does *not* apply to market rent analyses required in development processing of applications for FHA insurance.

OVERVIEW OF CHANGES

Section 9-3

This Chapter gives HUD staff, Section 8 contract administrators (CAs), and appraisers guidance on HUD's standards for preparing, submitting and reviewing RCSs. More specifically, this Chapter:

A. Sets forth HUD's expectations regarding scope of appraiser's research and selection of comparable units. These topics are addressed in Sections 9-7 through 9-13. The selecting comparables portion provides answers to questions such as: Can comparables be selected from outside the project's market area? Do government boundaries (e.g., state or county lines) affect market area definitions? May unassisted units in partially assisted projects be used as comparables? May tax credit (LIHTC) or other rent restricted units be used as comparables? This Chapter provides specific guidance on each of these questions and, hopefully, will standardize practice so that RCSs will be treated similarly around the country.

B. Standardizes the content of the RCS. Sections 9-14 through 9-16 set forth content requirements. These requirements include clear, convincing narratives that explain what appraisers should do on key points (e.g., selecting comparables, adjusting rents, deriving market rents from adjusted rents).

C. Clarifies how the Uniform Standards of Professional Appraisal Practice (USPAP) relate to the appraiser's preparation and HUD's / CA's review of RCSs. The main references to USPAP are contained in Section 9-7 A5 and Section 9-20.

D. Provides a new form, the Rent Comparability Grid *("Rent Grid")*, for valuing and documenting adjustments to comparables' rents and provides detailed guidance on valuing adjustments. The new Rent Grid (HUD 92273- S8) is shown in Appendix 9-2 and a sample completed Grid is included in Appendix 9-3's Sample RCS.

1. The Rent Grid retains the basic structure of the HUD 92273, but reorders lines to make the analysis more logical. When prepared in Excel, the Grid automatically performs any calculation required on the form and displays a summary of adjustments that helps appraisers catch loading errors and gives reviewers a quick picture of the volume, level and direction of the adjustments.

   Note: This Rent Grid replaces the HUD 92273, Estimate of Market Rents by Comparison, for purposes of Section 8 renewal processing, but the HUD-92273 will continue to be used for development processing as the Multifamily Accelerated Processing (MAP) program becomes operational. Later, Housing will explore applying the new form to market rent analyses used in development processing.

2. Section 9-12 provides general guidance on valuing adjustments and specific guidance on valuing differences in utility, unit size and non-shelter services (e.g., elderly services, neighborhood networks, service coordination). In addition, Appendix 9-8's instructions for preparing the Rent Grid provide detailed guidance for each line of the Grid.

E. Permits some projects to demonstrate that rents are less than market without doing a RCS (i.e., selecting comparables and adjusting for differences between the comparables and the Section 8 project). Only Owners renewing under Option Two (Chapter Four, using current rents adjusted by OCAF/ budget) may, at their option, ask to use these alternate methods.

1. Owners may ask to renew without an RCS if the contract's current gross rent potential and proposed OCAF/ budget based renewal rent potential is less than 75% of FMR. *(See policies and procedures in Section 9-5.)*

2. Owners of projects only partially-assisted with Section 8 may ask to use the non-Section 8 units in the Section 8 project to set the market rent ceiling if: a) the proposed OCAF/ budget-based rent for each Section 8 unit type being renewed does not exceed the average rent charged for nearly identical, non-Section 8 units at the Section 8 project; and b) the project meets all criteria set forth in Section 9-6 of this Chapter.

F. Provides detailed procedures for CAs and HUD staff to follow in checking the timeliness, completeness and substance of RCSs. These procedures are in Sections 9-17 through 9-20 of the Chapter.

G. Requires that all HUD offices and Section 8 contract administrators give Owners an opportunity to appeal the decisions HUD / the CA makes on RCSs. Given the significant financial impact that RCS conclusions have, HUD believes that all offices should share the reasoning underlying their decisions and give Owners an opportunity to discuss and appeal those decisions. *(See Section 9-21 for appeal procedures).*

ALTERNATIVES TO THE RENT COMPARABILITY STUDY

Section 9-4

This Section gives Owners three methods of demonstrating how the Section 8 rents proposed at renewal compare to rents charged for other units. The methods are listed below. Options A and B are provided to avoid the costs, processing times and delays associated with RCSs when facts strongly suggest that the proposed rents would be under rents computed in a RCS.

A. Comparing proposed Section 8 rents to fair market rents (FMRs), as provided in Paragraph 9-5.

B. Comparing Section 8 rents to rents charged for other units in that Section 8 project, as provided in Paragraph 9-6.

C. Purchasing and submitting a RCS in accordance with Sections 9-7 through 9-16 of this Chapter.

Note: Owners may elect Option A or B, but HUD may not require Owners to use those options. The FMRs or rents for non-Section 8 units in the Section 8 project act as a cap or ceiling on rents computed using an OCAF or budget approach. Rents are not automatically set at FMRs or rent levels charged for other units in the Section 8 project.

USING FMRS TO DETERMINE BELOW MARKET STATUS

Section 9-5

A. Eligibility. Owners eligible to renew under Chapter Four of this guide may request to renew without a RCS if the current Section 8 gross rent potential and the proposed Section 8 gross ***rent potential*** at renewal are less than 75% of the FMR ***potentia***l for the units being renewed. Since the FMRs represent the 40th percentile of area market rents collected in HUD's phone surveys, rents under the limit used here should almost always be below the typical market rent for the area. Any exceptions to this normal conclusion can be captured by the control imposed in Paragraph B1 below.

1. The Section 8 renewal potential used in the above comparison must be the current rent potential found in the Contract Renewal Request Form and OCAF Worksheet (Attachment 3 of this guide) and adjusted by the OCAF or the budget. The potential must be the gross potential (contract rent + utilities) to make the figure comparable to FMRs, which include utilities.

2. To request renewal using this FMR comparison, an Owner must submit a request using the format in Appendix 9-7. The Owner also must submit only the following parts of the Contract Renewal Request Form and OCAF Worksheet found at Attachment 3 of this Guide:

   - The **first** page of Attachment 3's **Cover Sheet** identifying all contracts at the project and indicating which contracts will be renewed.

   - If seeking a budget-based adjustment, a Budget Worksheet (Form HUD 92547-A).

   - If seeking an OCAF driven adjustment, Steps 1 and 2 of the OCAF calculation.

     Note: Since Appendix 9-7 will impose the market rent ceiling, don't impose a market rent ceiling on Line O of the OCAF worksheet. Instead, to compute the increase factor on Line N of Step 2, divide the adjusted potential (Line N) by the current Section 8 potential for the expiring contracts (Line E of Step 1).

3. Use the form in Appendix 9-7 to compare the proposed OCAF/ budget adjusted rents and FMR rent levels. The FMRs create the market rent ceiling that is usually created using an RCS' rents. The proposed rent potential must be less than 75% of the FMR potential for the units being renewed. (FMRs are updated annually around early October and are posted on HUD's Internet @ www.huduser.org/datasets/fmr/html.)

4. If an Owner elects this FMR method, there will be no RCS to update for budget-based rent adjustments or for renewals that occur within the next five years as discussed in Chapter Two. Budget-based rent adjustments made during multiple year contracts will be processed as described in Chapter Four, Section 4-4 A-2, but the market ceiling will be set by 75% of the FMRs in effect at the time the adjustment is processed. At any subsequent renewal, the Owner must choose one of the three methods allowed in Section 9-4 above.

B. HUD/CA processing. Staff should make a decision on the request within 20 calendar days after receiving the Owner's request. Project managers may process these requests, but they should be familiar with the property's condition and amenities and must seek an appraiser's input as to prevailing rent levels in the subject market area.

1. Field staff should approve the request unless they have reason to believe that the proposed rents are over market. The field might challenge the request if, for example:

- The units are unusually small, have limited appeal or offer substantially fewer amenities than typically offered in that market.

or

- RCSs completed on other projects in the subject's area often produced market rents that were significantly lower than FMRs.

or

- A previous RCS on this project concluded that the project's Section 8 rents were above market.

2. If HUD denies the Owner's request, HUD may issue a short-term renewal to allow the Owner a reasonable period of time to obtain a RCS prepared in accordance with Sections 9-7 through 9-16 of this Chapter. Owners may not appeal HUD/CA's denial of their requests to use FMRs in lieu of submitting a RCS. *(See Section 2-4 for guidance on setting rent levels in short-term contracts.)*
3. Staff should document their decision on the Owner's request form and in REMS.

USING RENTS FOR NON-SECTION 8 UNITS IN THE SECTION 8 PROJECT

Section 9-6

A. Eligibility. If the criteria below are met, the Owner may request to use non-Section 8 units at that Section 8 project to set the market rent ceiling instead of purchasing and submitting a RCS. The project must meet these criteria ***for each unit type*** that will be included in the renewal contract.

1. The contract(s) is eligible to be renewed under Chapter Four of this Guide.
2. At least 25% of each unit type being renewed is occupied by tenants who pay the full rent due the Owner and receive no tenant rental assistance. "Tenant rental assistance" includes project-based Section 8, certificates/vouchers, PRAC/PAC in a 202/811 project, Rent Supplement, Rental Assistance (RAP), or any comparable federal/state/other public subsidy. Tenant rental assistance does *not* include Section 236 interest reduction (IRP) subsidies, other construction/mortgage based subsidies, or LIHTC / comparable state credits.
3. For each unit type being renewed, the proposed Section 8 contract rent is no more than the average rent tenants not receiving tenant rental assistance pay for that unit type.
4. Tenants in units used to compute Paragraph 3's average have been paying *(without assistance and for three or more months)* at least the rent levels used in computing the average. These tenants did and do not receive rental concessions or rebates and have no business or family relationship with the project's Ownership or management.

5. The Section 8 units and the units occupied by tenants not receiving tenant rental subsidies are nearly identical and would not require adjustments if the units without tenant rent subsidies were used as comps in a RCS. "Nearly identical" means the two sets of units have the same number of bedrooms & baths; are similar in condition, layout & size; and have the same amenities & utilities included in the rent.
6. Occupancy rates in the units occupied by tenants not receiving tenant rental subsidies are not significantly less than occupancy levels for those unit types in the project's market area.

B. Owner Request.

1. To request a renewal that limits OCAF/ budget adjusted rents to rents paid by tenants not receiving tenant rental assistance at the Section 8 project, an Owner must submit a request in the format shown in Appendices 9-6 and 9-7. The Owner also must submit the parts of the Contract Renewal Request Form and OCAF Worksheet found as Attachment 3 of this Guide that are listed in Section 9-5A2 above.

2. If an Owner elects this method, there will be no RCS to update for budget-based rent adjustments or for renewals that occur within the next five years as discussed in Chapter Two . Budget-based rent adjustments made during multiple year contracts will be processed as described in Chapter Four, Section 4-4 A-2, but the market ceiling will be set by computing the average rent paid by tenants not receiving rental subsidies at the time the adjustment is processed. At any subsequent renewal, the Owner must choose one of the three methods allowed in Section 9-4 above.

C. HUD/CA processing**.** Staff should make a decision on the request within 20 calendar days after receiving the Owner's request. Project managers may process these requests, but they should be familiar with the property's condition and amenities and must seek an appraiser's input as to prevailing rent levels in the subject market area.

1. Field staff should approve the request unless they have reason to believe that the rents paid by tenants not receiving rental subsidies are significantly higher than rents in the surrounding area or that some of the eligibility conditions listed above are not met. Staff should:

   - Use REMS/ TRACS to check the data reported in the rent table attached to the Owner's request.
   - Use Columns J and I of the Owner's rent table to help assess compliance with the occupancy criterion in Section 9-6A6 above. A significant vacancy may indicate that the project is asking too much for these units.

2. If HUD denies the Owner's request, HUD may issue a short-term renewal to allow the Owner a reasonable period of time to obtain the RCS. Owners may not appeal HUD/CA's denial of their requests to use projects' non-Section 8 units in lieu of submitting a RCS. *(See Section 2-4 for guidance on setting rent levels in short-term contracts.)*

3. Staff should document their decision on the Owner's request form and in REMS.

PREPARING RENT COMPARABILITY STUDIES

Section 9-7

A. Each RCS must:

1. Be prepared by or under the direction of an appraiser that meets the qualifications set forth in Section 9-8 below.
2. Cover at least all unit types that have Section 8 assistance in the contracts being renewed now. Owners may also include other Section 8 unit types in other contracts that the Owner plans to renew during the next five years. (For projects submitting RCSs to support AAF requests, Chapter Fifteen determines which units must be studied.)
3. Estimate "market" rents for each Section 8 unit type, by adjusting rents of comparable units to reflect the location, condition, appeal, amenities, and utilities of the Section 8 units. "Market Rent" is the rent that a knowledgeable tenant would most probably pay for the Section 8 units as of the date of the appraiser's report if the tenants were not receiving rental subsidies and rents were not restricted by HUD or other government agencies. **Note**: Appraisers should estimate market rent without considering the market's ability to absorb all Section 8 units.
4. Be concise, but contain enough information that a person not familiar with the properties and market areas involved can understand how the appraiser arrived at his/her adjustments and opinion of market rent. At a minimum, the RCS must include the materials listed in Appendix 9-10.
5. Be prepared in accordance with this Chapter and with the Uniform Standards of Professional Appraisal Practice ("USPAP"). (Standards are available at www.appraisalfoundation.org/uspap2000/toc.)
   a. If this Chapter's requirements go beyond USPAP, appraisers should consider the Chapter's requirements to be supplemental standards and comply with them.
   b. If this Chapter's requirements conflict with USPAP, appraisers must comply with HUD's requirements and may invoke USPAP's Jurisdictional Exception Rule for the parts on which HUD and USPAP requirements conflict. Jurisdictional Exception is justified by *The Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act of 1999* (Title V of the Year 2000 HUD-VA Appropriations Act.) Section 524(a)(5) of Title V directs that "The Secretary [of HUD] shall prescribe the method for determining comparable market rent by comparison with rents charged for comparable properties...".
   c. Appraisers should review State laws and State real estate appraisal regulatory board rulings and determine whether the RCS is a consultation or an appraisal and comply with the appropriate parts of USPAP. HUD will accept RCSs

prepared under Standards 1 and 2 (for appraisals) or Standards 4 and 5 (for consulting services).

B. In preparing the RCS, the appraiser must take the actions listed below and further described in the rest of this Chapter. The appraiser must have collected, updated or verified all data within 90 calendar days before the date of the appraiser's letter transmitting the RCS to the Owner (or to HUD, when HUD purchases the study on mark-up-to-market or other cases.)

1. Inspect and analyze the subject Section 8 property and its surrounding neighborhood as discussed in Section 9-9.
2. Select comparable units in accordance with Section 9-10
3. Collect and document data on the comparable units as discussed in Section 9-11. Report the data on the Rent Grid shown in Appendix 9-2 and on a Comparable Property Profile. *(See Section 9-11C and sample profile in Appendix 9-4)*
4. Compare each comparable to the subject and adjust each comparable's rent to reflect the rental value tenants in the subject's market area would assign to differences between the comparable and the subject. To value the adjustments, follow the general instructions in Section 9-12 and the Line-by-Line instructions in Appendix 9-8. Enter the adjustments on the Rent Grid included in Appendix 9-2.
5. Use the comparables adjusted rents to derive an estimated market rent for each Section 8 unit type as directed in Section 9-13. (This rent was formerly called the "correlated" rent.)

***Note**: Appraisers must comply with the Fair Housing Act and the provisions of USPAP related to that Act. Appraisers may not use or rely on unsupported conclusions related to the racial, ethnic or religious mix of the comparable or subject properties or their surrounding areas or upon other factors prohibited by the Fair Housing Act. Appraisers' opinions, conclusions and reports must be impartial and objective and not illegally discriminate or contribute to illegal discrimination through subjective or stereotypical assumptions. (See USPAP Advisory Opinion #16 for additional guidance on complying with Fair Housing requirements.)*

C. The project Owner must review the appraiser's report and submit it as directed in Section 9-16 of this Chapter. No more than 90 calendar days should have elapsed between the date the Owner submits the RCS to HUD and the date of the RCS.

APPRAISER'S QUALIFICATIONS

Section 9-8

A. The appraiser must:

1. Be a Certified General Appraiser, licensed and in good standing in the state where the property is located. The license may be temporary or permanent. (Owners can obtain lists of appraisers meeting this standard at www.asc.gov or from each state's appraiser regulatory agency.)
2. Be currently active and regularly engaged in performing RCSs or appraisals of multifamily housing.
3. Meet all the requirements of the Competency Provision in the Uniform Standards of Professional Appraisal Practice (USPAP) and have read all of this HUD Chapter. (Attachment 1b contains the USPAP 2000 version of the Competency Rule. Additional or updated information on USPAP can be obtained at www.appraisalfoundation.org.)
4. Have no prospective or present financial interest in the Section 8 property, its Ownership or management agent entity, or the principals of those entities.
5. Not be an employee of the Owner, the management agent, or the principals of those entities or have a business or close personal/family relationship with those parties that would commonly be perceived to create bias or a conflict-of-interest.
6. Not be debarred or suspended from doing business with the Federal Government and not be under a Limited Denial of Participation (LDP) imposed by the HUB or Program Center having jurisdiction over the Section 8 project.

B. The Appraiser must sign and take full responsibility for the report, but appraisal assistants may contribute to any of the tasks if: 1) they are employed by the same firm as the appraiser; and 2) the report identifies the roles the assistant appraiser performed.

ANALYZING THE SUBJECT PROPERTY

Section 9-9

A. Identify Primary and Secondary Unit Types.

1. Identify all unit types that will be included in the renewal contract and any other units the Owner elected, per Section 9-7A2, to include in this study. Recognize a unit type for each rent level the Owner is seeking following renewal.
2. Use the guidance in the rest of this Paragraph to label each unit type as a ***primary*** or ***secondary*** type. **Note**: Appraisers must estimate a market rent for each Section 8 unit type, but comparables and a Rent Grid will be required only for primary unit types. Appraisers may derive the market rent for a similar, secondary type by adjusting the market rent derived on the primary type's Rent Grid. *(See Section 9-13C.)*

a. Consider the number of bedrooms and baths, the unit size, the structure (e.g., townhouse, elevator, walk-up), and any other factors the market would consider as significant differences. If two unit types have the same number of bedrooms and the same structure type but the units have only slight differences (e.g., an half bath, a few square feet, a view), consider the more common unit type to be *primary* and the other unit type to be *secondary.*

Example: Project has 100 3-bedroom, 2-Bath, 1000 sq. ft. units and 30 3-bedroom, 1.5 Bath, 900 sq. ft units. The Owner is charging different rents for these two types. Label the most common type (the 2 bath, 1000 sq. ft unit) *primary* and the other *secondary*.

b. If the units being renewed are located on scattered sites, the appraiser must determine if separate unit types are needed for different sites. The appraiser must visit each site and assess the extent of any differences in neighborhood, condition, street appeal, services, or market area. If units are located in different market areas or other differences suggest that separate comparables are needed, the appraiser should generally create separate unit types for the sites that vary significantly. Appraisers should use their professional judgment to categorize the unit types as primary or secondary.

B. Inspect and Photograph the Subject Property.

1. Inspect: at least one unit of each primary unit type; project grounds; and the interior and exterior common areas (lobby, laundry rooms, community or dining rooms, recreation rooms, parking areas, outdoor play areas). If the units being renewed are located on scattered sites, visit each site.

2. Take color photos of the items listed below. Take additional close-up photos as needed to show the property's condition.

- subject's exterior, showing location on the site, exterior design, site layout, and site amenities
- interior of typical units.
- interior common areas (e.g., meeting rooms)

C. Determine and document project characteristics, condition and appeal. The appraiser must:

1. Determine and document the project's design, age, and structure. Assess the project's physical condition and overall appeal. Determine the extent of any major renovations made.
2. Identify all unit and site amenities and the type of utilities. The appraiser must consider all characteristics listed on the Rent Grid in Appendix 9-2 and any other characteristics that would affect the rent a tenant would be willing to pay.

   a. **Projects designed for the elderly/ disabled**. Appraisers should identify *all* services provided for elderly/ disabled. Appraisers should consider whether emergency call systems, transportation, social or educational activities, service

coordination, meals, laundry or housekeeping are offered. Appraisers should determine which services are actually provided by the project and which are just accessed through arrangements the project has established with outside agencies.

3. Identify which services are included in the rent and any charges collected in addition to rent for services/ amenities. At projects providing **non-shelter services** *(e.g., service coordination, neighborhood networks, the elderly services noted above*), the appraiser should ask the Owner/ agent to identify which services HUD/CA has authorized to be paid from rental income and which are paid from other sources. Other sources could include fees paid by tenants, other project funds (e.g. residual receipts), or grants from HUD or other agencies/businesses. [*See Section 9-12-6C4 for guidance on how funding source may affect valuing adjustments*.]
4. Determine or verify the size of each unit type. Estimate the rentable interior square footage of the unit. Do ***not*** count balconies, mechanical areas, or other non-living spaces.

D. Assess and describe the surrounding neighborhood. Assess the project's location, noting factors that would impact market rent levels. Consider access to schools, employment and medical centers, transportation, shopping, recreation, and community services. Identify nuisance (e.g., street noise), crime rates, and other factors affecting the perceived quality of the neighborhood.

E. Identify the project's market area -- i.e., the geographic area from which the subject property would draw the majority of its applicants. Identify street or other boundaries. Consider mobility patterns and natural or man-made barriers (rivers, freeways, rails, etc).

NOTE: Government boundaries like state or county lines usually do not establish market area boundaries as projects often draw from more than one town, county or state.

F. If the units being renewed are located on scattered sites, assess whether the sites vary significantly on condition, street appeal, services, neighborhood, or other factors.

SELECTING COMPARABLE UNITS

Section 9-10

A. Strive for Five Comparables Meeting Six Criteria. For each *primary* unit type identified pursuant to Section 9-9A2 above, the appraiser must attempt to identify comparable units from ***five*** different properties. The appraiser should select projects

that would compete with the subject for tenants. The Appraiser must exert good faith effort to find comparable units that meet ***all*** of the conditions listed below. If the appraiser cannot find units that meet all of these criteria, the appraiser may use the methods discussed in Paragraphs B & C below.

1. Are in the same market area as the subject property
2. Are ***not*** receiving tenant rental assistance (project-based Section 8, certificates/ vouchers, PRAC/PAC in a 202/811 project, Rent Supplement, Rental Assistance (RAP), or any comparable federal/state/ other public subsidy). The tenant must be responsible for the full rent due the landlord.
3. Have locations and neighborhood conditions (including crime rates and accessibility to services, employment, transportation, etc.) similar to the subject's.
4. Are located in projects that are similar to the subject in terms of project structure and layout, design, street appeal, age, size and unit mix, unit amenities and utilities.
5. Provide services and have project amenities similar to those available at the subject.
6. Are not rent restricted or rent controlled by a federal, state, local or other public program. This category includes LIHTC, HOME, HOPE VI, state/local rent controlled and rent stabilization units, and all units in 236, BMIR, 202/811, and Section 515 Rural Development projects. (**Important**: See Section 3-4B below for additional guidance on using rent restricted units.)

   Important:

   - If a property contains rent restricted units or units with tenant subsidies but also has other units with no restrictions or subsidies, those units that are both unrestricted and unassisted may be used as comparables. Such mixes will often exist in tax credit, tax-exempt, state-financed, HOPE VI or Section 221d3/ d4 FHA insured projects.
   - If the subject project has unassisted units that have the same number of bedrooms as a Section 8 unit type and are very similar to the subject, those unassisted units generally should be used as a comparable. (*If they aren't used, the appraiser must explain why in the selecting comparables narrative required by Section 9-14 through 9-16 of this Chapter*.)
   - If the appraiser selects comparables that he/she knows have the same Ownership/management as the subject or are owned or managed by a company/individual having an identity-of-interest with the Owner or management agent of the subject property, this must be disclosed in the Selection of Comparables Section of the RCS report. (*See Handbook 4381.5, Paragraph 2-3 for a definition of the term "identity-of-interest".)* Furthermore, the appraiser should take special care to verify the information, preferably through an unrelated party. For example, to verify that a unit is leased at the rent on-site management verbally gives, the appraiser might ask to see a copy of the lease.

B. Rent-Restricted Units:

1. If the appraiser cannot find five properties that meet all of the six conditions above, but can find rent restricted units that meet conditions 1 through 5, the appraiser may use the rent restricted units. Rent restricted units should only be used as comparables when they reasonably represent the market.
2. The appraiser may also use rent restricted units if less than five unrestricted, very similar units are available in the same market place but rent restricted units, that meet criteria A2-5, are available in a nearby, similar market area.
3. The appraiser must clearly disclose the use of rent restricted comparables and the nature of the rent restriction in the Selecting Comparables narrative part of the RCS and on the Rent Comparability Grid. *(Note: Appraisers may not adjust rents because the comparable unit is rent restricted.)*
4. While rent restricted units may in some cases reflect market rent (e.g., when LIHTC units make up a large percent of the multifamily units in a neighborhood or nearly all units are rent controlled), rent restricted units can also be below market rent. Therefore, the appraiser may want to discuss the use of rent restricted units with the Owner and HUD appraisal staff before finalizing the selection of comparables. Appraisers hired by HUD/CAs to prepare studies for mark-up-to-market requests should be especially careful to avoid selecting rent restricted units that would artificially depress the RCS's rent conclusions.

C. When five strong comparables don't exist. HUD recognizes that finding five comparables meeting all of the criteria in Section 9-10A above can be difficult in some markets. **Example**: when the subject is the only multifamily complex in a rural town or is the only property with four bedroom units. When the appraiser exerts good faith effort and conducts appropriate research but cannot find five comparables that meet all of the conditions in Section 9-10A, the appraiser may adopt one or more of the following strategies.

- Use rent restricted comparables as discussed in Section 9-10B.
- Select comparables from outside the market area.

  Note: Appraisers should try to select a market area that is similar to the subject's market area. In assessing similarity, appraisers should consider rent levels, housing prices, demographics, job opportunities and other relevant economic indicators. If equally good comparables are available in more than one alternate market area and those market areas are similar, the appraiser should generally consider using an alternate that is near the subject. For Section 8 projects in rural areas, however, HUD recognizes that it will often be necessary to go to distant, alternate markets that are sometimes of a different character.
- Use comparables located in the same market, but less similar to the subject.
- If the above strategies do not produce five comparables for each unit type, use only three or four comparables for a unit type**.**

Note: No unit type may have less than three comparables. Before proceeding with less than five comparables, the appraiser may ask the local HUD office if it is aware of any comparables the appraiser has not already identified.

1. The appraiser shall use his/ her professional judgment to decide the pairing and ordering of the alternate strategies listed above.
2. If the appraiser adopts any of these alternate strategies, the appraiser must:
   - Disclose that he/she did so in the Selecting Comparables narrative part of the RCS.
   - Document what research was done to conclude that no other similar, non-rent restricted units or no units in the subject's market area were appropriate comparables.
   - Provide market-based data to support adjustments for physical or market area differences resulting from relying on less similar comparables or going outside the subject's market area.
   - Try to select some comparables that are superior and some that are inferior to the subject so that the subject is within the range of indicators.
   - Use units with a different number of bedrooms, units in properties of a different structure type (e.g. high rise vs. garden) or units in a different housing/service category (e.g., assisted living/luxury retirement vs. a 202/811) only when comparables in the same category are not available in the same market area. The appraiser must provide market support for both the decision to use a different number of bedrooms or a different structure/housing type and for any adjustments made for these differences.

D. Housing for Elderly/ Disabled. Many Section 8 elderly housing projects provide services that are greater than traditional rentals would provide but less than assisted living facilities provide. The mix of services varies widely among projects. Appraisers should attempt to locate comparables that offer the same level of services as the subject. Appraisers should select comparables with significantly higher service levels only if they can make market-based adjustments for significant differences in service levels. For example, a complex that offers meals, transportation, assistance with dressing and medication, and 24 hour nursing oversight should be used as a comparable for a 202/ other elderly Section 8 project that offers transportation and activities only if more comparable rentals are not available.

COLLECTING AND DOCUMENTING DATA ON COMPARABLE UNITS

Section 9-11

A. Collecting Data. For each unit type, the appraiser must collect data on the elements listed in Parts A through E of the Rent Grid in Appendix 9-2 and on any other characteristics that would affect the rent a tenant would pay. The appraiser must also identify any services that are provided for additional fees and that a tenant would consider in selecting a rental. If the comparable is located outside of the subject's market area, the appraiser must provide the market data requested in Paragraph A4 below. The appraiser must:

1. Independently verify any information pulled from existing files, Internet research, newspaper ads or apartment guides.
2. View each comparable's grounds and *exterior* common areas. If access is given, also view *interior* common areas (e.g., lobby, laundry rooms, community or dining rooms, recreation/ fitness areas, business centers). **Note**: The appraiser is not required to inspect a comparable's unit interiors, but should do so if a unit is available and access is given.
3. Take color photos of each comparable's *exterior*, showing location on the site and exterior design and condition.
4. If the comparable project is in a different market area than the subject, the appraiser must collect market-based data to compare the rent levels in the two markets.
5. Obtain the unit's rentable interior square footage. Balconies, mechanical areas or other non-living spaces should be excluded. If the square footage available represents an exterior measurement, the appraiser must use his/ her professional judgment to convert the square footage to an interior measurement that can be compared with the interior measurements Section 9-9C4 requires on the subject.
6. Talk with management to obtain overall occupancy rates for the project, typical and current occupancy levels specific to the unit type used as a comparable, and whether any unit type is particularly difficult to rent. If the comparable's occupancy rate for a unit type included in the RCS is not typical of the comparable's market, determine why. Is the rent too high or are other factors causing the vacancy? Also confirm and quantify the existence/ absence of any rent or use restrictions and tenant subsidies.

   ***Note**: If the contact person does not provide the unit size or other required information, the appraiser must try to obtain the data from other sources. The appraiser must use his/her professional judgment to determine if the data is sufficient to justify using the unit as a comparable. (Section 9-11C2 requires disclosure of data limitations.)*

B. Identifying Non-Shelter Services. Appraisers should determine if the project provides non-shelter services. At projects for the elderly/ disabled, appraisers should take special care to determine if the project provides emergency call systems, transportation, social or educational activities, service coordination, meals, laundry or housekeeping. Appraisers should determine which services are actually provided by the project and which are just accessed through arrangements the project has established with outside agencies. Appraisers should also identify which services are included in the rent and which are covered by additional fees residents pay.

C. Reporting Comparable Data.

1. For each ***primary*** unit type, the appraiser must report the data collected by completing the ***data*** columns of the Rent Grid shown in Appendix 9-2 and the Comparable Property Profile required by Section 9-14A and Item 10 of Appendix 9-10.

   a. The appraiser must complete all lines of the Grid's data columns - i.e., even lines/items for which the appraiser will make no adjustment. All comparables for one unit type must be shown on one grid. *(See Section 9-15 for more guidance on using this Grid.)*

   b. Appendix 9-4 provides a suggested format for the Comparable Property Profile, but appraisers may use their own formats if those formats include all of the information listed in Item 10 of Appendix 9-10.

2. In the Scope of Work Section of the RCS report, the appraiser must identify any data that was unobtainable or estimated and all efforts to obtain data. (*See Appendix 9-10, Item 2 for more detail on what the Scope of Work write-up must cover*.)

COMPUTING ADJUSTED RENTS FOR COMPARABLE UNITS

Section 9-12

The appraiser must use the Rent Grid in Appendix 9-2 to derive an ***adjusted rent*** for each comparable. Before doing so, appraisers should review the instructions in this paragraph and the line-by-line instructions provided in Appendix 9-8.

A. To compute the adjusted rent, the appraiser must:

- Compute an **effective rent** by adjusting the most recently charged rent for factors (e.g., rent concessions) listed in Part A of the Grid.
- Determine which differences between the subject and the comparable unit would affect the amount of rent a typical applicant would be willing to pay in the subject's market area.
- For each difference tenants would value, adjust the comparable's rent by the amount tenants in the subject's market area would typically pay for that difference. Adjustments must be displayed in dollar amounts.

B. Adjust the *comparable to the subject.*

1. The goal is to determine what rent the comparable would obtain if the comparable were nearly identical to the subject. Thus, if the comparable is:

- ***Inferior*** to the subject on a particular characteristic, adjust the comparable upward. Enter the adjustment as a positive value to indicate that residents of the comparable would pay more if the comparable had the subject's characteristic.
- ***superior*** to the subject on a particular characteristic, adjust the comparable downward. Enter the adjustment as a negative value to indicate that residents of the comparable would pay less if the comparable had the subject's characteristic.

  Example: If the subject has a washer/dryer hook-up in the unit and the comparable does not and the appraiser determines that a typical renter would pay $xx/month more for a unit with a washer/dryer hook-up, then the adjustment would be entered as a positive $xx.

2. Appraisers must provide concise, but professionally complete explanations as to ***why*** the adjustments were made and ***how*** the dollar values were derived. If the data shows that a comparable differs from the subject significantly but no adjustment is made, appraisers must explain why. The explanations must be clear and convincing to a person not familiar with the properties and market areas involved.

   a. Do not just reiterate the entries in the data column. **Example**: Do not just say: "A negative adjustment was made to comparable 1 for location.". Instead, outline the data and logic used to arrive at the adjustment amount. Say something like:

   Comparable #1 was adjusted downward to reflect its location in a more desirable neighborhood that consists primarily of single-family homes, has little crime and has good access to shopping. The adjustment was estimated by comparing the rents at Comparable #1 with those of Comparable #4, which is in the subject's neighborhood but otherwise very similar to Comparable #1. The average value of the superior location was estimated to be $25.

   b. For all large adjustments and for items that are particularly quantitative (e.g., utilities), the appraiser must present market data to support his/her conclusions. For minor adjustments (generally in the $5 to $10 range), the appraiser may state his/her subjective evaluation of why the observed differences would affect rent.

C. Special Concerns

1. **Rent Restricted/Comparables.** No adjustment may be made for the fact that a rent is restricted as defined in Section 9-10.

2. **Comparables Outside the Subject's Market Area.** If a comparable is located in a different market area than the subject, the appraiser must adjust for any *significant* differences in rent levels between the two areas. Line 10 of the Rent Grid provides space for the adjustment.

3. **Utility Adjustments.** If a utility *(heat for example)* is included in the rent at both the subject and the comparable, a prospective tenant would probably perceive these as equal choices even if the energy sources (gas, electric, or oil) differed and no adjustment would usually be needed. But, if a utility is included in the subject's rent

but not the rent of the comparable *(or vice versa)*, the appraiser must estimate the *rental value* of that utility and adjust accordingly.

a. For properties with typical utility costs, the "rental value" is probably close to what prospective tenants would expect to pay. However, for properties with unusually low utilities, prospective tenants initially may overestimate utility costs, putting rental value slightly above actual cost. For properties with unusually high utilities, the reverse may be true. Prospective tenants initially may underestimate utility outlays, causing rental value to be less than utility costs they actually incur following move-in.

b. If a utility is:

- excluded from the comparable rent but included in the subject rent, enter a ***positive*** adjustment that reflects the amount prospective tenants would reasonably expect to pay for that utility at the ***comparable***.
- included in the comparable rent but not the subject rent, enter a ***negative*** adjustment that reflects what prospective tenants would reasonably expect to pay for that utility at the ***subject***. [Since tenants make housing choices based upon total shelter cost (rent + utilities), estimated outlays for utilities reduce, dollar for dollar, the amount a prospective tenant is willing to pay for rent.]

c. The appraiser may use any reasonable method to value expected utility outlays, but must identify the method used and explain how the dollar adjustment was derived. Some data sources commonly used to value utility adjustments are listed below. Appraisers should use data that reflects the characteristic of the property on which the adjustment is based -- i.e., the subject or comparable as bolded in paragraph b above.

- Regional utility allowances published by independent public agencies
- data gathered from utility providers
- data gathered from tenants and landlords
- a HUD/ CA approved utility allowance if the type of service and building attributes considered in developing the utility allowance are similar to the comparable being adjusted.

4. Non-Shelter Services. If a project is seeking to mark up or down to market rent, appraisers must value adjustments as directed in Paragraph **4a** below. For other projects requesting an OCAF or budget-based rent adjustment, appraisers must value adjustments as directed in Paragraph **4b** below. Paragraph 4a applies to projects requesting OMHAR lites, projects seeking to mark-up-to-market, and exception projects renewing under option two.

Note*: If compliance with Paragraph 4a produces a market rent below the eligibility for marking up to market or an Owner wishes to see the RCS before making a final decision on whether to request to mark up, appraisers may need to value adjustments pursuant to both Paragraph a and b below. See Section 9-13D below for guidance on how to present dual adjustment methods on the Rent Grid.*

a. **Marking-to-Market Projects.** *(See applicability at end of Paragraph 4 above.)* When comparing these projects with their comparables, appraisers may value the *availability* of any service regardless of funding source, but should recognize the value of services *actually provided* only for services that HUD/CA has authorized to be paid from rental income. **Example**: If meals are provided but paid by tenant charges, the project's residual receipts or outside grants, the appraiser may recognize the value tenants place on having access to meals but not the value of actually supplying the meals.

Note: *While the cost factor (OCAF) or budget will drive the rent levels on other projects that submit RCSs, on mark-to-market projects the market rent will drive or set the level of the renewed Section 8 rent. If services not authorized to be paid from rental income were valued in developing the market rent, Section 8 subsidies would end up paying for non-shelter services that Section 8 is not allowed to cover.*

b. **Projects Requesting OCAF/ Budget-Based Rents**. Appraisers should assess the value of *all* services offered, regardless of whether the service is paid by the project, the tenant or other sources.

- Even services offered for a charge may have value as the market generally values the *availability*.
- Generally, services included in the rent or funded from sources other than tenant charges should be more valuable than services offered to residents for an extra charge.
- On these under-market projects, the project's budget or the applicable OCAF drives the rent levels and HUD rules on use of project funds and budget approvals determine which services may be paid from rental income. Hence, valuing all services will not result in the misuse of Section 8 as it would in the marking-to-market projects discussed above. Valuing all services is consistent with USPAP's directive to consider rental value to tenants and will ensure that the market rent ceiling does not inappropriately hold rents to less than amounts authorized through HUD's budget rent procedures.

D. Concepts to Keep in Mind when Valuing Adjustments.

1. **Not all differences between the subject and the comp require adjustments**. Adjust only for differences that would affect how much rent a tenant is willing to pay. If a difference would appear to affect rental value and no adjustment is made, explain why you didn't adjust.
2. **Adjustments must reflect local markets**. Base adjustments on what typical renters in the *subject's* particular market area will pay. Tenants in different markets may value amenities and services differently. **Examples**:

- Tenants in the Northeast might pay less for a swimming pool than renters in the South would.
- Tenants in colder regions are more conscious of heating costs and might pay more if heat were included in the rent than tenants in warmer climates would.

3. **Adjustments often vary by unit type.** Even in the same market, renters may value the same service differently among unit types. A second bathroom may be more valuable in a three-bedroom than in a two-bedroom unit. Similarly, 50 additional square feet may be valued differently in a 550 sq. ft, one bedroom unit than in an 800 sq. ft, two-bedroom unit.
4. **Adjustments levels must reflect rental value, not construction cost or the cost of providing a service. Example:** In adjusting for differences like an elevator, amortizing the cost of the elevator over its useful life is not what a market renter would do. Any adjustment should reflect only what residents would typically pay for the convenience of using the elevator rather than climbing stairs.
5. **Adjustments, whether positive or negative, must be applied consistently.** Don't make small negative adjustments when an amenity is superior while making large adjustments when the same feature is inferior.
6. **Do not duplicate adjustments.** Appraisers should be careful not to adjust for the same element in more than one place. **Example**: If adjustments are made for project appeal (Line 8) and age (Line 7), the appraiser should take care to ensure that the sum of those lines is not more than the value the tenant would place on all features covered by those lines.

DERIVING ESTIMATED MARKET RENTS (FORMERLY CALLED "CORRELATED RENT")

Section 9-13

For each primary unit type, the appraiser must analyze the adjusted rents computed pursuant to Section 9-12 and determine, using his/her knowledge of the comparables, what point in that range of adjusted rents best represents the rent the subject could most probably obtain. The appraiser must enter this amount on Line 46 of the Rent Grid.

A. **The appraiser must consider:** the type, size and number of adjustments made; the quality of each comparable; whether a comparable's data was estimated or incomplete; and how the adjusted rents for each unit type relate to each other. Better comparables should receive more weight. While appraisers may compute and consider averages and other mathematical formulas, those calculations do not allow for exercise of the appraiser's professional judgment and should not, by themselves, determine market rents.

B. **The appraiser must explain** *how* **the market rent was derived and** *why* **it was derived that way**. If the appraiser weights some comparables more than others or sets the market rent at the very high end of the range of adjusted rents, the appraiser must explain why. Explanations should be brief, but understandable and convincing. The

explanation should be included as comments for Line 46 of the Rent Comparability Grid.

C. Primary vs. Secondary Unit Types. If ***secondary*** unit types are included in the RCS, the appraiser may adjust the market rent of the related primary unit type to arrive at the secondary unit type's market rent. To do so, the appraiser may adjust the primary's market rent to reflect the slight differences (e.g., half bath) between the secondary and primary type and set the secondary's market rent at the resulting amount. The appraiser must explain ***how and why*** the adjustment was made. These comments should be presented immediately following Line 46's comments on derivation of market rent. (***Note***: *See Section 9-9A2 for guidance on classifying unit types as primary or secondary*.)

D. Marking-to-Market Projects with Non-shelter Services. If an Owner is considering marking rents to market under any vehicle to which Section 9-12C- 4a applies, the appraiser should first prepare the Rent Grid in accordance with Section 9-12C4a's instructions on valuing adjustments. If the resulting rents indicate the project may not be eligible to mark up or the Owner wishes to see what market rent would be under Section 9-12 C4b's rules for OCAF/ budget requests, the appraiser need not complete a new grid. The appraiser may adjust the rent derived for marking up using the techniques described above for primary and secondary units. The appraiser must explain ***how and why*** the additional adjustments were made. These comments should be presented immediately following Line 46's comments on derivation of market rent.

CONTENT OF THE RENT COMPARABILITY STUDY

Section 9-14

A. Each RCS must include at least the materials listed below. Each item below must cover the topics or data identified in Appendix 9-10 at the end of this Chapter. An appraiser should provide information that goes beyond Appendix 9-10 if such information is needed for HUD to understand the appraiser's conclusions.

- Appraiser's Transmittal Letter
- Scope of Work
- Description of Subject Property *(including color photographs)*
- Identification of the Subject's Market Area
- Description of Neighborhood
- Narrative Describing Selection of Comparables
- Locator Map for Subject and Comparables
- Rent Comparability Grid for Each Primary Unit Type

- Narrative Explaining Adjustments and Market Rent Conclusions *(one set of explanations for each Rent Grid)*
- Comparable Property Profiles *(each including a color photograph)*
- Appraiser's Certification
- Copy of Appraiser's License (*only if relying upon a temporary license*)

B. To expedite HUD review, appraisers must order material in hard copy reports in the same order as Appendix 9-10 and present material in the format (e.g., grid/ table vs. narrative) noted in that Appendix.

C. Narratives required by Appendix 9-10 should be concise but contain enough information that a person not familiar with the properties and market areas involved can understand how the appraiser arrived at his/her conclusions. Appendix 9-3 provides a sample RCS.

D. To expedite preparation, the appendices to this Chapter provide Word or Excel files for any table/ grid requested in the Appendix. Appraisers may download electronic versions of these files @ www.hudclips.org.

PREPARING THE RENT COMPARABILITY GRID *("RENT GRID")*

Section 9-15

Appraisers must use the Rent Grid (HUD 92273-**S8**) shown in Appendix 9-2 to document both the characteristics of the subject and the comparables and the adjustments made for differences between a comparable and the subject. Entries on the Rent Grid must comply with guidance provided in Sections 9-7 through 9-13 *(especially Section 9-12)* and in Appendix 9-2's line-by-line instructions.

A. A Rent Grid is required only for each ***primary*** unit type. For any ***secondary*** unit types, appraisers need not complete an entire grid. Instead, appraisers may start with the market rent for a primary type and adjust for the minor difference(s) between the secondary type and the related primary type. Appraisers must explain ***why*** adjustments were made and ***how*** they were made. The explanation should be presented immediately following the Line 46 explanation of how the market rent for the primary unit type was derived.

B. While appraisers may manually type entries onto a hard copy form, appraisers are encouraged to use the Excel file in Appendix 9-2 as it: a) automates all calculations; and b) lets appraisers copy project-level data that stays constant across unit types. The Excel version is available as Form HUD-92273-**S8** on HUD's website at the addresses noted in Section 9-14D.

NOTE: Owner Responsible for Completeness of RCS. *The Owner must ensure that the RCS includes all information required by Appendix 9-10. Section 9-14B1 requires Owners to certify that they have checked the RCS for completeness.*

SUBMITTING THE RCS TO HUD

Section 9-16

A. The Owner must submit the RCS to HUD (or the Section 8 Contract Administrator (CA) if there is one) no later than 120 days before the expiration of the Section 8 contract. Early submissions are allowed, but Owners should not submit more than 180 days before the contract expires. Owners should submit the RCS along with the other information required in this guide.

B. The submittal must include a cover letter in which the Owner:

1. States that he/she has reviewed the content of the RCS and concluded that the RCS includes all material required by Appendix 9-10.

2. States that the appraiser's narratives and Rent Grid accurately describe the subject project and properly treat non-shelter services and their funding sources as required by Section 9-12.

3. Identifies any identity-of-interest existing between principals of the subject's Ownership or management agent entity and the principals that manage/ own the projects used as comparables. (*See Handbook 4381.5, Paragraph 2-3 for a definition of the term "identity-of-interest".)*

4. Certifies that: a) neither the selection of the appraiser nor the appraiser's compensation was/is contingent upon the appraiser reporting a predetermined rent or direction in rent; and b) to the best of the Owner's knowledge, the appraiser meets Section 9-8A's conditions regarding absence of financial, employment, and family relationships.

5. Certifies that the fee paid for the RCS is the only compensation the appraiser will receive for the RCS work and there is no side agreement or other consideration.

6. Identifies whom HUD/CA should contact at the agent/ Owner's office if staff have questions on the RCS and gives the email and phone number of the contact. **Note**: HUD/CA will send its decision letter to this contact unless the Owner directs otherwise.

7. States whether HUD/CA may talk with the appraiser directly and copy the appraiser on written materials.

HUD / CA REVIEWS OF RENT COMPARABILITY STUDY

Section 9-17

This Section gives Housing staff and Section 8 Contract Administrators (CAs) guidance on how to review RCSs prepared and submitted in accordance with Sections 9-7 through 9-16 of this Chapter. (Sections 9-4 through 9-6 provide procedures for reviewing Owner requests to use FMRs or the Section 8 project's non-Section 8 units in lieu of performing a RCS.) When referring to a particular staff position, this Section uses titles typically used at HUD. Contract Administrators should translate those to their own position titles.

A. While Field Offices and CAs may develop their own worksheets for completing these reviews, both Housing staff and CAs must adhere to the policies and time frames set forth in this Section.

B. A State-certified general appraiser should oversee all RCS processing and ensure that all staff involved in processing have read and understand this Chapter. While Program Assistants (PAs) or Project Managers (PMs) may screen the RCS for compliance with timeliness and content requirements, ideally a HUD / CA appraiser should complete all substantive reviews of the RCS's facts, reasoning and conclusions. If staffing does not permit that, the Director of Multifamily may authorize PMs to assist with the substantive reviews if the conditions below are met.

1. Rejections are issued only after a State-certified general appraiser has reviewed the study and concluded that the rejection is warranted. Rejections are decision letters that either: a) tell the Owner the study must be redone and resubmitted; or 2) challenge the study's rent conclusions and suggest an alternate rent.

2. PMs have read and understand this Chapter.

3. PMs are allowed to independently accept an RCS's rent conclusions only:

   a. after the HUD / CA appraiser has reviewed the PM's processing of several cases and found the PM's work to be acceptable.

   b. If the Director requires the PM to seek appraiser input on "exceptional" cases. The Director and appraiser may establish the list of factors that would trigger appraiser input. It is suggested that appraiser input be required when:

      - less than 5 comparables are used or comparables are rent restricted units, located outside of the subject's market area, or significantly dissimilar to the subject (e.g., different number of bedrooms, structure type or level of services).

- adjustments are unusually large or not commonly made in the applicable market area, the adjustments don't meet the general rules in Section 9-12, or the RCS appraiser did not adjust for differences that the PM reasonably expects would require an adjustment.

- the explanation of how market rent was derived from adjusted rents is not convincing or the market rent is set very near the top of the range of adjusted rents.

4. HUD/CA appraisers should retain review of RCSs submitted by RCS appraisers who have previously submitted inadequate RCSs.

SPECIAL PROCEDURES FOR MARK-UP-TO-MARKET PROJECTS

Section 9-18

Since Chapter Three requires two RCSs on projects seeking to Mark-Up-to-Market and establishes final rents by comparing the results of those studies, review procedures for these projects vary slightly from reviews required on other projects.

A. CA/HUD staff must complete Section 9-19's completeness and timeliness checks on both the Owner submitted and the HUD-purchased study, but Section 9-20's substantive review is required only on the study HUD purchases.

B. Section 9-20C's communications are between the contract appraiser and CA/HUD staff. Staff need not send Owners copies of written correspondence questioning the contract appraiser's work.

C. Owners seeking to Mark-Up-to-Market may not appeal HUD's determination of renewal rents.

INITIAL SCREENING FOR COMPLETENESS AND TIMELINESS

Section 9-19

A. Within 10 calendar days, the PM/CA should determine:

1. Is the date on the RCS appraiser's cover letter within 90 calendar days of the date the Owner submitted the study to HUD? Did the RCS appraiser update data within 90 calendar days prior to the date of his/her report? *(Data collection dates should be discussed in the Scope of Work Section of the appraiser's report.)*

2. Has the Owner submitted all information required by Section 9-16?

3. Has the appraiser included all items required by Section 9-14 and do those materials contain all of the information required by Appendix 9-10? Be sure to check for these items:

   - Did the appraiser sign the appraiser certification, fill in blanks and enter the license information requested on the bottom of the form?

   - Are names of contacts at the comparables and the subject included?

   - Is the market area identified and a locator map included?

   - Are photos of interior and exterior of the *subject* included? Photos of exterior of all *comparables*?

   - Was selection of comparables explained? If applicable, was justification for using fewer than 5 comparables, rent restricted units, units outside of subject's market area or units significantly dissimilar to the subject (e.g., different number of bedrooms, structure type or level of services) included? Was justification for not using similar unassisted units in project as a comparable included, if applicable?

   - Is a Rent Grid included for at least every primary Section 8 unit type? If Grids were included only for primary unit types, did the appraiser include an explanation of how market rent was derived for any secondary unit types?

   - Is an explanation of adjustments provided for each Rent Grid?

   - Did the appraiser explain how market rent was derived from adjusted rents?

B. If more than 180 calendar days elapsed between the date the RCS appraiser updated the data and the date the Owner submitted the report to HUD/CA, staff should return the report to the Owner and ask the Owner to have the appraiser update the data. Note: Staff should not return reports when either the Owner or the RCS appraiser exceeded the 90 day timeframe Section 9-7C imposes on the Owner or Section 9-7B imposes on the appraiser, but the data is no older than 180 days.

C. If the submission is incomplete, within 10 calendar days after receipt staff should ask the RCS appraiser (by phone or email) to submit missing items within 7 calendar days. If the appraiser does not submit the missing items within the 7 days, staff should write (hard copy/ email) the Owner contact and advise that the report will not be processed until the items are submitted. Note: The Owner contact should be specified in the Owner letter required by Section 9-16. Staff may contact the RCS appraiser directly unless the Owner has specifically objected to that in the Owner certification required by Section 9-16.

SUBSTANTIVE REVIEW

Section 9-20

The HUD/CA appraiser, or the PM working in coordination with the appraiser, must determine if the RCS appraiser's selection of comparables, adjustments, and rent conclusions are reasonable. The HUD/CA appraiser is not required to agree with every detail of the RCS, but only be convinced that the suggested market rents are reasonably supported by market facts. The RCS should contain sufficient information to convince a person unfamiliar with the market areas or properties involved.

Note: Policing compliance with USPAP should not be the focus of HUD/ CA's review. HUD/CA appraisers should be concerned about a RCS's compliance with USPAP only if they find significant problems in the research, facts, reasoning or conclusions noted in the report. Staff should not check for completeness of USPAP clauses just for the sake of doing so.

A. Listed below are key questions staff should answer. Staff should document any concerns or conclusions.

1. Do the facts presented in the appraiser's narratives and grid accurately depict the subject? Note: Section 9-16B requires the Owner to certify to the accuracy of these facts.

2. Does HUD/ CA have any data on comparables that differs significantly from data the RCS appraiser presented on comparables? If an appraiser has submitted incorrect facts on other reports or HUD/CA questions the facts, HUD/CA may wish to verify the facts with the contact persons identified in the RCS.

3. Is the appraiser's definition of the market area reasonable?

4. Does the appraiser's explanation of how comparables were selected cover all points required by Section 9-10 and Appendix 9-10's Narrative on Selecting Comparables? If applicable, is justification for using fewer than five comparables, rent restricted units, units outside of subject's market area or units significantly dissimilar to the subject (e.g., different number of bedrooms, structure type or level of services) convincing? Is justification for not using similar unassisted units in the subject as a comparable convincing?

5. If comparables were selected from outside the subject's market, did the appraiser adequately describe how the two markets' rent levels compare? If the rent levels differed, did the appraiser make a reasonable adjustment in Part B of the Rent Grid?

6. Are other adjustments in Parts A through E of the Rent Grids reasonable - i.e., consistent with the facts, standard appraisal practice, and Section 9-12? (Pay special attention to extremely large adjustments and adjustments in Parts A and B of the Grids.)

   a. Staff should not challenge minor differences between the RCS adjustments and values the HUD/ CA appraiser would assign if they were doing the RCS. Appraisal is not a science and two reasonable, informed estimates may differ slightly.

   b. Staff should not spend significant time reviewing and challenging adjustments if correcting the perceived flaws would not affect the rent an Owner will receive *(now or in next few years*) or the estimated market rent shown on the grid. Example: Current contract rent is $450, the Owner is seeking a $20 increase and it's clear the market rent will be well above the $20 even if adjustments were revised. In this case, it would not be cost effective to spend extensive time analyzing or challenging adjustments that are reasonably close.

   c. For projects with non-shelter services, staff should assess whether the RCS appraiser complied with Section 9-12C4's guidance on valuing adjustments. Did the appraiser consider the funding source and whether services were actually provided or just accessed through the project? For marking-to-market projects, did the appraiser value service delivery only for services the HUD /CA has authorized to be paid from the project's rental income as directed in Section 9-12C4a?

   7. If the facts indicate an adjustment is needed but no adjustment is shown, did the RCS appraiser adequately explain why an adjustment was not made?

   8. Is the estimated market rent for each primary unit type within the range of adjusted rents? Did the appraiser convince you that the market rent was an appropriate point in the range?

   9. If the appraiser adjusted the market rent of a primary unit type to arrive at the market rent for a secondary unit type, is the appraiser's explanation of the adjustment reasonable?

B. Field Visits. While HUD/CA reviews usually only require a desk review, HUD/CA appraisers may conduct a field review if they believe a site visit is needed to accurately assess the RCS. Appraisers may wish to consider site visits when:

   1. The desk review raises major questions.

   2. The reviewing appraiser is not familiar with the market area, the subject project or the comparables.

3. The reviewing appraiser is considering challenging adjustments for condition, appeal, neighborhood or other factors that can change quickly and that appraiser has not visited the property recently.

C. Communicating Results of HUD/CA Reviews. HUD/CA should convey the results of their substantive review within 30 calendar days after receiving a complete package from the Owner.

1. If HUD/ CA staff agree with the appraiser's market rent conclusions, they should document that agreement on any office review form and notify the PM that the market rents in the RCS are acceptable for use in further processing of the renewal.

2. If aspects of the RCS are unclear or unconvincing, the HUD/CA staff should ask the appraiser for additional information or explanation. If the issues are minor and staff expect easy resolution, staff may call the appraiser. If concerns are many, more significant or complicated, staff should send the appraiser an email / fax/ hard copy letter stating the concerns and giving the appraiser 7 to 10 calendar days to respond. (*Copy the Owner contact on any written correspondence except on mark-up-to-market cases.)* The RCS appraiser should send the information to HUD and copy the Owner.

3. If the appraiser's response does not resolve the HUD/ CA staff's concern, staff may talk with or write the appraiser / Owner again. (*Copy the Owner contact on any written correspondence except on mark-up-to-market cases.)*

4. Within 10 calendar days after final information was due from the Owner/ appraiser, HUD/CA staff must either: 1) accept the study and proceed as described in Item C1 above; or 2) draft a decision letter challenging the RCS.

   a. The decision letter must be signed by the Program Center Director, clearly state the reasons the RCS is challenged, and list the Owner options and deadline cited in subparagraph 4b below. The letter may reject the study completely and require resubmission of a new study or present alternate rents. Any alternate rents must be developed by a HUD/CA appraiser and be consistent with this Chapter's procedures and USPAP. The letter must tell the Owner how the appraiser arrived at the suggested market rent.

   b. The Owner may accept the letter's rents, resubmit a new study, or appeal HUD's decision. Within 10 calendar days after the date of HUD/CA's letter, the Owner must advise HUD in writing of his/her choice. Submission of a new study restarts processing.

   c. If the Owner appeals or will resubmit an RCS, HUD/ CA may prepare a short term renewal to allow time for processing the appeal.

OWNER APPEALS

Section 9-21

A. If an Owner decides to appeal, the Owner must note that choice as required by Section 9-20 C4b above and must then submit a written statement of his/her reasons for appeal and any data that supports his/ her objections. The Owner may request a meeting, but must still submit the written data. The reasons and data must be submitted within 15 calendar days after the date of HUD/CA's initial decision letter. The letter must be delivered, via email/fax/ mail, to the Program Center Director.

B. If the Owner requests a meeting, HUD/CA should hold the meeting or a conference call within 15 calendar days of the date of the Owner's appeal. The Owner, the RCS appraiser, the HUD/CA appraiser that reviewed the RCS, and the Program Center Director/ designee should participate. The Director and HUD/CA appraiser should consider if a field visit is needed to accurately process the appeal. *(See Section 9-20B for more on field visits.)*

C. The Program Center Director should issue a letter reporting the results of the Agency's review of the appeal. HUD/CA may accept the RCS, reject the study completely and require resubmission of a new study, or propose alternate rents. The Program Center should issue the letter within 15 calendar days after the latest of: the date the Owner submitted the basis for the appeal; the date of any meeting/ conference call conducted per Paragraph B; or the date by which Owner agrees to submit additional information requested by HUD.

D. The Owner may accept/ appeal the Program Center Director's decision on the first level appeal. The Owner must submit a written statement of his/her reasons for appeal and any data that supports his/ her objections. The submission must be received within 15 calendar days after the Program Center Director's decision letter and must be addressed to the HUB Director and copy the Program Center Director. The Owner may also request a short-term renewal if the contract has expired or if expiration is imminent.

1. The HUB Director will determine if the appeal has potential merit and, if so, issue a short term renewal to allow time to process the appeal. The HUB Director may contact the Owner, the RCS appraiser, or the Program Center Appraiser for clarification or additional information.

2. The HUB Director should issue a decision letter to the Owner within 15 calendar days after the date the Owner appealed to the HUB. The letter must clearly state the basis for HUD's decision.

Note:

- No appeals are allowed on projects seeking to mark-up-to-market.

- If an Owner claims to have rents under market but the HUD/ CA review concludes that rents are over market, HUD/ CA should follow the procedures in Items 1 through 3 of Section 9-20C above before referring cases to OMHAR.

IMPOSING SANCTIONS ON APPRAISERS

Section 9-22

If, after the substantive review and communication, discussion or appeal pursuant to Section 9-20 or 9-21, a CA or Program Center Director still concludes that the appraiser's work is seriously deficient, the CA/ Program Center Director should consider:

- reporting egregious violations or repeated technical violations of USPAP to the state's real estate appraisal regulatory authority; and

- imposing or recommending imposition of HUD's administrative sanctions [Limited Denial of Participation (LDP), suspension or debarment].

Appraiser Certification

Project Name: _____ ***FHA Project No :*** _____

By my signature below, I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective financial interest in the above property, its ownership or management agent entity, or the principals of those entities. I am not an employee of those principals or entities and I have no business or close personal/family interest with those parties that commonly would be perceived to create bias or a conflict of interest.
4. I have no bias with respect to the property that is the subject of this report or to the ownership or management parties involved with this assignment.
5. My engagement in and compensation for this assignment were and are not contingent upon the reporting of a predetermined rent or direction in rent. My fee is my only compensation for this rent study assignment. There are no other side agreements or considerations.
6. My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice and all applicable HUD procedures for performing Rent Comparability Studies for Section 8 contracts.
7. _____ inspected the interior and exterior of the subject property. _____ inspected the exteriors of the properties used as comparables in this report.
8. No one provided significant professional assistance to the person signing this report except the persons listed here: _____. If anyone is listed here, his/her contribution is identified in the Scope of Work section of this report.
9. I am a certified general appraiser, licensed and in good standing with the state appraiser regulatory agency where the subject property is located and I meet all of the appraiser qualifications required in HUD's rent comparability procedures.
10. I am not debarred or suspended from doing business with the Federal Government. I also am not under a Limited Denial of Participation (LDP) imposed by the HUD Multifamily HUB or Program Center having jurisdiction over the Section 8 project. Any LDPs in effect now or in the past three years were imposed by the following HUD offices: _____.

Warning*:* If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000.00 for each violation.

Appraiser's Name: _____ **Signature**: _____ **Date**: _____

Permanent License No: _____ **Issuing State**: _____ **Expires**: ____

Did you prepare the RCS under a temporary license? ____ *If so, attach a copy of the temporary license.*

Rent Comparability Grid *Unit Type*→ [ ] *Subject's FHA #:*

	Subject		*Comp #1*		*Comp #2*		*Comp #3*		*Comp #4*		*Comp #5*	
	Project Name	**Data**	Project Name		Project Name		Project Name		Project Name		Project Name	
	Street Address	**on**	Street Address		Street Address		Street Address		Street Address		Street Address	
	City County	**Subject**	City County		City County		City County		City County		City County	
A.	**Rents Charged**		**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**
1	**$ Last Rent /**											
2	**Date Last Leased**											
3	**Rent Concessions**											
4	**Occupancy for Unit**		%		%		%		%		%	
5	**Effective Rent & Rent/**											
	In Parts B thru E, adjust only for differences the subject's market values.											
B.	**Design, Location,**		**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**
6	**Structure / Stories**											
7	**Yr. Built/Yr.**											
8	**Condition /Street**											
9	**Neighborhood**											
10	**Same Market? Miles to**											
C.	**Unit Equipment/**		**Data**	**$ Adj**	**Data**	**Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**
11	**# Bedrooms**											
12	**# Baths**											
13	**Unit Interior Sq. Ft.**											
14	**Balcony/ Patio**											
15	**AC: Central/ Wall**											
16	**Range/ refrigerator**											
17	**Microwave/**											
18	**Washer/Dryer**											
19	**Floor Coverings**											
20	**Window Coverings**											
21	**Cable/**											
22	**Special Features**											
23												
D	**Site Equipment/**		**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**
24	**Parking** ($ Fee)											
25	**Extra Storage**											
26	**Security**											
27	**Clubhouse/ Meeting**											
28	**Pool/ Recreation Areas**											
29	**Business Ctr / Nbhd**											
30	**Service Coordination**											
31	**Non-shelter Services**											
32												
E.	**Utilities**		**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**	**Data**	**$ Adj**
33	**Heat** (in rent?/ type)											
34	**Cooling** (in rent?/ type)											
35	**Cooking** (in rent?/ type)											
36	**Hot Water** (in rent?/											
37	**Other Electric**											
38	**Cold Water/ Sewer**											
39	**Trash /Recycling**											
F.	**Adjustments Recap**		**Pos**	**Neg**	**Pos**	**Neg**	**Pos**	**Neg**	**Pos**	**Neg**	**Pos**	**Neg**
40	**# Adjustments B to D**											
41	**Sum Adjustments B to**											
42	**Sum Utility**											
			Net	**Gross**	**Net**	**Gross**	**Net**	**Gross**	**Net**	**Gross**	**Net**	**Gross**
43	***Net/ Gross Adjmts B to***											
G.	**Adjusted & Market**		**Adj. Rent**		**Adj. Rent**		**Adj. Rent**		**Adj. Rent**		**Adj. Rent**	
44	**Adjusted Rent** (5+											
45	Adj Rent/Last rent											
46	**Estimated Market**		← **Estimated Market Rent/ Sq. Ft**									

/ /

Appraiser's Signature **Date**

Attached are explanations of

a. why & how each adjustment was made
b. how market rent was derived from adjusted rents c. how this analysis was

Grid was prepar[illegible]anually ☐ ☐ **Using HUD's Excel form**

Rent Comparability Study

On

ABC Village Apartments

100 Main Street
Smithville, State

Date of Report

April 15, 2000

Prepared For

ABC Village Associates

P.O. Box 2255
Smithville, State 55555-2255

Prepared By

Appraisal Services International

123 Allen Street, Suite 456
Smithville, State 55555

Appraisal Services International
123 Allen Street, Suite 456
Smithville, State 55555

(000) 555-1111 (phone)
(000) 555-2222 (facsimile)
joe@appraiserserv.com

April 15, 2000

Mr. Owner
ABC Village Associates
P.O. Box 2255
Smithville, State 55555-2255

Re: ***Rent Comparability Study / ABC Village Apartments***
Section 8 Contract Number: PA0000999992 FHA No. 1233566

Dear Mr. Owner:

Attached is the Rent Comparability Study (RCS) you requested for ABC Village Apartments.

The purpose of the study was to estimate the market rents for units that will be assisted under the renewed Section 8 contract. Market rent is the rent that a knowledgeable tenant would most probably pay for the Section 8 units as of the date of this report, if the tenants were not receiving rental subsidies and rents were not restricted by HUD or other government agencies. The following table lists the market rent I concluded for each Section 8 unit type.

			Estimated Market		
Unit Type	**# Units**	**Size** (Sq. Ft)	**Rent**	**$/ Sq. Ft**	**Prepared Grid?** (Y/N)
Efficiency	7	450	$485	$1.08	Y
Efficiency	3	500	$505	$1.01	N
Total	**10**				

The RCS was prepared in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and the supplemental standards of HUD Notice H 00-12. Market Rents were defined and estimated in accordance with Section 3 of Notice H 00-12 and the report was prepared in accordance with Section 4 of the Notice H 00-12. I understand that HUD/the Section 8 Contract Administrator (CA) and the project owner will use my estimate of market rents to determine: 1) the owner's options for renewing the project's Section 8 contracts; and 2) the maximum rents allowed under any renewal contract.

Should you have any questions or require more information, please contact me directly at the phone number or e-mail address listed above.

Sincerely,

Joseph Jones

Joe Jones
ST Certified General Appraiser #CG2222

Table of Contents

Appraiser's Transmittal Letter

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5	Locator Map For Subject and Comparables
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13	Comparable Property Profiles
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Exhibits

Color Photographs of Subject

Additional Photos of Comparables

Scope of Work

This Rent Comparability Study was completed in accordance with the requirements set forth in HUD's Notice H 00-12.

Joe Jones, a State certified general appraiser employed by Appraisal Services International (ASI), oversaw and supervised all data collection and analysis. Sharon Allen, an associate at ASI, performed some of the research under Joe Jones's supervision. The following actions were taken to complete this RCS.

- On March 13, 2000, Joe Jones and Sharon Allen inspected the interior and exterior of the subject property to determine the property's physical and functional characteristics. Jones & Allen inspected two small efficiency units, one large efficiency unit, interior common areas (lobby and community room), and exterior grounds. Ms. Sue Hancock, the on-site property manager, accompanied Jones & Allen on all inspections. Ms. Allen measured the interior of the units and interviewed Ms. Hancock to determine the rental rates, services, and amenities offered to tenants of the subject property.

- Ms. Allen researched comparable apartment rental activity in the subject township and competing locations. The research included pulling data from internet sites, local newspapers and rental publications, town records, owners and managers of local apartment properties, local real estate brokers, fellow appraisers, and files of Appraiser Services International.

- During the weeks of March 13 and 20, Jones & Allen inspected the exterior of each comparable property. For three of the comparables *(Holland Apartments, BCD Village Apartments and Glen Park)*, Jones & Allen also inspected interior common areas and a model unit. At the other two comps *(Park Village and Lebanon Apts)* access was denied or no models were available, but Jones & Allen did view on-site photos of these units' interiors.

- During the site inspections or in separate phone interviews, Ms. Allen talked with the managers of the comparable properties to confirm all data and to collect additional information about each comparable, including size, age, and amenities, occupancy rates and general market information. The property manager provided floor plans or other information describing the size of comparable units after Sharon Allen explained that the interior size was needed.

- Ms. Allen completed the data & adjustment columns of the Rent Comparability Grid using the instructions in Attachment 2b and Sections 3 and 4 of Notice H 00-12. Mr. Jones reviewed all entries, modified some, and derived an estimated market rent for each unit type.

Description of Subject Property

ABC Village Apartments is a 5-story, brick elevator building located at 100 Main Street, Smithville, State. The site is located on a level, rectangular corner lot with 100 feet of frontage on Main Street and 200 feet of frontage on High Street in the Central Business District of Smithville, in the county of Gloucester. The corner lot provides excellent visibility and access.

The table below describes the unit mix for ***all*** 50 units at the property. This RCS applies only to the 10 efficiency units, as these are the only units in the complex that receive Section 8 subsidy. The market rent for the one-bedroom units is $595. The property is occupied by elderly residents. Elderly are drawn to the complex because of its central location and the services it provides.

Unit Type	# Units	Interior Size (SF)	# Pjt- Based Sec 8 units	# Other Rent Restricted Units	# Units Not Rent Restricted
0/1	**7**	450	**7**	0	0
0 / 1	**3**	500	**3**	0	0
1/ 1.5	**40**	600	**0**	0	40
	50		**10**	**0**	**40**

The building was originally constructed in 1950 as a manufacturing facility and was converted to its present use in 1980. Renovations at conversion were extensive and the building has been well maintained since the renovation. Occupancy for the subsidized units has consistently been near 100 %. Occupancy for the market-rate units has been just slightly lower, at 93% to 95% for the last three years.

Each efficiency unit contains a galley-style kitchen, a bathroom, and a living/bedroom area. The two groups of efficiency units are identical except for a difference in size: seven units contain 450 square feet and three contain 500 square feet. All units are carpeted, with linoleum flooring in the kitchens and bathrooms. Each unit contains a stove, refrigerator, garbage disposal, and small patio or balcony. The units have central air conditioning. Gas heat and hot water are included in the rent. Tenants pay for electricity, including air conditioning.

Each unit has an emergency call system that, if activated, will alert the manager's office and a 24-hour call service. If the manager does not respond to the emergency, the service will. Three days per week, a van makes scheduled trips to the grocery store, the shopping mall and the senior center. Tenants requiring transportation to doctor appointments may request a ride on the remaining two weekdays. ABC Village also offers well-organized social activities and gives tenants the use of a lounge, a television area, and a large, sunny meeting room with tables and chairs for game activities.

The building is accessed by key only, and tenants may call a 24-hour maintenance line in case of accidental lockout or maintenance emergency. An on-site manager is at the property six days a week during the hours of 9:00 am to 6:00 p.m. The complex has a coin operated laundry facility with five washers and dryers and a small, paved parking lot for 20 cars. Parking is offered at an

additional charge of $20 per month. There are no other amenities that require a charge in addition to rent.

Ms. Sue Hancock, the property manager, confirmed the above data. She is employed by Smithville Managers Inc. and her telephone number is (000)-555-3333.

Definition of the Subject's Market Area

Smithville is located in the northeast section of Gloucester County at the junction of Interstates 80 and 180. Smithville is the county seat of Gloucester County and a commercial and residential center for the surrounding towns. The market area for Smithville includes the Gloucester County towns within a fifteen-mile radius (*Bainbridge, Lexington, Upton, Newbury, and Barre*) and two Orange County towns within a ten-mile radius *(Exeter and Cypress Lakes).* This is the area from which the subject would normally draw its applicants.

Description of Neighborhood

The subject neighborhood is located in the central business district of Smithville, which is in the northeastern section of the city and near the historic Highlands area. The neighborhood contains a mix of professional and town offices, upscale boutiques, churches, older single-family homes that have been gentrified, and some older apartment buildings that were renovated between ten and twenty years ago. Property values in the area are generally growing and most properties are well kept. Access to Interstates 80 and 180 is less than five minutes from the subject property.

A senior center is within seven blocks of the complex. A small grocery store and a drug store are on the same block as the subject complex and a larger grocery store is three miles away (accessed by the van service.) A shopping mall and medical center are also within ten miles and van service is provided to them. There is no apparent crime in the area, nor are there any other significant negative influences.

How Comparable Properties Were Selected

The appraiser researched rental housing in the market area and identified ten market-rate apartment properties that appeared similar in age, condition and location. Six of them did not contain efficiency units.

The four that do provide efficiencies are Lebanon Apartments, BCD Village, Holland Apartments, and Park View Apartments. ***Lebanon Apartments*** and ***BCD Village*** are elderly projects, located within one mile of the subject and offering amenities similar to those at the subject. ***Holland Apartments*** is 75-unit family complex in Smithville (six miles away). It offers mostly one and two bedroom units and has only three efficiencies. ***Park View*** is located in Lexington about 13 miles from the subject. It was renovated in 1999 through the use of low

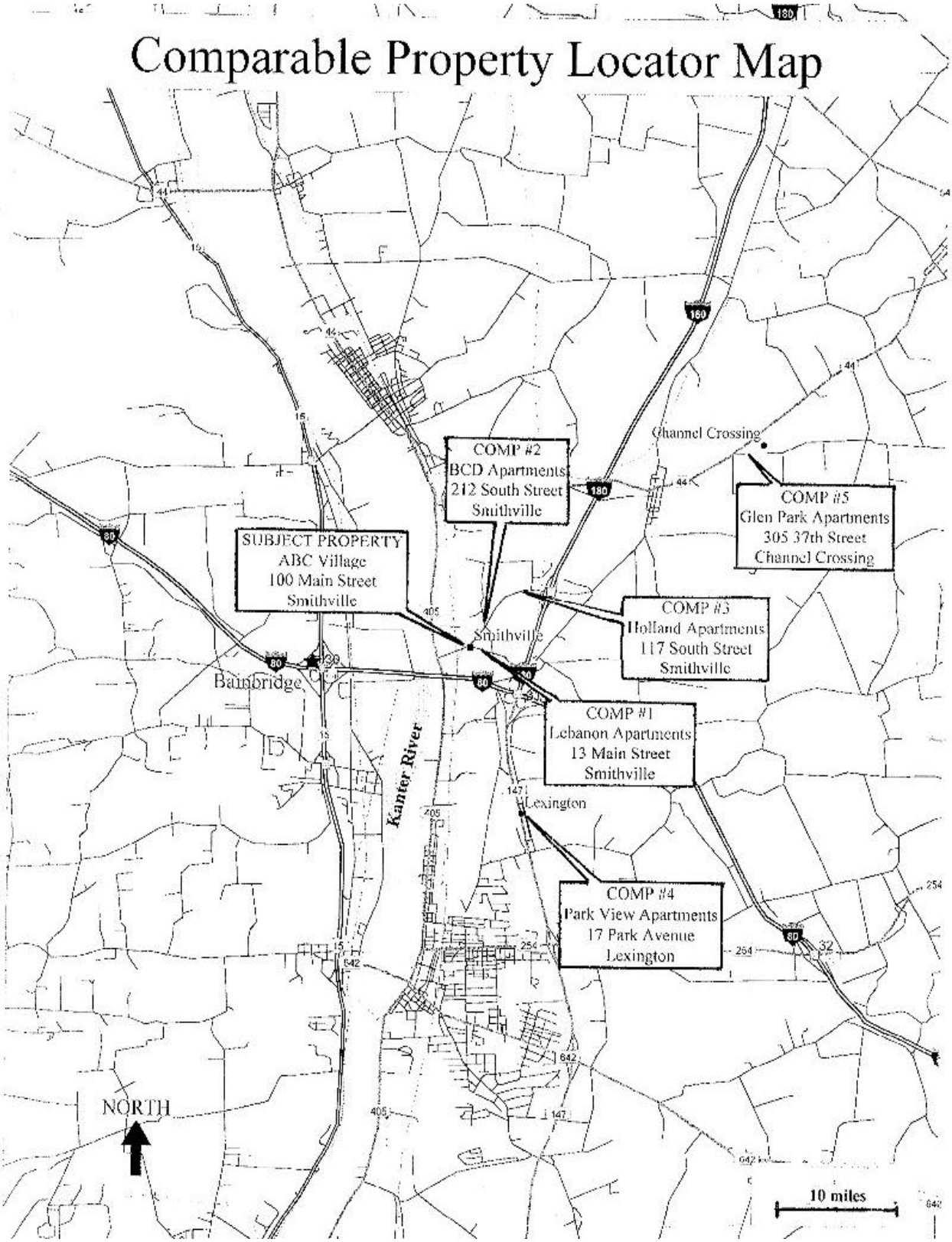
income housing tax credits. It is a mixed income property, offering 30 efficiency units at market rents and 30 one-bedroom tax credit units to elderly residents earning less than 60% of median income. The property is in the rent up phase.

The appraiser conducted additional research to identify other comparable efficiencies that were outside the market area, contained rent restrictions or were less similar to the subject. Brokers, property managers and owners were consulted as well as staff at the senior center. Additional efficiencies were found at ***Glen Park*** -- a 50-unit, market-rate, elderly property located in Channel Crossing, a town 30 miles away and outside the market area. ***Glen Park*** is very similar to the subject property. It was built and renovated in the same time period, serves a similar population, and offers similar amenities. Ten of its units are efficiencies. The remaining units consist of 25 one-bedroom units and 15 two-bedroom units.

Generally, the appraiser believes that the comparables are of good quality. While one of the comparables ***(Glen Park***) is outside of the market area and, thus, does not meet all of the target criteria in the HUD notice, all comparables are otherwise similar to the subject and the appraiser is confident that the adjustments made adequately valued the differences.

Based on information provided to the appraiser, none of the selected comparables are owned or managed by the entities having an identity - of - interest with the owner or management of the subject property.

Comparable Property Locator Map



OMB Approval # 2502-0507 (exp 7/01)

Rent Comparability Grid

Unit Type efficiency ***Subject's FHA #:*** 12335666

	Subject		Comp #1		Comp #2		Comp #3		Comp #4		Comp #5	
	ABC Village Apartments	Data	Lebanon Apts		BCD Village Apts		Holland Apts		Park View Apts		Glen Park	
	100 Main Street	on	13 Main Street		212 South Street		117 South Street		17 Park Ave		305 37th Street	
	Smithville, ST	Subject	Smithville, State		Smithville, State		Smithville, State		Lexington, State		Channel Crossing, State	
A.	**Rents Charged**		Data	$ Adj	Data	$ Adj	Data	$ Adj	Data	$ Adj	Data	$ Adj
1	**$ Last Rent / Restricted?**		$505	N	$500	N	$415	N	$525	N	$525	N
2	**Date Last Leased** (mo/yr)		Dec-99		Feb-00		Feb-00		Mar-00		Jan-00	
3	**Rent Concessions**								1 month free	($44)		
4	**Occupancy for Unit Type**		93%		93%		66%		82%		95%	
5	**Effective Rent & Rent/ sq ft**		$505	1.01	$500	0.91	$415	0.83	$481	0.88	$525	1.17
	In Parts B thru E, adjust only for differences the subject's market values.											
B.	**Design, Location, Condition**		Data	$ Adj	Data	$ Adj	Data	$ Adj	Data	$ Adj	Data	$ Adj
6	**Structure / Stories**	E/5	E/4		E/3		WU/3	$15	G/2	$15	E/7	
7	**Yr Built/Yr Renovated**	1950/80	1970/90	($15)	1950/80		1955/85		1978/99	($30)	1958/75	
8	**Condition /Street Appeal**	G	G		G		F	$20	G		G	
9	**Neighborhood**	G	G		G		G		E	($15)	G	
10	**Same Market? Miles to Subj**		Y/1-2		Y/1		Y/6		Y/13		N/30	($35)
C.	**Unit Equipment/ Amenities**		Data	$ Adj	Data	Adj	Data	$ Adj	Data	$ Adj	Data	$ Adj
11	**# Bedrooms**	0	0		0		0		0		0	
12	**# Baths**	1	1		1		1		1		1	
13	**Unit Interior Sq. Ft.**	450	500	($20)	550	($40)	500	($20)	550	($40)	450	
14	**Balcony/ Patio**	Y	Y		N	$10	N	$10	Y		N	$10
15	**AC: Central/ Wall**	C	C		C		N	$10	C		W	
16	**Range/ ReFrigerator**	RF	RF		RF		RF		RF		RF	
17	**Microwave/ Dishwasher**	N	D	($5)	D	($5)	D	($5)	D	($5)	N	
18	**Washer/Dryer**	L	HU	$5	N	$10	L		WD	($15)	L	
19	**Floor Coverings**	C	C		V	$5	C		C		V	$5
20	**Window Coverings**	B	B		B		B		B		D	
21	**Cable/ Satellite/Internet**	C	C		C		C		C, S, I	($5)	S	
22	**Special Features**	N	N		N		N		N		N	
23												
D	**Site Equipment/ Amenities**		Data	$ Adj	Data	$ Adj	Data	$ Adj	Data	$ Adj	Data	$ Adj
24	**Parking** ($ Fee)	L/$20	G/$55	($5)	N	$5	L/$0	($20)	G/$65	($5)	L/$0	($20)
25	**Extra Storage**	Y	Y		Y		Y		Y		N	$15
26	**Security**	Y	Y		Y		Y		N	$10	N	$10
27	**Clubhouse/ Meeting Rms**	MR	MR		MR		MR		Y	$5	MR	$5
28	**Pool/ Recreation Areas**	N	N		N		P	($15)	R	($10)	N	
29	**Business Ctr / Nbhd Netwk**	N	N		N		N		N		N	
30	**Service Coordination**	N	N		N		N		Y		N	
31	**Non-shelter Services**	EC/T	EC	$10	EC/T		N	$20	N	$20	EC/T	
32												
E.	**Utilities**		Data	$ Adj	Data	$ Adj	Data	$ Adj	Data	$ Adj	Data	$ Adj
33	**Heat** (in rent?/ type)	Y/gas	N/gas	$25	Y/gas		Y/elec		N/gas	$25	Y/gas	
34	**Cooling** (in rent?/ type)	N/elec	N/elec		N/elec				N/elec		N/elec	
35	**Cooking** (in rent?/ type)	N/elec	N/elec		N/elec		N/elec		N/elec		Y/elec	($5)
36	**Hot Water** (in rent?/ type)	Y/gas	N/gas	$10	Y/gas		Y/elec		N/gas	$10	Y/gas	
37	**Other Electric**	N	N		N		N		N		Y	($20)
38	**Cold Water/ Sewer**	Y	Y		Y		Y		Y		Y	
39	**Trash /Recycling**	Y	Y		Y		Y		Y		Y	
F.	**Adjustments Recap**		Pos	Neg	Pos	Neg	Pos	Neg	Pos	Neg	Pos	Neg
40	**# Adjustments B to D**		2	4	4	2	5	4	4	8	5	2
41	**Sum Adjustments B to D**		$15	($45)	$30	($45)	$75	($60)	$50	($125)	$45	($55)
42	**Sum Utility Adjustments**		$35						$35			($25)
			Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross
43	***Net/ Gross Adjmts B to E***		*$5*	*$95*	*($15)*	*$75*	*$15*	*$135*	*($40)*	*$210*	*($35)*	*$125*
G.	**Adjusted & Market Rents**		Adj. Rent		Adj. Rent		Adj. Rent		Adj. Rent		Adj. Rent	
44	**Adjusted Rent** (5+ 43)		$510		$485		$430		$441		$490	
45	Adj Rent/Last rent			101%		97%		104%		92%		93%
46	**Estimated Market Rent**	$485	$1.08									

Estimated Market Rent/ Sq Ft

Joe Jones / /

Appraiser's Signature **Date**

Attached are explanations of :

a. why & how each adjustment was made
b. how market rent was derived from adjusted rents
c. how this analysis was used for a similar unit type

Grid was prepared: ☐ **Manually** ☑ **Using HUD's Excel form** **HUD 92273 - S8**

Explanation of Adjustments and Market Rent Conclusions

ABC Apartments
Primary Unit Type- Efficiency - Small

A Rent Comparability Grid was prepared for the primary unit type with 450 sq. ft. The market rent for the 450-sq. ft. unit was adjusted to create a market rent for the secondary, 500-sq. ft. unit. The only difference in these unit types is their size.

Line 1. Last Rented / Restricted? All of the units are currently rented at the rates shown on the grid. Rents range from $415 to $525. No unit used in the analysis has any rent restrictions. However, ***Park View*** is a mixed-income property with half of the units set-aside for tax credit residents. The unit used in this analysis is market rate.

Line 2. Date Last Leased. The Grid shows the effective date of the leases most recently signed. Effective dates range from December 1999 to March 2000. No adjustments were necessary.

Line 3. Rent Concessions. ***Park View*** is currently offering one month of free rent with a 12-month lease. The adjustment was derived by dividing the Line 1 rent by 12 months to arrive at a $44 adjustment. The complex has undergone a substantial renovation and is currently in lease up. The new owner does not anticipate any vacancy problems, but wanted to offer concessions to quickly fill the units.

Line 4. Occupancy for Unit Type. According to data collected, the market area has historically maintained an occupancy level between 90 percent and 95 percent for efficiency units over the past several years. The comparables' current occupancy rates range from 66% to 95%. ***Park View's*** low 82% occupancy is due to its recent substantial renovation. Since the appraiser does not believe the rent level contributed to the ***Park View*** vacancies, no adjustment has been made. ***Holland*** has an overall occupancy rate of 94%, but a 66% occupancy rate in the efficiency apartments. There are only three efficiencies and one unit is vacant. The tenant vacated two months ago. The unit is being renovated and is not available for occupancy. Therefore, no adjustment was made.

Line 6. Structures / Stories. The subject, ***Lebanon, BCD Village,*** and ***Glen Park*** are elevator-buildings. ***Holland*** is a three-story walk up and ***Park View*** is a garden apartment complex. Area brokers reported that: 1) rents on units in buildings with elevators are consistently higher than rents for similar units in buildings without an elevator, regardless of which floor the unit is on; and 2) rents on similar units in buildings without elevators are typically not affected by which floor the unit is on. These brokers noted that tenants found elevator buildings more attractive for several reasons – increased availability of common areas; possibility of views; sense of increased security; and convenient access to upper-level units. Typically, elevator buildings can command an additional $10 to $20 rent. A $15 adjustment was made to buildings without elevators.

Line 7. Yr. Built/Yr. Renovated - The subject and three of the comparables ***(Holland, Glen Park,*** and ***BCD Village)*** are 1950's vintage, with renovations completed between

1975 and 1985. These properties are similar in condition and utility and have a similar effective age. No adjustments were made to these properties. ***Park View*** was built in 1978 and was substantially renovated last year, with new exterior siding and windows and interior finishes including carpeting, flooring, and appliances. A $30 adjustment was made to ***Park View*** to reflect the almost-new condition of this comparable as compared to the subject's 20-year-old renovations. ***Lebanon*** was constructed 20 years after the subject, with renovations completed ten years ago. Based on our analysis of the rental data, a $15 adjustment was made to reflect the more modern utility and unit finishes of this comparable.

Line 8. Condition / Street Appeal. The subject and four of the comparables are in good condition and have good street appeal. ***Holland's*** exterior shows signs of deferred maintenance, including neglected landscaping. Based on our analysis of the rental data, a $20 adjustment was made to reflect the inferior appeal of this property.

Line 9. Neighborhood. The subject, ***Lebanon,*** *and* ***BCD Village*** are located in the CBD of Smithville, a congested area with surrounding land used for light industry and businesses. **Glen Park** is located in a similar neighborhood in Channel Crossing. ***Park View*** is located about 13 miles from the subject, outside the city limits and surrounded by residential properties. Rents for properties in the residential areas as compared to the city locations have been consistently higher. Based on our analysis of the rental data, a $15 negative adjustment was made to ***Park View*** to reflect the market preference for residential areas.

Line 10. Same Market? Miles to Subject. ***Glen Park*** is the only comparable that is outside the market. It is located in Channel Crossing about 30 miles north of Smithville on State Route 44. Channel Crossing is a suburb of the state capital (Gotham) and has higher property values than Smithville. To arrive at an adjustment, the Appraiser interviewed local brokers and apartment owners that have direct experience with both markets. The market data provided by brokers and managers indicated that rents in Channel Crossing are $30 to $50 higher than in the subject market area. The appraiser found that generally a $40 to $50 difference existed in larger units (two bedroom) and a $30 to $40 difference existed in smaller units (efficiencies and one bedrooms). Hence, a $35 adjustment was made to Glen Park to reflect the difference for efficiencies between the two markets. (This adjustment is also consistent with the $34 difference in fair market rents for the two communities.)

Line 13. Unit Square Footage. Four of the five comparables are larger than the subject. To value the size differences between the subject and these comparables, the appraiser reviewed the indicated rents after adjustments for all characteristics except size. The appraiser concluded that there is a value of $20 for each 50 square feet above the subject's 450 square feet. Thus, a $20 negative adjustment was made to ***Holland*** and ***Lebanon***, and a $40 negative adjustment was made to ***Park View*** and ***BCD Village***.

Line 14. Balcony / Patio. A $10 adjustment was made to comparable properties that lacked balconies.

Line 15. AC: Central/Wall. The subject has central air conditioning, as do three of the comparables. ***Holland*** does not provide air conditioning, but tenants may install their own window units. According to local property managers, tenants consider it worth $10 per month not to have the nuisance of installing a window unit. ***Glen Park*** has wall units provided, but no adjustment has been made because there is no evidence of a marketable difference in rent between central air and wall units in efficiencies in this market.

Line 17. Microwave/Dishwasher. ***Park View***, ***Lebanon***, ***Holland***, and ***BCD Village*** all have dishwashers and the subject does not. In efficiency units in this market, tenants place a minimal value on these amenities. Therefore, a nominal negative adjustment of $5 was made to the comparables for this amenity.

Line 18. Washer/Dryer. The subject has a coin-operated laundry facility. ***Park View*** provides stacked, washer-dryer units. Based on the appraiser's analysis of the data, renters appear willing to pay a $15 premium for in-unit washer/dryer combinations. ***Lebanon*** has hook-ups available in each unit and does *not* have a common laundry. In this market, elderly renters generally prefer common laundries to hook-ups. ***BCD Village*** has no laundry facilities at all. The Appraiser made a $5 adjustment at ***Lebanon*** and a $10 adjustment at ***BCD Village*** to reflect the inferior services.

Line 19. Floor Covering. All but two of the comparables have carpeting like the subject. Those comparables that have only vinyl floors were allocated a positive $5 adjustment to reflect the inferior floor covering.

Line 20. Window Coverings. ***Glen Park*** has drapes and the subject has blinds. Since the market does not recognize a rent differential between blinds and drapes, no adjustment was made.

Line 21. Cable / Satellite / Internet. All of the comparables and the subject have either cable or satellite service available. All the properties require that the tenants pay for their own cable/satellite service. Since ***Park View*** also has internet service in all the units, a nominal $5 negative adjustment was made.

Line 24. Parking. Parking in the Central Business District is limited and parking on the street is difficult. As a result, owners of neighborhood parking lots typically charge $20-$30 per month. Winter and summer conditions are harsh enough to make garage parking valuable and garage parking typically costs $60-$70 per month.

a. The subject offers limited lot parking for $20. ***BCD Village*** has no parking available, and tenants who need parking typically pay $20 per month to park in a lot several blocks away. ***Lebanon Apts*** and ***Park View Apts*** have no lot parking, but offer garage parking for $55 and $65, respectively. ***Holland Apts*** and ***Glen Park*** have lot parking available at no cost.

b. Comparables were adjusted to reflect whether parking was available and how its cost and quality compared to parking at the subject. Since tenants at ***BCD Village*** pay the same parking fee as tenants at the subject but the parking is less convenient, a small upward adjustment of $5 was made to reflect the inferior access to parking. A net, downward adjustment of $5 was made to ***Lebanon Apts*** and ***Park View Apts*** -- a negative $10 adjustment for the convenience of having

highly desirable, on-site garage parking plus a positive $5 for the lack of on-site, lot parking. ***Holland Apts*** and ***Glen Park*** were adjusted downward $20, to reflect the fact that their lot parking is free.

Line 25. Extra Storage. The subject and four of the comparables have extra storage space available outside the living unit. Since the efficiency apartments are small, this extra storage space is desirable. Typically, these spaces are about half the size of the smallest storage units available in self-storage facilities in the market area for $30 per month. Assuming that about half of the tenants would value this amenity, a positive $15 adjustment is made for the lack of storage at ***Glen Park*.**

Line 26. Security. The subject, ***Holland*** and ***Lebanon*** have electronic entry systems. **Park View** has limited security with dead bolts on the doors. ***Glen Park*** does not have a secured entrance. Based on conversations with local brokers and property managers and an analysis of the market data, the appraiser concluded that a $10 adjustment is warranted to reflect the appeal to the market of the subject's entry system. Crime is not a problem in the area.

Line 27. Clubhouse / Meeting Rooms. Since ***Glen Park*** and ***Park View*** have no community meeting rooms, a nominal $5 adjustment was made.

Line 28. Pool / Recreation Areas. ***Park View*** has a fitness room with weights and aerobic equipment. ***Holland,*** the family project, has a swimming pool. ***Park View*** was adjusted negatively by $10 to reflect the fitness room and ***Holland*** was adjusted by $15 to reflect the swimming pool amenity. The adjustments were based on data collected from property managers.

Line 31. Non-Shelter Services. The subject property offers several amenities geared to its elderly tenancy: emergency call system, community sitting and meeting room, and limited transportation. Two comparables ***(Holland*** and ***Park View***) have no elderly services. ***Glen Park, BCD Village*** and ***Lebanon*** have pull cords in each unit, and ***Glen Park*** and ***BCD Village*** also offer limited transportation for residents. The property manager at ***Glen Park*** reported that, based on his experience leasing units at another complex that does not offer elderly services, elderly tenants requiring these elderly services will typically pay up to $50 additional rent for the emergency services and the availability of transportation. Based on this information and the fact that only a portion of the market would value these services, the appraiser estimated that the market overall would place a $10 value on the pull cords and a $10 value for the availability of transportation. Positive adjustments were made accordingly to ***Lebanon, Holland, and Park View.***

Line 33. Heat. Heat is included in the rent at the subject and three of the comparables. At ***Lebanon*** and ***Park View***, residents pay their own heat. Gas is the heat source at both of these complexes. The Smithville Housing Authority's published utility allowances estimate gas heat for efficiencies in this market to be $25. The Appraiser confirmed, with local brokers and the property manager at Lebanon, that $25 per month was a reasonable estimate of the amount tenants would expect to pay for gas heat in this market. Based on this information, a positive $25 adjustment was made to ***Lebanon*** and ***Park View***.

Line 35. Cooking. At the subject property and four of the comparables, electricity used for cooking is not included in the rent. Tenants must pay for this separately. However, at ***Glen Park***, all utilities are included in the rent. The Appraiser made a negative $5 adjustment at ***Glen Park*** because, in his judgment, a knowledgeable tenant would expect to pay slightly less if electricity for cooking was not included in the rent. This adjustment is consistent with utility allowances published by the housing authorities in both Smithville and Channel Crossing.

Line 36. Hot Water. The cost of heating hot water is included in the rent at the subject and three of the comparables. At ***Lebanon*** and ***Park View***, tenants pay for hot water. Gas is the heat source at both of these complexes. The Smithville Housing Authority's published utility allowances estimate gas hot water for an efficiency in this market to be $10. The Appraiser confirmed, with local brokers and the property manager at Lebanon, that $10 per month was a reasonable estimate of the amount tenants would expect to pay for gas hot water in this market. Based on this information, a positive $10 adjustment was made to ***Lebanon*** and ***Park View***.

Line 37. Other Electric. At the subject property, the electric utility charges associated with lights and plugs are not included in the rent. Tenants must pay for this separately. This is also the case at four of the comparables. However, at ***Glen Park*** all utilities, including electricity for lights and plugs, are included in the rent. According to the utility allowances published by the housing authorities in Smithville and Channel Crossing, the cost of electricity for lights and plugs is typically $20 per month. The appraiser made a negative $20 adjustment at ***Glen Park*** to indicate that tenants would typically be willing to pay $20 less if they were required to pay directly for other electric.

Line 46. Conclusion of Market Rent, Primary Unit Type.

a. The adjusted rents range from $430 to $510. ***Lebanon*** and ***BCD Village*** are the best comparables, because they are most similar to ABC Village Apartments. Both complexes are located in the subject's neighborhood within a mile of the subject, lease to the elderly and offer elderly services, and are elevator buildings with comparable street appeal. Therefore, greatest weight was placed on Lebanon and BCD Village.

b. ***Glen Park*** is a good comparable except for the fact that it is outside the subject's market area. Less weight was placed on it for this reason.

c. Minimal weight was given to ***Holland*** and ***Park View***, which are outside the subject's neighborhood and are not elevator buildings. Further, Holland is a family complex and Park View required the most adjustments *(primarily because it just recently completed renovation, is still in lease up, lacks elderly amenities, and is located in a more desirable location)*.

The Appraiser concluded the market rent for the 450 square foot efficiency units to be $485, which is $1.08 per square foot.

Conclusion of Market Rent, Secondary Unit Type. Since the two unit types would be identical except for the 50 square foot difference in size, a separate grid was not prepared.

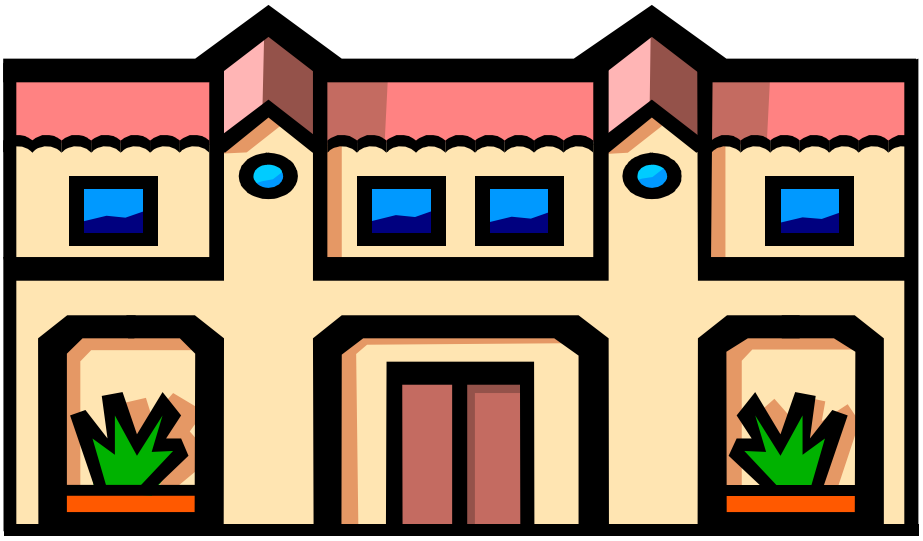
A rental conclusion for 500 sq. ft. units was obtained by adjusting the primary, 450 sq. ft unit by the appropriate square foot adjustment ($20 for 50 square feet, as computed in Comment #13 above). The Appraiser concluded market rent for the larger, 500 sq. ft. efficiency units to be $505 -- the primary unit's $485 rent plus the $20 adjustment. This is $1.01 per square foot.

Lebanon Apartments

13 Main Street
Smithville, ST 00012

Management Agent: **XXX Management**
Contact: **Ira Menzer**
Contact Phone: **(000) 555-4444**

County: **Gloucester**
Cross Street: **Broad and Main Street**
Neighborhood: **Highlands**



Unit Type	No. of Units	Used as Comp in RCS? (Y/N)	Average Rent	Interior Size (SF)	Any Rent Restrictions? (Y/N)
0 / 1	3	Y	$505	500	N
1 / 1	45	N			
2 / 1.5	2	N			

Total Units: 50

Project Occupancy: 93%

Charges in Addition to Rent: Garage parking available for $55

Subsidies and Restrictions at Project: None

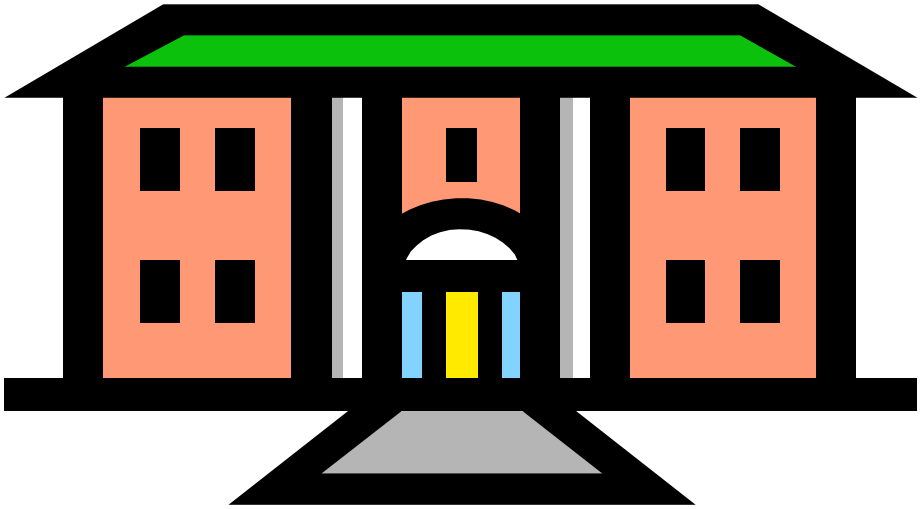
Other Comments: Elderly project

Date Information Verified: 3 / 22 / 00

BCD Apartments
212 South Street
Smithville, ST 00012

Management Agent: **ABC Management**
Contact: **Betty Smith**
Contact Phone: **(000) 555-6666**

County: **Gloucester**
Cross Street: **South and Main Street**
Neighborhood: **Highlands**



Unit Type	No. of Units	Used as Comp in RCS? (Y/N)	Average Rent	Interior Size (SF)	Any Rent Restrictions? (Y/N)
0 / 1	25	Y	$500	550	N
1 / 1	25	N			

Total Units: 50

Project Occupancy: 93%

Charges in Addition to Rent:

Subsidies and Restrictions at Project: None

Other Comments:

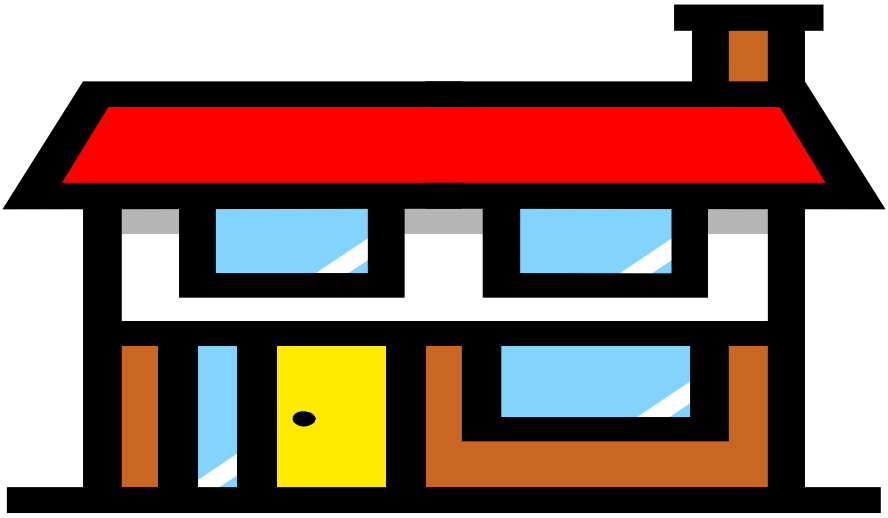
Date Information Verified: 3 / 18 / 00

Holland Apartments

117 South Street
Smithville, ST 00012

Management Agent: **XXX Management**
Contact: **Ira Menzer**
Contact Phone: **(000) 555-4444**

County: **Gloucester**
Cross Street: **Broad and Marginal Way**
Neighborhood: **Mixed commercial & residential**



Unit Type	No. of Units	Used as Comp in RCS? (Y/N)	Average Rent	Interior Size (SF)	Any Rent Restrictions? (Y/N)
0 / 1	3	Y	$415	500	N
1 / 1	48	N			
2 / 1.5	24	N			

Total Units: 75

Project Occupancy: 94%

Charges in Addition to Rent:

Subsidies and Restrictions at Project: None

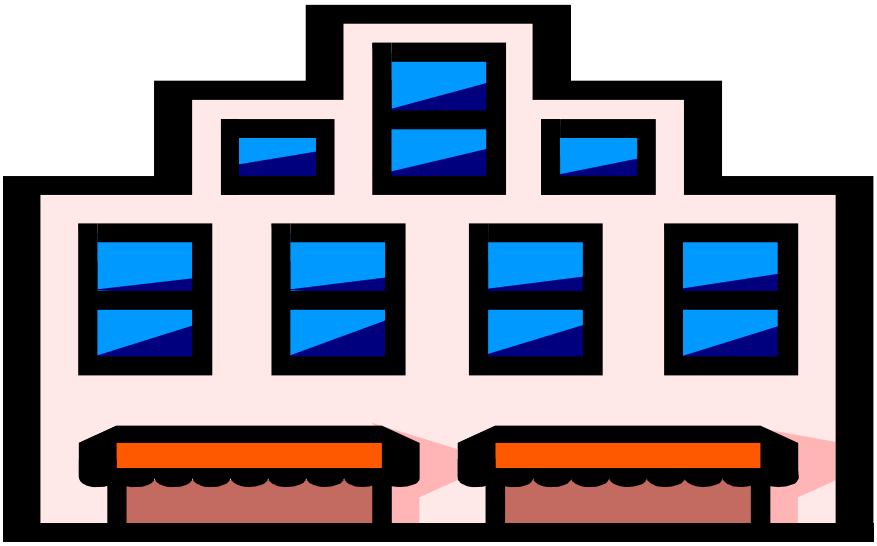
Other Comments:

Date Information Verified: 3 / 22 / 00

Park View Apartments
17 Park Avenue
Lexington, ST 00456

Management Agent**: 123 Management**
Contact**: Janet Spence**
Contact Phone**: (000) 555-5555**

County**: Gloucester**
Cross Street**: Main Street at Maple Ave**
Neighborhood**: Residential**



Unit Type	No. of Units	Used as Comp in RCS? (Y/N)	Average Rent	Interior Size (SF)	Any Rent Restrictions? (Y/N)
0 / 1	30	Y	$525	550	N
1 / 1	30	N			

Total Units: 60

Project Occupancy: 80%

Charges in Addition to Rent: Garage parking available for $65

Subsidies and Restrictions at Project: One-bedroom units are restricted to households earning less than 60% of median income. Rent is based on requirements of low-income housing tax-credit regulations.

Other Comments: Elderly project

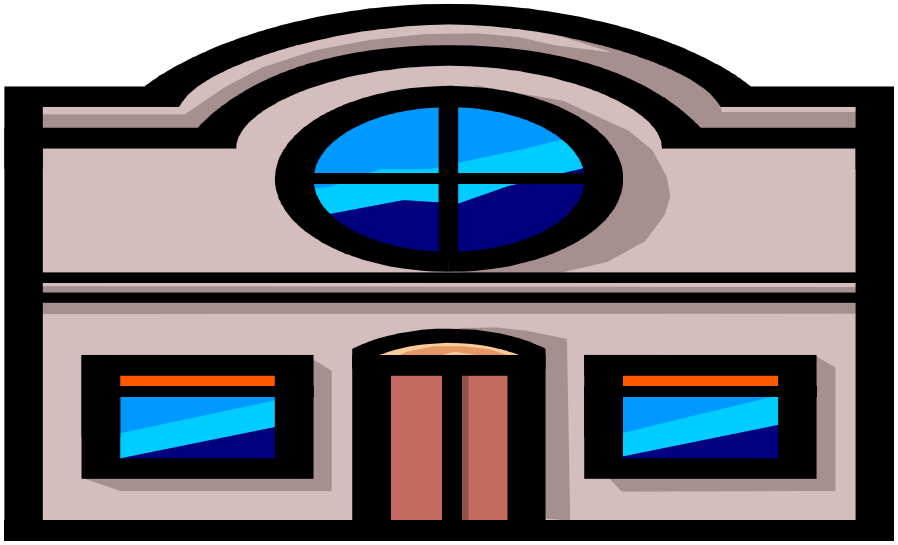
Date Information Verified: 3 / 20 / 00

Glen Park

305 37th Street
Channel Crossing, ST 00123

Management Agent**: XYZ Management**
Contact**: John Adams**
Contact Phone**: (000) 666-5555**

County**: Jefferson**
Cross Street**: Pleasant Avenue and 37th**
Neighborhood**: Park East**



Unit Type	No. of Units	Used as Comp in RCS? (Y/N)	Average Rent	Interior Size (SF)	Any Rent Restrictions? (Y/N)
0 / 1	10	Y	$525	450	N
1 / 1	25	N			
2/1	15	N			

Total Units: 50

Project Occupancy: 98%

Charges in Addition to Rent:

Subsidies and Restrictions at Project: None

Other Comments: Elderly project

Date Information Verified: 3 / 29 / 00

Appraiser Certification

Project Name: ABC Village Apts ***FHA Project No :*** *12335666*

By my signature below, I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective financial interest in the above property, its ownership or management agent entity, or the principals of those entities. I am not an employee of those principals or entities and I have no business or close personal/family interest with those parties that commonly would be perceived to create bias or a conflict of interest.
4. I have no bias with respect to the property that is the subject of this report or to the ownership or management parties involved with this assignment.
5. My engagement in and compensation for this assignment were and are not contingent upon the reporting of a predetermined rent or direction in rent. My fee is my only compensation for this rent study assignment. There are no other side agreements or considerations.
6. My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice and all applicable HUD procedures for performing Rent Comparability Studies for Section 8 contracts.
7. Joe Jones & Sharon Allen inspected the interior and exterior of the subject property. Sharon Allen inspected the exteriors of the properties used as comparables in this report.
8. No one provided significant professional assistance to the person signing this report except the persons listed here: Sharon Allen, Assistant Appraiser. If anyone is listed here, his/her contribution is identified in the Scope of Work section of this report.
9. I am a certified general appraiser, licensed and in good standing with the state appraiser regulatory agency where the subject property is located and I meet all of the appraiser qualifications required in HUD's rent comparability procedures.
10. I am not debarred or suspended from doing business with the Federal Government. I also am not under a Limited Denial of Participation (LDP) imposed by the HUD Multifamily HUB or Program Center having jurisdiction over the Section 8 project. Any LDPs in effect now or in the past three years were imposed by the following HUD offices. None

Warning*:* If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000.00 for each violation.

Appraiser's Name: Joe Jones **Signature**: Joseph Jones **Date**: 4/15/00

Permanent License No: CG2222 **Issuing State**: ST **Expires**: 4/15/01

Did you prepare the RCS under a temporary license? No *If so, attach a copy of the temporary license.*

Subject Photos

Additional Photos of Comps

Property Name

Address

City/Town, State Zip Code

Management Agent:
Contact:
Contact's Phone:

County:
Cross Street:
Neighborhood:

PHOTO

Unit Type	No. of Units	Used as Comp in RCS? (Y/N)	Average Rent	Interior Size (SF)	Any Rent Restrictions? (Y/N)

Total Units: ____

Project Occupancy: ___%

Charges in Addition to Rent:

Subsidies and Restrictions at Project:

Other Comments:

Date Information Verified: __/___/__

Reserved for future use.

Request to Renew Using Non-Section 8 Units in the Section 8 Project as a Market Rent Ceiling

Project Name: _____ **Section 8 contract No (s)**: _____
FHA Project No: _____ _____

I am asking to renew the above Section 8 contract(s) under Option 2 (Chapter Four of this Guide), using the non-Section 8 units in that project as a market rent ceiling instead of performing a traditional rent comparability study. The top half of the attached table compares the current and proposed Section 8 rents with the rents paid by tenants not receiving tenant rental assistance. The bottom half of the table shows how the proposed Column D rents were computed. The applicable OCAF or budget worksheet is attached to the table.

I certify that:

1. The above contract(s) is eligible to be renewed under Option 2 of this Guide.

2. At least 25% of each unit type being renewed is occupied by tenants who pay the full rent due the owner and receive no tenant rental assistance. "Tenant rental assistance" includes project-based Section 8, certificates / vouchers, PRAC/PAC in a 202/811 project, Rent Supplement, Rental Assistance (RAP), or any comparable federal/state/ other public subsidy.

3. For each unit type being renewed, the proposed Section 8 contract rent is no more than the average rent tenants not receiving rental assistance pay for that unit type. The average rent for each unit type is shown on the attached table. Units and rents used to compute the average rent are identified on the attached rent roll.

4. Units used to compute Paragraph 3's average rent have been paying *(without assistance and for three or more months)* at least the rent levels used in computing the average. These units do not receive rental concessions or rebates and tenants in these units have no business or family relationship with the project's ownership or management.

5. The Section 8 units and the units occupied by tenants not receiving tenant rental subsidies are nearly identical. They have the same number of bedrooms & baths; are similar in condition, layout & size; and have the same amenities & utilities included in the rent.

6. Occupancy rates in the units occupied by tenants not receiving tenant rental subsidies are not significantly less than occupancy levels for those unit types in the project's market area.

Warning*:* If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

Owner Name	Owner Signature	Date

This is a sample. See next page for a blank form.

Compare Section 8 Rents and Rents Paid by Tenants Not Receiving Rental Assistance

Project Name: XYZ Apts **Date:**

Project is*(Circle one.)***: 236 BMIR 221d4/d3 202/811 Other (***Specify:* _____**)**

A	B	C	D	E	F	G	H	I	J	K
Unit Type	**Interior Sq. Ft**	**Current Sec 8 Contract Rent**	**Proposed Sec 8 Contract Rent**	**Avg. Rent for Units Without Assistance**	**Total Units at Project**	**# Sec 8 Units at Project** *(all contracts)*	**# Sec 8 Units Now Renewing**	**# Units Offered Without Rental Assistance**	**# Units Occupied Without Rental Assistance**	**% of Total Occupied Without Rental Assistance** (J / F)
1 BD/1 BA	500	375	**$379**	**$475**	**50**	25	25	25	22	**44%**
2 BD/1 BA	600	500	**$506**	**$575**	**20**	14	14	6	5	**25%**
2 BD/1.75 BA	650	550	**$556**	**$675**	**11**	3	3	8	8	**73%**
					81	**42**	**42**	**39**	**35**	**43%**

Important: For each unit type, entry in last column must be at least 25%.
Attach rent roll showing units & rents used to compute the average in Column E.

The proposed Section 8 Rents were computed using: ***Check One*** **.**

X **OCAF:** See OCAF Worksheet, Attachment 3B of this Guide.
Attach completed OCAF Rent Adjustment Worksheet.

% increase allowed per OCAF is: **1.112** %

Budget: See Form HUD-92547-A / Budget Worksheet of Handbook 4350.1.
Attach completed form HUD-92547-A / Budget Worksheet.

Current Budget Potential for Units being Renewed _____

New Budget Potential for Units Being Renewed _____

% increase in budget potential is: %

Preparer's Name: Sam Samuels **Date** _____

Preparer's Title: Property Manager **Date** _____

Owner's Signature: *Ms Owner* **Date** _____

Compare Section 8 Rents and Rents Paid by Tenants Not Receiving Rental Assistance

Project Name: _____ _____ **Date:**

Project is*(Circle one.)*: **236** **BMIR** **221d4/d3** **202/811** **Other** *(Specify*._____)

A	B	C	D	E	F	G	H	I	J	K
Unit Type	**Interior Sq. Ft**	**Current Sec 8 Contract Rent**	**Proposed Sec 8 Contract Rent**	**Avg. Rent for Units Without Assistance**	**Total Units at Project**	**# Sec 8 Units at Project** *(all contracts)*	**# Sec 8 Units Now Renewing**	**# Units Offered Without Rental Assistance**	**# Units Occupied Without Rental Assistance**	**% of Total Occupied Without Rental Assistance** (J / F)

Important: For each unit type, entry in last column must be at least 25%.
Attach rent roll showing units & rents used to compute the average in Column E.

The proposed Section 8 Rents were computed using: ***Check One*.**

_____ **OCAF:** See OCAF Worksheet, Attachment 3B of this Guide.
Attach completed OCAF Rent Adjustment Worksheet.

% increase allowed per OCAF is: %

_____ **Budget:** See Form HUD-92547-A / Budget Worksheet of Handbook 4350.1.
Attach completed form HUD-92547-A / Budget Worksheet.

Current Budget Potential for Units being Renewed $ _____

New Budget Potential for Units Being Renewed $ _____

% increase in budget potential is: %

Preparer's Name: _____ **Date** _____

Preparer's Title: _____ **Date** _____

Owner's Signature:_____ **Date** _____

This is a sample. See next page for a blank form.

Attachment 9-7

Request to Renew Using FMRs as Market Ceiling

Project Name: _____ **Project No:** _____ **Contract No(s):** _____

I am requesting to renew the above Section 8 contract(s) under Option 2 using 75% of FMRs as a market rent ceiling instead of performing a Rent Comparability Study. I believe both the current and proposed Section 8 rents are below market rents for similar units in the Section 8 project's market area.

FMRs used below are from FMR schedule effective **October 1,1999** for **Boulder-Longmont, CO PMSA**, the county or MSA where project is located. Proposed rents were calculated using the OCAF/ budget procedures from Attachment 4 of Notice 99-36. ***The OCAF/ budaet worksheet is attached.***

Increase factor from 99-36's Attmt 4: **1.0199**

Complete columns 1-4, 6 and 9. Spreadsheeet will compute the rest.

1	2	3	4	5	6	7	8	9	10	11	12
Units Renewing			**Sec 8 Contract Rent**			**Sec 8 Gross Rent**			**Sec 8 Gross Potential**		
Unit Type	**# of Units**	**Sq. Ft.**	**Current**	**Proposed** (col 4 x factor)	**Utility Allowance**	**Current** (Cols 4 + 6)	**Proposed** (Cols 5 + 6)	**FMR**	**Current** (Cols 2 x 7)	**Proposed** (Cols 2 x 8)	**FMR Pot'l** (Cols 2 x 9)
1 BD/1 B	5	500	465	474	25	**490**	**499**	629	**2,450**	**2,496**	**3,145**
2 BD/1 B	5	600	560	571	41	**601**	**612**	806	**3,005**	**3,061**	**4,030**
2 BD/1.75 B	5	650	610	622	62	**672**	**684**	1,123	**3,360**	**3,421**	**5,615**
								Total	***$8,815***	***$8,978***	**$12,790**
									75% of FMR pot'l →		***$9,593***
								Total/ FMR Pot'l	**69%**	**70%**	

Both current & proposed potential must be < 75% of FMR potential.

I certify this table is accurate to the best of my knowledge and belief.

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

_____ _____ _____

Owner Name **Owner Signature** **Date**

Request to Renew Using FMRs as Market Ceiling

Project Name: _____ **Project No:** _____ **Contract No(s):** _____

I am requesting to renew the above Section 8 contract(s) under Option 2 of Notice 99-36 using 75% of FMRs as a market rent ceiling instead of performing a Rent Comparability Study. I believe both the current and proposed Section 8 rents are below market rents for similar units in the Section 8 project's market area.

FMRs used below are from FMR schedule published in _____ for _____, the county or MSA where project is located. Proposed rents were calculated using the OCAF/ budget procedures from Attachment 4 of Notice 99-36. ***The OCAF/ budget worksheet is attached.***

Increase factor from 99-36's Attmt 4: [ ]

Complete columns 1-4, 6 and 9. Spreadsheeet will compute the rest.

1	2	3	4	5	6	7	8	9	10	11	12
Units Renewing			**Sec 8 Contract Rent**			**Sec 8 Gross Rent**			**Sec 8 Gross Potential**		
Unit Type	**# of Units**	**Sq. Ft.**	**Current**	**Proposed** (col 4 x factor)	**Utility Allowance**	**Current** (Cols 4 + 6)	**Proposed** (Cols 5 + 6)	**FMR**	**Current** (Cols 2 x 7)	**Proposed** (Cols 2 x 8)	**FMR Pot'l** (Cols 2 x 9)
								Total			
								75% of FMR pot'l →			
								Total/ FMR Pot'l			

Both current & proposed potential must be < 75% of FMR potential.

I certify this table is accurate to the best of my knowledge and belief.

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

_____ _____ _____

Owner Name **Owner Signature** **Date**

*Completing the Rent Comparability Grid (HUD 92273-**S8**)*

Important: Before preparing the Rent Grid, read the guidance provided in Chapter Nine of this Guide, pay special attention to the information contained in Sections 9-12 and 9-13. If you are using HUD's Excel worksheet, be sure to read the notes to Excel users on the next page before you set up your Rent Grids or start loading data.

General Instructions

1. **Prepare a separate Rent Grid** for each ***primary*** Section 8 unit type. See Section 9-9A2 for guidance on classifying unit types as primary or secondary. Complete a data and an adjustment column for each comparable. Show all comparables for one unit type on one grid. Enter the comparable's name and address at the top of each column.

2. **Data Columns.** Complete all lines of the Grid's data columns – i.e., even lines/characteristics for which you will make no adjustment. Use the letter codes listed in the line-by-line instructions below. Use blank lines to add other characteristics that would affect the rent a property could command in the subject's market area.

3. **Adjustment Columns.** Not all of the characteristics will affect rents. Local market conditions will dictate if, when and how much of an impact each characteristic will have upon rent. Make adjustments only for differences in characteristics that would affect the amount of rent tenants in the *subject's* market area are willing to pay.

   a. The goal is to determine what rent the comparable could obtain if it were more like the subject. Thus, if the comparable is:

      - ***inferior*** to the subject on a particular characteristic, adjust the comparable upward -- i.e., enter the adjustment as a *positive value* to indicate that residents of the comparable would pay *more* if the comparable looked more like the subject on that characteristic.

      - ***superior*** to the subject, adjust the comparable downward -- i.e., enter the adjustment as a *negative value* to indicate that residents of the comparable would pay *less* if the comparable looked more like the subject on that characteristic.

   b. Leave adjustment entries blank (***not zero***) if local renters would not pay for the difference shown on that line. Display adjustments in dollar amounts. If you are using Excel, precede negative adjustments with a minus sign and Excel will format the entry in red type and parentheses. If you are typing on hard copy, enclose negative values in parentheses.

4. **Narrative Explanations.**

   a. Attach a narrative explaining ***why*** each adjustment was made and ***how*** the dollar value of the adjustment was derived**.** Prepare a separate set of explanations for each Grid. If an explanation applies to more than one comparable, you may refer back to that explanation rather than repeating it each time (e.g., the location adjustment for comp #Y was estimated for the same reason and in the same way as for comp #X).

   b. If the data columns show a comparable differs significantly from the subject project but you did not adjust, explain why.

c. Be sure to include the ***two additional narrative*** explanations required for the estimated market rent, Line 46 of the instructions. These include an explanation of how: 1) market rent was derived from the comparables' adjusted rents; and 2) a primary unit type's market rent was adjusted to derive a market rent for a secondary unit type.

If you are using the Excel version of the Rent Grid …

- The worksheet is protected and cells containing formulas are locked. If you try to enter data in a formula cell, you will receive an error message telling you the cells are locked and cannot be changed.
- The tab key will move you horizontally within the print area of the worksheet. It will let you skip locked, formula cells and stop only at cells designed to receive data. As you enter adjustments, Excel will automatically compute any counts, sums or percentages requested on the form. **Note:** The Tab Key will navigate as described only if the Excel settings are configured to: 1) ***not*** check the Transition Navigation Keys box; and 2) check the "Microsoft Excel Menus" button. Go to *Tools-Options-Transition Tab* to check settings.
- As you scroll horizontally to the right, columns will shift left and be hidden behind Column C's row labels. This keeps line labels next to the data cells, making it easier to accurately load data. To view the hidden columns, just scroll back to the left. Similarly, as you scroll down, rows will move up and disappear under the column headings. To bring the rows back into view, just scroll up.
- The "**Create New Grid**" button allows you to simultaneously add a new unit type worksheet, label the tab at the bottom of the worksheet, and fill in the Unit Type box at the top of the worksheet. You can enter different names/ labels for the tab and the unit type box on top.

  IMPORTANT: If you use the **Create New Grid** button, the resulting worksheet will contain all of the data that was on the worksheet containing the button. You will need to edit any data that is not appropriate for the new unit type. So, decide how you want to use the button. For example, you could:

  1. Load just the project names and other identifying header data that will apply to most unit types and then use the Create New Grid button to create a worksheet for each unit type. You could then load amenity and adjustment entries either individually on each sheet, by copying specific cells from one worksheet to another, or by clicking the control key and selecting multiple worksheets. When you use the control key option, data is entered simultaneously in the same cell location on all of the worksheets you selected.
  2. Fully complete one unit type worksheet, use the Create Grid button to add another worksheet, and edit the resulting worksheet to change data that is not appropriate for the new unit type. Be careful! Don't forget to check any copied data.

Part A: Rents Charged *(lines 1 through 5)*

Before the rents for comparable units can be adjusted for differences from the subject, they must be adjusted for conditions at the comparable property itself. This section makes adjustments that are primarily internal to each individual comparable and produces an effective rent. Subsequent sections adjust each comparable's effective rent by comparing the comparable to the subject property.

Line 1. $ Last Rent/Restricted? In the "data" column, enter the rent at which this unit type was last leased. This must be a rent that was actually paid; do not enter an asking rent which has not yet been achieved. In the adjustments column, enter **"Y"** if the unit is rent restricted and "**N**" if it is not. Rent restricted units include those that are subject to rent control, rent stabilization or other restrictions on the unit rent. (Example: LIHTC, HOME, HOPE VI, and 236/BMIR/ Rural Development Section 515 units). *Identify the specific reason for a yes answer in the narrative explanation of adjustments.*

> **Note**: No dollar adjustments may be made on this line. Rent restricted units should be used as comparables only when they reasonably represent market rents.

Line 2. Date Last Leased. In the data column, enter the date *(month/ year*) that unit type was most recently leased. This should be the date the most recent lease for the rent on Line 1 became effective. Make an adjustment here only if the rental market has changed significantly between the date on this line and the date of your analysis. This adjustment may be needed when the comparable is at full occupancy and has had no turnover for an extended period. If market conditions have not changed, do not adjust … even if considerable time has elapsed since Line 1's rent became effective.

Line 3. Rent Concessions. Is the comparable offering rent or renewal concessions? Enter "Y' or "N". Enter a negative adjustment to reflect the value of the concession. Prorate the concession over the typical lease period for the market. For example, make a ($33) adjustment for one month free on a 12-month lease, at $400 /month.

Line 4. Occupancy % for Unit Type. Consider *only* the unit type represented by the comparable. Enter the approximate percent of units *in that type* that are occupied as of your data collection date. Do ***not*** enter occupancy for all unit types at the comparable. If the comparable's occupancy rate for the unit type under consideration is not typical of the comparable's market, determine if the occupancy differential is due to the rent being set too high/ too low … or to other factors.

a. If the occupancy gap is due to factors other than Line 1's rent level (e.g. condition or location), do ***not*** make an adjustment. Adjust only if the occupancy gap is clearly due to the rent level used on Line 1. If the comparable's occupancy for the unit type being studied is significantly lower than the typical occupancy rate for that unit type, adjust negatively to indicate that the rent is too high. If the comparable's occupancy for the unit type being studied is significantly higher than the typical occupancy rate for that unit type, make a positive adjustment.

b. If the property manager/ other contact for a comparable is unwilling or unable to provide occupancy rates *by unit type*, the appraiser should report overall occupancy for the comparable and note in the Item 4 explanation that the occupancy rate is project-wide. If only overall occupancy is reported, an occupancy adjustment may be made only if the unit mix is such that the appraiser can still conclude that the occupancy for the unit type is significantly different than market occupancy levels for that unit type. **Example**: If a project has 99% occupancy and 100 units (50 one bedrooms, 50 two bedrooms), one could still conclude that the two - bedroom units being studied were at least 98% occupied. The appraiser must explain how he/ she arrived at that conclusion.

Line 5. Effective Rent and Rent/ Sq. Ft. Enter the sum of lines 2, 3, and 4. This yields an effective rent after age of the lease, occupancy, and rental concessions are taken into account. If you are using Excel, the form will automatically calculate the total rent. After you enter the unit size in Part C, the form will also display the effective rent per square foot. **Note**: If you are typing on hard copy, enter the rent / sq. ft in the adjustment column of each comparable. Divide the effective rent on Line 5 by the unit size on Line C13.

Part B. Design, Location, Condition (lines 6 through 10)

This section allows for comparison of the comparable to the subject in terms of design, materials, condition, location, and appeal. The total adjustments in this section should not exceed the value a typical renter would place on these characteristics in the aggregate.

Line 6. Structure/ Stories. Enter the type of structure. Use "E" for Elevator, "G" for Garden, "WU" for other walk-up, and "T" for townhouse. Follow the letters with a slant bar and the number of stories. For example, enter "WU/3" for a three-story walk-up. Try to select comparables that have the same structure type as the subject.

Line 7. Year built/Year renovated. Enter the year the property was built. If it has been renovated, follow with a slant bar and the year the property was renovated. For example, 1939/70 would indicate that the property was built in 1939 and renovated in 1970. Adjust on this line if the effective age (*the age indicated by the utility/ quality of the structure* and *major equipment*) affects rental value. Consider if basic structures and major equipment have been replaced and whether baths and kitchens have been renovated.

Line 8. Condition/ Street Appeal. Enter "E" for excellent, "G" for good, "F" for fair, or "P" for poor. If the design of the building or the street appeal of the property would affect the rents it can command, adjust appropriately. Consider the overall appearance of the property -e.g., are grounds clean? landscaping well maintained? paint or siding in good shape? layout on site appealing (open space, shrubbery, etc)? especially appealing exterior architecture? Would the comparable's condition/street appeal cause applicants to pay more or less than they would pay at the subject? *Take care not to duplicate adjustments made on line 7. Adjustments made on lines 7 and 8 should not add to more than a tenant would pay if factors on Lines 7 and 8 were considered collectively.*

Line 9. Neighborhood. Enter "E" for excellent, "G" for good, "F" for fair, or "P" for poor. The entry should reflect the market's reaction to location features that affect rental values -- e.g., neighborhood desirability; nuisances such as street noise; nearby land uses; crime volume; and access (time/distance) to schools, transportation, shopping, recreation, and medical and employment centers.

- The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) specifically requires that neighborhood (including risk of crime), location and access be considered.
- HUD FHEO guidelines prohibit negative adjustments based solely on the racial, ethnic, religious mix of properties or their surrounding areas or other discriminatory criteria. Adjustments must be based on objective, quantifiable factors.

Line 10. Same Market? Miles to Subject? Is the comparable in the same market area as the subject? Enter "Y" or "N". Follow the entry with a slant bar, and the distance between the comparable and the subject in miles. If the comparable is in a different market area, collect quantitative data to compare the rent levels in the two market areas. Adjust for any significant difference in rental costs between the two market areas and explain how you computed the adjustment. If the comparable is in a different market area and you don't adjust, explain why.

Part C. Unit Equipment/Amenities ***(lines 11 through 23)***

This section details specifics about the unit and its equipment and amenities. Use the blank line to add unit amenities or equipment that aren't listed but significantly affect the rent a tenant would pay. Total adjustments made for this Part should not exceed the value a typical renter would place on all unit amenities.

Line 11. # Bedrooms. Enter the number of bedrooms in the unit. Use "0" for efficiencies. If a comparable and the subject have a different number of bedrooms, explain why you selected a comparable of a different bedroom type in the Selecting Comparables narrative required by Section 4 of the Notice.

Line 12. # Baths. Enter the number of bathrooms in the unit. Use decimals to represent partial baths. For example, enter 1.5 to indicate one full bath and one bath with a toilet and sink, but no tub or shower stall.

Line 13. Unit Interior Sq. Ft. Enter the rentable *interior* square footage of the unit. Do not include balconies, mechanical areas or other non-living spaces. Explain: a) how the square footage of the subject was derived and how it corresponds to the square footage of the comparables; and b) the method used to determine the size adjustment.

Note: Adjust only if and to the extent the subject's market values a size difference. Some markets may not value small size differences and a difference in size may not increase the market value of a larger unit to the same degree that it might a smaller unit. For example, a difference of 50 sq.ft. might command a higher rent in a 500 sq. ft., 1-bedroom unit, than in an 800-sq. ft., two-bedroom unit.

Line 14. Balcony/Patio. Does the unit have a balcony or a patio? Enter “Y” or “N”.

Line 15. AC: Central/Wall. The entry should reflect the type of cooling equipment in the unit, using “C” for central, “W” for wall unit, or "N” for none. Adjust only for the value of having AC equipment and for differences in the type of equipment (wall, central, etc.). Do not adjust for the cost of running the air conditioner; adjust for that on Line 34.

Line 16. Range /Refrigerator. Enter “R” for range, “F” for refrigerator, or “RF” if the unit has both appliances. If neither is present, enter “N”.

Line 17. Microwave/ Dishwasher. Enter “M” for microwave, “D” for dishwasher, or “MD” if the unit has both appliances. If neither is present, enter “N”.

Line 18. Washer/Dryer. If there is a washer/dryer hookup in the unit but the landlord supplies neither appliance, enter “HU.” If the appliances are provided in the unit, enter “W” for washer, “D” for dryer or “WD” for both. If there is a common laundry area in the property, enter “L”. If the property offers no laundry facilities, hookup, or appliances in the unit, enter “N”.

Line 19. Floor Coverings. Indicate the predominant floor covering in the unit, using “V” for vinyl, “W” for wood, and “C” for carpet.

Line 20. Window Coverings. If the unit is rented with window treatments, enter “B” for blinds or “S” for shades or “D” for drapes. If the unit is rented without window coverings of any kind, enter “N” for none.

Line 21. Cable/Satellite/Internet. Enter “C” for cable TV, “S” for satellite TV, and “I” for Internet access. If the property has more than one of these amenities, enter all the corresponding letters. For example, “CSI” would indicate a property that offers all of these amenities. Consider whether the property merely offers *access* to the services or whether it offers the service itself *as part of the rent.* If only access is offered, adjust based on market value attributable to availability of the service. If the service is included in the base rent, reflect the value of both access to and provision of the service.

Line 22. Special Features. Use this line to adjust for items that are valued in the project’s market but not listed above - e.g., views, fireplaces, vaulted ceiling. Enter “VW” for view, “F” for fireplace, or “VC” for vaulted ceiling. If the unit has safety bars, ramps, or other features to improve access for disabled or elderly, enter “A”.

Lines 23. Blank line. Use this line to add a unit amenity that isn’t listed but significantly affects the rent a tenant would pay. Describe the amenity on the line provided and make dollar adjustments as appropriate**.**

Part D. Site Equipment/Amenities ***(lines 24 through 32)***

This section details specifics about the property and its amenities. Use the blank to add site amenities that aren’t listed but affect the rent a tenant would pay. Total adjustments

in this Part should not exceed the total value a typical renter would place on all amenities in this Part.

Line 24. Parking ($ Fee). Enter "L" for lot parking, "G" for garage, and "CP" for covered parking, followed by a slant bar and the amount of the additional charge, if any, the tenant pays for the service. In there is no charge, enter "0". Adjustments for the presence of a garage or carport should relate to local market demand for parking at similar unit/project types. *Adequacy* of parking at the subject or comparable properties must also be considered in the adjustment. If on-site parking is inadequate, comment on the availability and adequacy of on-street parking. What constitutes adequate parking will vary according to the location of the property and the type of tenancy. If tenants pay for parking outside of rent, adjust based upon the market value of having the parking available. If the parking is included in the rent, reflect the value of the parking itself.

Line 25. Extra Storage. Enter "Y" or "N" indicating whether tenants are provided with additional storage space. This may include extremely large or functional closets or outside storage. Before adjusting for any storage inside the unit, be sure that any adjustment for unit size did not already capture that value.

Line 26. Security. Does the property offer security features such as locked doors with intercom or security guards? Enter "Y" or "N". Consider whether lack of security has a negative influence on the rent. Describe any security in your comments on Item 26.

Line 27. Clubhouse/Meeting Rooms/Dining Rooms. Enter "C" for clubhouse, "MR" for meeting rooms, and "DR" for dining room. If the property has none, enter "N"

Line 28. Pool/Recreation Areas. Enter "P" for pool, "E" for exercise rooms, or "R" for other recreation facilities such as playgrounds, volleyball or basketball courts. Be sure to describe the type of recreation facilities in your narrative description of adjustments.

Line 29. Business Center/Neighborhood Network. If the property has a business center offering office services such as copying and faxing, enter "BC." If the property has a HUD sponsored Neighborhood Network, enter "NNW". Enter "N" for neither. **Important:** Before completing this line, see Section 9-12C4 of this Chapter for guidance on valuing non-shelter amenities.

Line 30. Service Coordination. Does the property have a service coordinator that helps residents access social services, health care or resources for meeting other needs? Enter "Y" or "N". **Important:** Before completing this line, see Paragraph 3-6C4 of the Notice for guidance on valuing non- shelter amenities.

Line 31. Non-Shelter Services. Enter "M" for meals, "T" for transportation, "EC" for emergency call systems, "H" for housekeeping, and "L" for laundry service … or "N" for none. Write in and fully describe (in your adjustment explanations) any other services provided for the elderly or disabled. **Important**: ***Before completing this line, see Section 9-12C4 of this Chapter for guidance on valuing non-shelter amenities***. That paragraph discusses valuing access to

services vs. valuing actual delivery of service and precludes certain adjustments for mark-to-market projects.

Lines 32. Blank. Use this blank line to add a site equipment or amenity that isn't listed but significantly affects the rent a tenant would pay. Describe these on the lines provided and make dollar adjustments as appropriate.

Part E. Utilities (lines 33 through 39)

a. For each line in this part, enter "Y" if the service is included in the rent and "N" if it isn't. Follow the Y or N entry with a slant bar and the energy source for the utility addressed on that line. If the property does not have a utility listed here, leave the space blank. "Other Electric" on line 37 includes the cost of electricity for things not listed separately on the form (e.g., lights and outlets).

b. If a utility is:

- excluded from the comparable rent but included in the subject rent, enter a ***positive*** adjustment that reflects the amount prospective tenants would reasonably expect to pay for that utility at the ***comparable***.
- included in the comparable rent but not the subject rent, enter a ***negative*** adjustment that reflects what prospective tenants would reasonably expect to pay for that utility at the ***subjec****t*.

c. See Section 9-12C3 of this Chapter for more guidance on valuing differences in utilities.

Part F. Adjustments Recap (lines 40 through 43)

This section calculates both the number and dollar value of adjustments, both before and after utility adjustments. If you are using Excel, the form will automatically calculate these items. If you are typing on hard copy, compute these manually.

Line 40 # of Adjustments B through D. Enter the ***total number*** of positive and, separately, negative adjustments you made to each comparable for items *in Parts B through D.*

Line 41. Sum of Adjustments B through D. Enter the ***total dollar amount*** of positive and, separately, negative adjustments you made to each comparable for items *in Parts B through D.*

Line 42. Sum of Utility Adjustments. Enter the ***total dollar amount*** of positive and, separately, negative adjustments you made to each comparable for the *utility items* in Part E of the form.

Line 43 Net/Gross Adjustments B to E. For ***net*** adjustments, add the four entries (positive and negative) on Lines 41 and 42. For the ***gross*** adjustments, add the positive entries on Lines 41 and 42 to the *absolute value* of the negative entries on those lines. (See sample completed Grid in Appendix 9-3 for an example.)

Part G. Adjusted Rents (lines 44 through 45)

If you are using Excel, the form will automatically calculate these items. If you are typing on hard copy, compute these manually.

Line 44. Adjusted Rent. Add *the **net** adjustments* (Line 43) to the *Effective Rent* (Line 5) to derive an adjusted rent for each comparable.

Line 45. Adjusted Rent/Last rent. Divide the *Adjusted Rent* (Line 44) by the Last Rent (Line 1) and express the answer as a percent. [This shows the impact of all adjustments made for all Parts of the form. The previous totals in Part F did not include the adjustments in Part A.]

Line 46. Estimated Market Rent. Using your professional judgment, determine what point in the range of adjusted rents best represents the rent a knowledgeable applicant would most probably pay for that unit type at the subject. Enter that amount. Excel will divide that rent by the square footage shown for the subject in Part C. Do this manually if you are typing on hard copy. ***Be sure to explain the points listed below. Present these explanations immediately after your Item 46 comments. Studies without these explanations will be rejected.***

- **how the estimated market rent was derived from comparables' adjusted rents**. Explain ***how*** the estimated market rent was derived and ***why*** it was derived that way. Note which comparables were given the most weight and why. If the estimated market rent is set at the high or low end of the adjusted rents' range, explain why.
- **how the estimated market rent derived on the Grid was adjusted to estimate a market rent for a similar, secondary unit type**. Explain what adjustments were made and why. *(**Note**: See Section 9-9A2 of this Chapter for guidance on classifying unit types as primary or secondary.)*

Bottom of form: Be sure to sign and date the form. Also indicate whether you prepared the Grid in Excel *(with the computer running the calculations using HUD's formulas)* or by manually entering the data and calculations. If you used another approach (e.g., imported to Lotus), note that on bottom of the grid or at the end of your Grid comments.

Public reporting burden for this rent study is estimated to average 28 hours per study. This includes time for reviewing instructions, research and data collection and preparing the report. The 1997 Housing Act (MAHRA) and the HUD 2000 or 1997 Appropriations Act requires this information. The information is used to ensure that Section 8 rents do not exceed market limits imposed by statutes. This information is considered non-sensitive and does not require special protection. HUD may collect this information and you are required to complete this form only if it displays a valid OMB number.

USPAP 2000 COMPETENCY RULE[1]

Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently; or alternatively:

1. **disclose the lack of knowledge and/or experience to the client before accepting the assignment; and**
2. **take all steps necessary or appropriate to complete the assignment competently; and**
3. **describe the lack of knowledge and or experience and the steps taken to complete the assignment competently in the report.**

Comment: Competency applies to factors such as, but not limited to, an appraiser's familiarity with a specific type of property, a market, a geographic area, or an analytical method. If such a factor is necessary for an appraiser to develop credible appraisal assignment results, the appraiser is responsible for having the competency to address that factor, or for following the steps outlined above to satisfy this Competency Rule.

The background and experience of appraisers varies widely, and a lack of knowledge or experience can lead to inaccurate or inappropriate appraisal practice. The COMPETENCY RULE requires an appraiser to have both the knowledge and the experience required to perform a specific appraisal service competently.

If an appraiser is offered the opportunity to perform an appraisal service but lacks the necessary knowledge or experience to complete it competently, the appraiser must disclose his or her lack of knowledge or experience to the client before accepting the assignment and then take the necessary or appropriate steps to complete the appraisal service competently. This may be accomplished in various ways including, but not limited to, personal study by the appraiser; association with an appraiser reasonably believed to have the necessary knowledge or experience; or retention of others who possess the required knowledge or experience.

In an assignment where geographic competency is necessary, an appraiser preparing an appraisal in an unfamiliar location must spend sufficient time to understand the nuances of the local market and the supply and demand factors relating to the specific property type and the location involved. Such understanding will not be imparted solely from a consideration of specific data such as demographics, costs, sales, and rentals. The necessary understanding of local market conditions provides the bridge between a sale and a comparable sale or a rental and a comparable rental. If an appraiser is not in a position to spend the necessary amount of time in a market area to obtain this understanding, affiliation with a qualified local appraiser may be the appropriate response to ensure development of credible assignment results.

Although this rule requires an appraiser to identify the problem and disclose any deficiency in competence prior to accepting an assignment, facts or conditions uncovered during the course of an assignment could cause an appraiser to discover that he or she lacks the required knowledge or experience to complete the assignment competently. At the point of such discovery, the appraiser is obligated to notify the client and comply with items 2 and 3 of the rule.

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[1] Uniform Standards Of Professional Appraisal Practice, page5 (Appraisal Foundation, 2000)

Required Contents for Rent Comparablity Study

See Appendix 9-3 for a Sample RCS.

1. **Transmittal Letter signed by the Appraiser.** Address to project owner and date as of the date you gave the report to the owner. Include:

   ✓ appraiser's name, company name, address, telephone, fax number and email address *(These may be included in letterhead or body of letter.)*

   ✓ project name, FHA/other project number of the Section 8 project

   ✓ table of estimated market rent for each unit type included in the study. Use table format shown below. In last column, enter "Y" for yes if you prepared a Rent Grid for that unit type. Enter "N" for No for secondary unit types for which you did not prepare a grid, but instead adjusted the primary type's estimated rent.

			Estimated Market		
Unit Type	**# Units**	**Size** (Sq. Ft)	**Rent**	**$/ Sq. Ft**	**Prepared Grid?** (Y/N)
	Total				

   ✓ statement that market rents were defined and estimated in accordance with Sections 9-7 through 9-13 of this Chapter and the report was prepared in accordance with Sections 9-14 through 9-16 of this Chapter.

   ✓ appraiser's acknowledgment of how his / her report will be used: *Suggested language* -- I understand that HUD/the Section 8 Contract Administrator (CA) and the project owner will use my estimate of market rents to determine: 1) the owner's options for renewing the project's Section 8 contracts; and 2) the maximum rents allowed under any renewal contract.

2. **Scope of Work.** Acknowledge that all work was done in accordance with the requirements set forth in this notice. Provide a narrative describing:

   ✓ dates, number and types of inspections, and how unit sizes were verified.

   ✓ how rent, condition and amenity data were collected and verified. Note interviews, records reviewed, Internet sites used, etc. Indicate time period during which data was collected.

- ✓ any data that was unobtainable or estimated and all efforts to obtain that data.
- ✓ any assistance from assistant appraisers.

3. **Description of Subject Property.** Address the items listed below. **Note**: If the units being renewed are located on scattered sites and those sites differ significantly on condition, services, street appeal or other factors listed below, note those differences.

- ✓ *property name and address* (street, city, county, cross streets) and neighborhood name if applicable).
- ✓ *site characteristics and improvements:* number of buildings and their design (construction material, structure type), number of units; topography and density; and access to site.
- ✓ *unit mix for all units in the project, not just the Section 8 units.* Use the table format below. Include all revenue-producing units in the project & group them by major unit types (e.g., # bedrooms/ # baths). *(See Section 9-10A 6 for a definition of rent restricted units.).*

Unit Type	**# Units**	**Interior Size** (SF)	**# Pjt- Based Sec 8 units**	**# Other Rent Restricted Units**	**# Units Not Rent Restricted**
	Total		**Total**	**Total**	**Total**

- ✓ *condition:* age of property, state of repair, any recent/ planned rehab or refurbishing.
- ✓ *schedule of charges collected in addition to rent.*
- ✓ *3 to 5 labeled, color photos of exterior and interior (See Section 9-9B for more on photos. Place photos at the end of the RCS or in the body of RCS's description of the subject.).*
- ✓ *population or occupancy group targeted for this project (e.g., elderly), if any.*
- ✓ *summary of unit design and amenities.*
- ✓ *summary of project service/ site amenities*: parking, recreational facilities, community areas, security, service coordination, neighborhood networks, transportation, meal services, social or educational activities, emergency call systems, laundry or housekeeping, and any other amenities for elderly or disabled.
- ✓ *name and phone number of contact person with whom* you verified or collected information on the subject property

4. Identification of the Subject's Market Area. Identify the geographic area from which the subject would normally draw its applicants.

5. Description of Neighborhood. Discuss the project's location noting factors that would impact market rent level. Cover at least the factors listed below. **Note**: If the units being renewed are located on scattered sites and those sites differ significantly on the factors listed below, note those differences.

- ✓ property types (multifamily, single family, commercial) and rural/ suburban /urban nature of community.
- ✓ access to schools, recreation, transportation, shopping, medical and employment centers, community services or other features tenants at subject would seek
- ✓ nuisance (e.g., street noise), crime rates, and other factors affecting the perceived quality of the neighborhood.

6. Narrative Describing Selection of Comparables.

- ✓ Provide an overall assessment of the availability of comparables and the quality of the comparables selected and state ***why*** the comparables used were selected. If the unassisted units in the subject project have the same number of bedrooms and were not used as comparables, explain why. If less than five comparables were provided for any primary unit type, say so and explain why.
- ✓ Identify any comparables that are significantly dissimilar to the subject (e.g., different number of bedrooms, different structure type, different level of services). Describe what research was performed to determine that more similar comparables were not available.
- ✓ Identify any comparables that are outside the subject's market area. Describe what research was performed to determine that better comparables were not available in the subject's market area. Compare the rent levels in the alternate market area with those in the subject's market area.
- ✓ Identify any rent restricted units used as comparables. Explain the type of restriction (e.g., LIHTC, local rent control, etc.).
- ✓ Identify any comparables that are owned or managed by companies having an identity-of interest with the owner or management agent of the subject property.

7. Locator Map.

- ✓ Identify subject property and each comparable.
- ✓ Clearly mark major roadways and natural or man-made barriers (e.g., rivers, freeways, railways, etc).

8. Rent Comparability Grid (Appendix 9-2*)*

- ✓ Complete one grid for each primary unit type using instructions in Appendix 9-8 and guidance in Section 9-15 of this Chapter.
- ✓ Show all comparables for one unit type on one grid. Fill in all lines of the Grid's data columns, even if no adjustment is made on a line.

9. Narrative Explaining Adjustments and Market Rent Conclusions for Each Rent Grid. Review the guidance in Sections 9-12 and 9-13 and the line-by-line instructions in Appendix 9-8 before preparing this narrative. Be sure you explain the items listed below.

Note: Prepare a separate set of explanations for each grid. If an explanation applies to more than one comparable, you may refer back to that explanation rather than repeating it each time (e.g., the location adjustment was estimated for the same reason and in the same way as for comparable #X).

✓ **Adjustments made / not made**: For each adjustment, briefly explain ***why*** the adjustment was made and ***how*** you arrived at the dollar value of the adjustment. If data columns show a comparable differs significantly from the subject project but no adjustment was made, explain why.

✓ **How market rent was derived from comparables' adjusted rents**. Explain ***how*** the market rent was estimated and ***why*** it was derived that way. Note which comparables were given the most weight and why. If some comparables were weighted more heavily than others were or the estimated market rent is set at high end of adjusted rents' range, explain why.

✓ **How market rent for a primary unit was used to derive a market rent for a similar, secondary unit type**. Explain ***what*** adjustments were made and ***why***. Put these comments immediately following Line 46's comments. *(**Note**: See Section 9-9A2 for guidance on classifying unit types as primary or secondary).*

10. Comparable Property Profiles. Provide a one-page, table/ grid profile of each comparable property used in the RCS. Profile each property only once, regardless of the number of unit types for which the property was used. The profile must include at least the items listed below. Appendix 9-4 *provides a sample profile, but appraisers may create their own table / grid formats.*

✓ *property name and address* (street, city, county, cross streets) and neighborhood name

✓ *name and phone number of contact person with whom* you verified or collected information on the property and the date you did so.

✓ a *color photo* (at least 3" by 5") of the project's exterior. (Interior photos may be included if available, but they are not required).

✓ A *rent and unit mix table*. Include *all units* in the project and group them by major unit types (e.g., # bedrooms/ # baths). Indicate which unit types are used as comparables in the RCS.

Unit Type	No. of Units	Used as Comp in RCS? (Y/N)	Average Rent	Interior Size (SF)	Any Rent Restrictions? (Y/N)
	Total				

- ✓ Total number of units at the project and project-wide occupancy.
- ✓ List of any charges tenants pay in addition to rent.
- ✓ Describe *any rent / income/ use restrictions or tenant rent subsidies* (Section 8, certificates, vouchers, state/local payments on behalf of residents) in effect at the property. Provide this information even if the units covered by the restriction/ subsidy were not the units studied in the RCS.

11. Appraiser Certification (Appendix 9-1)

- ✓ Fill in blanks and sign and date the Certification. When entering names, also give title. (Example: Sharon Jones, Assistant Appraiser)
- ✓ Enter "***none***" in items 8 and 10 if you have nothing to disclose.

12. Copy of any Temporary License the appraiser is relying upon for this RCS. Any temporary license relied upon must be issued by the state where the property is located.

Important: The following items are *NOT* required in a RCS.

- Demographic trends for the market
- Interior photographs of comparables
- Copy of Engagement Letter
- Appraiser Qualifications (In Appendix 9-1 Appraiser Certification, appraisers certify that they meet all of the appraiser qualifications set forth in Section 9-8 of this Chapter)
- Copy of Appraiser's Permanent License

Chapter Ten

Residual Receipts

Residual Receipts

Section 10-1

A. Owners of projects whose Section 8 contracts were executed subsequent to 1980 and who are subject to the regulations at 880.205(e), 881.205(e), and 883.306(e) are reminded that at any time during a project's fiscal year, the PM/CA may determine that project funds are more than are needed for project operations, reserve requirements, and permitted distributions. Upon such a determination, the PM/CA may require that all or a portion of the funds in the project's residual receipts account be used to reduce the Housing Assistance Payments or for other project purposes.

   Field Offices and project owners/management agents are reminded that Residual Receipts may be used for other purposes that would inure to the benefit of the project and its tenants in accordance with the long standing practices of the Department. These guidelines are set out in HUD Handbook 4350.1, Chapter 25, "Residual Receipts."

Disposition of Residual Receipts

Section 10-2

Upon Termination of the Section 8 Housing Assistance Payments (HAP) Contract or Upon Owner Opt-Out:

A. Owners are reminded that under the regulations for Section 8 New Construction (effective November 5, 1979), Substantial Rehabilitation (effective February 28, 1980), and State Agency (effective February 28, 1980) projects, for Section 8 assisted projects as defined by 24 CFR 880.201 or 883.302, as applicable, when the HAP contract terminates, HUD has the right to require the designated Depository to return to HUD the unused balance of funds remaining in the Residual Receipts Account at the time of the HAP contract's termination.

In general, the date located at the top of the Use Agreement to enter into the HAP contract should be used to determine whether the new or old regulations govern the contract. PM/CA's are advised to consult with HUD field office counsel any time there may be an issue with respect to the release of funds from the residual receipts account at the time of HAP expiration.

B. HAP Contracts where the Mortgage Insurance is terminated by the Owner before termination of the HAP Contract. Should an Owner elect to prepay the mortgage before termination of a HAP Contract and the Owner has a 100 percent subsidized HAP Contract under the new regulations, any balance remaining in the Residual Receipts account at the time of the insurance termination must continue to be held in trust by a Depository and under the control of HUD. Upon expiration of the contract under this guide, these funds must be remitted to HUD.

Notification Requirements

Section 10-3

The Hub or Program Center Director must notify the Section 8 Financial Management Center and the Fort Worth Accounting Center once an Owner's decision to opt out is final or HUD terminates any Section 8 HAP Contract.

1. Any remaining subsidy, as well as funds in an applicable Residual Receipts account, must be returned to HUD.

2. The Hub or Program Center Director should send a memorandum to the Comptroller, Fort Worth Accounting Center, informing the Comptroller of the termination of the Section 8 HAP Contract(s) and any impending deposit of remaining funds in a Residual Receipts Account by a depository.

    a. Include documentation to evidence the termination of the HAP Contract with the memorandum.

    b. Simultaneously, send a letter of instructions to the Depository advising them of the disposition of the Residual Receipts Account.

3. The Depository must forward all remaining or prorated funds held in the Residual Receipts Account to a Lockbox administered by Bank of America of Georgia, P. O. Box 277303, Atlanta, GA 30384-7303. It is ***critical*** that the Section 8 contract number(s) be disclosed on the front of the check so that the funds can be returned to the proper HAP Contract or else the Lockbox will not know where to place the funds.

4. Once the Fort Worth Accounting Center receives confirmation of the termination of the HAP contract(s), all of the funds remaining in the Lockbox will ultimately be sent to the Budget Office in HUD Headquarters for recapture.

Chapter Eleven

Resident Issues

DEFINITIONS

Section 11-1

A. Regular Housing Choice Voucher. Section 8 tenant-based assistance which is provided to eligible families in order to assist them in obtaining affordable housing in the private market.

1. The voucher is provided on behalf of the family or individual and allows the holder to choose any housing that meets the requirements of the program.

2. The vouchers are administered by local Public Housing Agencies (PHAs). The local PHA establishes the payment standard for the vouchers, determines tenant eligibility, certifies tenant income and calculates the tenant's share of the rent. The payment standard for these vouchers is based on the established Fair Market Rents (FMR) for the area.

3. The payment standard determines the maximum amount of subsidy that may be paid on behalf of an assisted family. The monthly housing assistance payment on behalf of the family is the lesser of the PHA payment standard minus the family total tenant payment (TTP) or the gross rent of the unit minus the family TTP. The family TTP is the greater of 30 percent of adjusted monthly income, 10 percent of gross monthly income, the welfare rent in as-paid states, or the PHA minimum rent ($0-$50). In cases where the gross rent exceeds the payment standard, the family is responsible for paying the difference out-of-pocket in addition to the TTP.

B. Enhanced Voucher. Tenant-based housing assistance used to assist eligible families affected by certain types of housing conversion actions.

1. Unlike a regular voucher, the subsidy is "enhanced" to cover the difference between the normally applicable payment standard and the possibly higher proposed rent of

the unit that is going through the housing conversion action. The payment standard for enhanced vouchers is the gross rent of the unit, provided the PHA determines the gross rent is reasonable in comparison to similar, unassisted units in the market area.

2. Enhanced vouchers have a special minimum rent requirement. The family must continue to contribute towards rent at least the same amount they were paying for rent on the date of the housing conversion action

3. The enhanced feature of a voucher is tied to the project in which the housing conversion action took place. If the tenant moves from the project, the enhanced feature is eliminated and the voucher will have the features of a regular voucher issued by the PHA.

C. Housing Conversion Actions. Housing conversion actions include Project-based Section 8 opt-out, preservation prepayment, HUD enforcement actions and HUD property disposition (PD). On March 7, 2000, HUD issued Notice PIH 2000-9 (HA) *Section 8 Tenant-Based Assistance for Housing Conversion Actions in FY 2000*. This Notice outlines policies and processing guidelines for administering vouchers in cases of Housing Conversion Actions. For more information contact the local PIH Office.

HOUSING CONVERSION ACTIONS

Section 11-2

A. Opt-outs. This term refers to a conversion action where an Owner chooses to opt-out of certain programs by not renewing an expiring Section 8 or rent supplement program project-based contract.

1. In order for an Owner to opt-out of the project-based Section 8 program, they must satisfy all notification requirements and submit the request and certification to the local HUD Office/Contract Administrator (CA), not less than 120-days prior to the expiration of the contract.

2. The Department is committed to protecting families living in assisted units, regardless of the actions a project Owner may take. To protect families living in assisted units, Section 538 of the FY 2000 Appropriations Act (Public Law 106-74, enacted October 20,1999) enables the Department to make enhanced vouchers available to limit the displacement of families living in assisted units when an Owner elects to opt-out of the Section 8 project-based program. Subject to the availability of appropriations, enhanced vouchers are provided for the eligible residents who were assisted under the expiring project-based contract on the date of expiration.

B. HUD enforcement actions. In these cases, (or in conjunction with a HUD Property Disposition (PD) action) HUD is either terminating the Section 8 project-based HAP

contract or not offering the Owner the option to renew an expiring contract due to an Owner's failure to comply with the terms of the HAP contract or other HUD requirements.

1. HUD enforcement actions may result from material adverse financial or managerial actions or omissions which lead to either Owner default under a FHA-insured mortgage (monetary or technical) or a documented material violation of one or more of the obligations under the project's Regulatory Agreement. Regular housing choice vouchers will normally be provided in these circumstances to assist eligible families affected by the enforcement action because property condition or other issues will not allow residents to remain in the property.

2. In a few unique situations, families may qualify for enhanced vouchers and remain in the property after the contract termination. For example, where a property is in good condition and the Owner elects to turn the property over to acceptable ownership and management, it may be possible for eligible families to remain at the property and receive enhanced voucher assistance.

TENANT PROTECTIONS

Section 11-3

A. Overall Process. The process of converting from project-based assistance to tenant-based assistance can produce worry and fear for many families. Therefore, care must be taken to make sure the process is completed correctly and information is made clear and available for all families, Owners, and PHAs. PMs are encouraged to enlist the aid of a Community Builder to help address tenant questions and concerns

B. Right to Remain. Tenants who receive an enhanced voucher have the right to remain in their units as long at the units are offered for rental housing when issued an enhanced voucher sufficient to pay the rent charged for the unit, provided that the rent is reasonable. Owners may not terminate the tenancy of a tenant who exercises this right to remain except for cause under Federal, State or local law. In order to receive the full rent charged for the unit, the owner must agree to enter into a Housing Choice Voucher Housing Assistance Payment contract with the local PHA on behalf of each covered family. If an owner refuses to honor the tenants right to remain, the tenant's remedy will depend on State and local law.

1. The FY 2001 Military Construction and FY 2000 Emergency Supplemental Appropriations law, Pub. L. No. 106-246, Section 2801 (July 13, 2000) amended the enhanced voucher statute passed in the FY 2000 Appropriations Act (USHA Section 8(t), 42 USC Sec. 1437f(t)) and reads: "*…the assisted family may elect to remain in the same project in which the family was residing on the date of the eligibility event for the project…*"

2. This protection continues after the first lease term. As long as the property is offered as rental housing, absent good cause to terminate tenancy under Federal, State or local law and provided the PHA continues to find the rent reasonable, owners must continually renew the lease of an enhanced voucher family.

C. Tenant-Based Eligibility. Only eligible families will receive enhanced vouchers at the time of an opt-out. While a family may be income eligible, they are not automatically eligible for admission to the tenant-based program.

1. The tenant-based assistance program is administered through the Office of Public and Indian Housing (PIH). Some of the eligibility and admissions standards for PIH programs differ from those of project-based Section 8 programs. In some cases, a tenant may be denied assistance under the tenant-based assistance program.

   a. The PHA will recertify and screen potentially eligible families and may deny them access to the tenant-based assistance program based on the grounds outlined in the Regulations (Section 982.552 and 982.553). The Department encourages PHAs to use maximum flexibility during this process, such as setting up repayment agreements for tenants who owe funds to the PHA. However, if a family is ultimately denied assistance, the PHA must give them prompt notice of this decision which includes a brief statement of the reasons for the decision. An informal review can be requested by the family (the process is described in the Regulations, Section 982.554).

   b. Provided that the Owner's current income certification for a tenant is no more than six months old and the PHA determines it is acceptable (through reviewing a small sampling), the PHA may use the Owner's most recent tenant income examination in determining eligibility for enhanced vouchers.

2. In general, to be eligible to receive an enhanced voucher in the case of a regular opt-out (not proceeded by a pre-payment) the family must be low-income (including very low-income) and residing in a unit covered by the expiring Section 8 contract.

   a. Unlike in a preservation pre-payment situation, a family with an income above 80% of AMI is not eligible for tenant-based assistance as a result of the opt-out.

   b. In cases of preservation pre-payments, families living in the property on the date of the prepayment may be income eligible by virtue of the different eligibility standards which apply to prepayment vouchers (namely, moderate income elderly and disabled families and moderate income families residing in low vacancy areas are eligible for such assistance). A family which is not income eligible may reach an agreement with the Owner to remain in the unit and pay the rent set by the Owner, even though no Section 8 tenant-based assistance is being provided by HUD.

3. Tenants admitted to a PHA's tenant-based voucher program as a result of a housing conversion action are not subject to the income targeting requirements of the Section 8 tenant-based program.

D. Mobility. While tenants have the choice of using their voucher in a different property, once the family moves from the project, the enhanced feature is no longer in effect. The voucher reverts to a regular housing choice voucher and is subject to those payment standards.

E. Processing Delays. If there is any delay in processing the tenant-based assistance, the Department may ask the Owner to consider a short-term renewal of the contract in order to provide the Department with sufficient time to get the vouchers in place.

OWNER NOTIFICATION REQUIREMENTS

Section 11-4

A. Law. Section 8(c)(8) of the United States Housing Act requires that Owners give a one-year written notice to tenants and HUD of the contract's termination or expiration. The one-year notification must state the owner's intentions (i.e. to renew or not renew) at the time of the contract's expiration.

B. Format. The Notice must be:

1. On the Owner's or duly authorized representative's letterhead and signed.

2. The notice must be served by delivery directly to each unit in the project or mailed to each tenant. ***Note: taping the Notice to the outside of each unit is not acceptable.***

3. If the population of the property speaks a language other than English, Owners are strongly encouraged to provide the notification letters in the appropriate language(s). The cost of the translation of the letter is an eligible project expense.

C. Content of Notification Letter. Owners must include certain information in a notification letter. In order to meet the legal requirements for notification, this Guide provides Owners with a sample one-year notification letter for use when an Owner intends to opt-out of the Section 8 project-based contract (see Appendix 11-1). Appendix 11-2 is HUD's sample one-year notification letter when an Owner intends to renew the Section 8 project-based contract.

1. Owners must use a letter that contains the language included in the sample letters provided in this Guide.

2. While Owners are not required to specify the reasons for contract termination, Owners are strongly encouraged to provide as much information as possible to the tenants and HUD.

3. Owners must state that they will honor the residents' right to remain and will continually renew leases as long as the property is offered as rental housing, the PHA continues to find the rent reasonable and there is no cause for eviction under Federal, State or local law.

4. If an owner states that they intend to renew the contract but later changes their mind and decides to opt-out of the contract, they must provide tenants with a new one-year notification of this change of plans. In other words, tenants must receive a one-year notification of an owner's decision to opt-out.

D. PM/CA review. All tenant notification letters must be reviewed by the PM/CA to ensure that they are consistent with the established requirements. If the letter is not in compliance with the requirements, it should be returned to the Owner for corrections. For purposes of determining when the one-year notification clock begins, if HUD/CA returns the letter to the Owner for corrections, the one-year clock does not start until a notification letter that is in compliance with program requirements is provided to HUD and the tenants. The PM/CA should contact the owner to discuss the reasons for the intended opt out. All renewal options should be discussed with the owner, particularly mark-up-to-market, to ensure that every effort is made to preserve affordable housing.

E. Short-term Contracts. In general, upon execution of a short-term contract, the Owner must provide a one-year notification to tenants and HUD/CA. Over the course of this one-year period, the Owner and HUD/CA may agree to additional short-term extensions. The Owner is not required to provide a new Notice each time a subsequent short-term extension is granted within the one year time-frame of the Notice. If the Owner accepts another short-term renewal after the 12-month notification period has expired, the Owner will be subject to another 12-month notification requirement. Exceptions to this general policy are as follows:

1. Where the Owner has fulfilled his/her notification requirement, but agrees to execute a contract for less than one year solely to provide HUD with enough time to provide Section 8 tenant-based assistance, execution of a short-term contract does not require a new notice requirement because it is granted to protect the tenants.

2. Where an Owner provided tenants and HUD with the proper notification of their intent to opt-out and then accepts a short-term renewal to consider accepting a Section 8 contract under the terms of Mark-Up-To-Market, the Owner would not be subject to another one-year notification requirement.

F. Selection of Option at Contract Expiration. Four months (120 days) before the contract expiration, Owners must notify HUD's local Hub/Program Center Director/CA (whichever is applicable) in writing that they are going to renew or opt-out of their Section 8 contract (as noted in earlier chapters). In cases of an opt-out, HUD needs this

time to obtain enhanced vouchers for the eligible families living in the assisted units. At this time, the PM/CA should again contact the owner to explore alternatives to opting out, particularly mark-up-to-market.

G. State and Local Requirements. In addition to meeting the above Federal notification requirements, Section 8 project Owners must also comply with any State or local notification requirements. Owners should check with their appropriate local authorities to find out about such requirements.

H. Long-Term Contracts. Upon signing a long-term contract renewal, Owners are strongly encouraged to notify tenants in writing that they have agreed to a long-term contract renewal agreement with the Department. This letter should inform the tenants that they will receive a one-year written notification of the expiration of the long-term contract.

I. Unacceptable Notice. If an Owner fails to provide proper one-year notification to HUD/CA and the tenants, legally, the Owner must permit the tenants to remain in their units without increasing their portion of the rent for whatever period of time is necessary to meet all of the notification requirements.

ONE-YEAR NOTIFICATION LETTER - *Owner Does Not Intend To Renew*

_____(*Date*)_____

Dear Resident:

The Department of Housing and Urban Development subsidizes the rent of your apartment through the project-based Section 8 program. Federal law requires that owners provide tenants with a one-year notification before the expiration of a Section 8 contract. The Section 8 contract that pays the government's share of your apartment rent at _____ _____(*name of project*)_____ expires on ___(*one year from date of this letter*)___.

Although there will be no immediate change in your rental assistance, we are required to inform you of our intended actions when the contract expires one year from now.

This letter is to notify you that we do not intend to renew the current Section 8 contract when it expires.

Since we do not intend to renew this project-based contract upon its expiration, it is our understanding that, if Congress makes funds available (which it has in the past and is expected to in the future), the Department of Housing and Urban Development will provide all eligible tenants currently residing in a Section 8 project-based assisted unit with tenant-based assistance. Unlike the current project-based Section 8 contract, Section 8 vouchers are issued to the tenants and allows them to choose the place they wish to rent. The Section 8 voucher program is administered by local Public Housing Authorities. Federal law allows you to elect to continue living at this property provided that the unit, the rent, and we, the owners, meet the requirements of the Section 8 tenant-based assistance program. As an Owner, we will honor your right as a tenant to remain at the property on this basis as long as it continues to be offered as rental housing, provided that there is no cause for eviction under Federal, State or local law.

You will also have the opportunity to choose another development or single family house in which to move provided that the new landlord will accept the voucher and the owner and the unit meet Section 8 tenant-based program requirements.

Please remember that project-based Section 8 rental assistance will continue to be provided on your behalf for one year. In addition, we may agree to a renewal of the project-based contract with HUD, thus avoiding contract termination altogether.

Approximately four months (120 days) before the expiration of the Section 8 contract, HUD requires that we confirm our final decision to not renew this contract. Following this confirmation, you will be contacted by the local Public Housing Authority (PHA) to determine your household's eligibility for tenant-based assistance. If you intend to apply for Section 8 tenant-based rental assistance you should not move from your current unit until you have consulted with the local PHA about your eligibility for tenant-based assistance.

If you have any questions or would like information on the Section 8 Program, the following sources may be of assistance:

Contract Administrator (*if applicable)*

Name: _____
Telephone Number: _____

HUD Field Office

Name: _____
Telephone Number: _____

HUD Web

http://hud.gov - click on "rental help."

Sincerely,

_____(*Owner*)_____
_____(*contact info*)_____

cc: Local HUD Office/ *(Contract Administrator)*

ONE-YEAR NOTIFICATION LETTER - *Owner Intends To Renew*

_____(*Date*)_____

Dear Resident:

The Department of Housing and Urban Development subsidizes the rent of your apartment through the project-based Section 8 program. Federal law requires that owners provide tenants with a one-year notification before the expiration of a Section 8 contract. The Section 8 contract that pays the government's share of your apartment rent at _____(*name of project*)_____ expires on ___(*one year from date of this letter*)___.

While there will be no immediate change in your rental assistance, we are required to inform you of our intended actions when the contract expires one year from now.

This letter is to notify you that we intend to renew the current Section 8 contract when it expires.

If Congress make funds available, which it has in the past and is expected to in the future, we will renew the Section 8 contract. However, in the unlikely circumstance that we cannot renew our contract, it is our understanding that, subject to the availability of funds, HUD will provide all eligible tenants currently residing in a Section 8 project-based assisted unit with tenant-based assistance.

If you have any questions or would like information on the Section 8 Program, the following sources may be of assistance:

Contract Administrator *(if applicable)*

Name: _____
Telephone Number: _____

HUD Field Office

Name: _____
Telephone Number: _____

HUD Web

http://hud.gov - click on "rental help."

Sincerely,

_____(*Owner*)_____
_____(*contact info*)_____

cc: Local HUD Office/ *(Contract Administrator)*

Chapter Twelve

Physical Condition of the Property

Physical Condition of the Property

Section 12-1

A. The physical condition of a property is an important component in deciding whether or not to renew a Section 8 contract. The Real Estate Assessment Center (REAC) will complete a physical inspection that will assist field staff in making this important decision. Based on the results of the inspection, HUD can either renew, terminate or simply let a contract expire. The vast majority of properties will not show serious problems and will have their contract renewed. However, some properties will be shown to be in material violation of their agreements with HUD. The course of action that the PM/CA takes will depend on the score the property receives on the report and whether the Owner corrects the deficiencies in an acceptable and timely manner.

   In cases where there are multiple contracts or stages on one property, there will only be one inspection each year. The PM/CA should refer back to the results of the earlier inspection and the Owner's response. If the Owner submitted a Plan to complete the repairs, as described below, the PM/CA should assess compliance with that Plan when making a recommendation on renewing the contract. If it is clear in the owner's plan that they do not intend to address needed repairs or if the Owner is not in compliance with the approved plan, the contract should not be renewed. (If a contract is not renewed or terminated, see below.)

B. An Exigent Health and Safety (EHS) Deficiency Notice or a Full Physical Inspection Report from REAC may affect renewals of Section 8 HAP contracts.

   1. EHS Deficiency Notice

      PM/CA should not take action to terminate the contract or refuse to renew the contract based solely upon receipt of the EHS Notice. However, if the condition is not promptly corrected or mitigated, the Section 8 subsidy should be abated on individual units. Abatement on units identified on the Deficiency Notice should occur only if the units are clearly identified, the deficiency is deemed exigent and the

Owner cannot or will not repair or mitigate the problem. If EHS deficiencies are not quickly corrected or mitigated (within 72 hours) the Field should not renew the contract in addition to abating the Section 8 on individual units.

2. Full Physical Inspection Report (REAC)

   Upon receipt of a full inspection report the PM/CA has a complete picture of the condition of the property and, subject to the Owner's response to the inspection, is prepared to assess how to handle renewal of the Contract.

   a. For inspections where the score is 60 or above:

      i. Renew the contract if all EHS deficiencies were corrected or mitigated; and

      ii. If the Owner does not correct or mitigate EHS, follow the procedures listed in "D" below.

   b. For inspections where the score is 59 or below:

      i. If all EHS deficiencies and repair items have been corrected or mitigated or the Owner submits an acceptable repair Plan within the prescribed time, renew the contract.

      ii. Whenever the Owner fails to correct or mitigate the EHS repairs or provide an acceptable, comprehensive Plan that addresses all deficiencies, and either the Owner indicates that it cannot or will not bring the property into compliance or the PM/CA is certain that based on what the Owner has submitted as a Plan that the Owner cannot bring the property into compliance, do not renew the contract. However, the decision to not renew the Contract will depend on whether there is sufficient time to obtain vouchers to protect the residents.

C. Any decision not to renew a Contract or terminate must be made by the Program Center Director or a Supervisor in the Hubs. Generally, the decision should be to not renew if serious physical problems exist at the property that threaten the health and safety of the families, unless the Owner has a viable plan underway and is current under that plan. The Hub Director must be informed before any termination in order to advise Headquarters of the potential termination. Every effort should be made to obtain compliance from the Owner. The PM/CA should continue to actively service the asset to correct the physical problems of the property up until the time the vouchers are about to be issued. The PM/CA should utilize all resources that are available to restore full compliance, including the proposed sale of the property to a new Owner, (Transfer of Physical Assets). The involvement of the Community Builder to address local issues is advisable. Appeals regarding any decision to terminate the contract should go to the Hub Director.

D. The process to obtain vouchers to assist residents is expected to take no more than 120 days.

1. If more than 120 days remain on the contract:

   a. Notify the Owner that because the EHS repairs were not corrected or mitigated or the Owner did not submit an acceptable Plan, HUD intends to not renew the Contract.

   b. Follow Attachment 4, to immediately begin processing vouchers; however, allow up to 120 days.

   c. Monitor the processing of the vouchers with the Owner, PIH and the assigned Public Housing Agency (PHA).

2. If less than 120 days remain on the contract.

   a. Notify the Owner that because the physical condition of the property remains uncorrected, HUD intends to end the project-based subsidy. However, to protect families in the interim, HUD is renewing the contract on a short-term basis (not to exceed 120 days) in order for HUD to process vouchers for residents. The Owner must also sign the new HAP Addendum.

   b. Do not sign the contract renewal with the Owner immediately.

      i. Make all necessary preparations to get funding for housing vouchers in place.

      ii. Do not sign the renewal Contract with the Owner until very near the expiration of the existing contract.

   c. Enter into a short-term renewal of the contract utilizing either of the appropriate generic contracts, at current rents, not to exceed 120 percent of Fair Market Rent (FMR), or, if a determination has been made as to where project rents are in relation to market rents, renew at rents that do not exceed market rent using a section 524 contract.

   d. Follow procedures in Attachment 4 in order to obtain the vouchers, allowing up to 120 days, if necessary.

   e. Terminate the contract after vouchers have been issued to eligible families and sufficient search-time has been provided to locate eligible housing units with the tenant-based assistance.

3. HUD's decision not to renew:

a. If the Contract is about to expire and the Owner appeals the decision to not renew the contract under this guide, the PM/CA should renew the contract for one year ***with the new HAP Addendum, pending the appeal***.

b. If the Owner subsequently becomes compliant or prevails with the appeal and the Field Office changes its decision, leave the contract in place.

c. If the Owner does not prevail in the appeal, the PM must request vouchers to protect the families and coordinate with PIH. Terminate the Contract after vouchers have been issued to the eligible families and sufficient search time has been provided to locate eligible housing units with the family-based assistance.

d. Should an Owner want to appeal the physical Inspection upon which certain decisions were made, see the Instructions to the Field for REAC Inspections.

E. REMS and Reporting Requirements

1. All activities related to bringing a property into Regulatory and Contractual compliance because of a REAC physical inspection must be entered in the Project Action Screen of REMS.

   a. It is important to Owners for PM/CAs to document compliance since that is part of the asset management record which may influence future decisions; and it is important to PM/CAs to have an accurate administrative record should HUD proceed with enforcement.

   b. All close-out activity regarding Physical Inspections must be entered into REMS.

2. The Hub Director must submit Attachment 8, Anticipated Abatement or Termination of Full Section 8 HAP Contracts on a monthly basis to Willie Spearmon, Director, Office of Housing Programs and Grant Administration, Headquarters.

   a. The report will be used to track the number of anticipated abatements or termination of full Section 8 Contracts, as well as to identify Owners and the properties within a particular Hub or Program Center which may have abatements of Section 8 subsidy.

   b. The Hub Director ***must*** contact Willie Spearmon, via e-mail, before the actual termination of any contract.

Chapter Thirteen

HUD's Refusal to Renew Section 8 Contracts/ Owner's Dispute and Appeal of Rejection

HUD's REFUSAL TO RENEW A SECTION 8 CONTRACT

Section 13-1

A. Under Sections 516 of and 524 of MAHRA:

1. HUD/CA may refuse to renew a contract if it is determined that:

   a. The Owner or Purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to such project;

   b. The Owner or Purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to other projects of such Owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

   c. The project does not meet the physical condition standards for HUD housing that is decent, safe, sanitary, and in good repair, unless HUD determines the project will meet the standards within a reasonable time after renewal.

2. Material adverse financial or managerial actions or omissions include:

a. Materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of Notice and an opportunity to cure;

b. Materially breaching a contract for assistance under Section 8 of the United States Housing Act of 1937, after receipt of Notice and an opportunity to cure;

c. Materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of Notice and an opportunity to cure;

d. Repeatedly and materially violating any Federal, State, or local law or regulation with regard to the project or any other federally assisted project;

e. Repeatedly and materially breaching a contract for assistance under Section 8 of the United States Housing Act of 1937;

f. Repeatedly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

g. Repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

h. Materially failing to maintain the property according to housing quality standards after receipt of Notice and a reasonable opportunity to cure;

i. Committing any actions or omissions that would warrant suspension or debarment by the Secretary.

j. The Owner or Purchaser of the property materially failed to follow the procedures and requirements of MAHRA, after receipt of Notice and an opportunity to cure.

NOTE: The Hub Director must contact Willie Spearmon, Director, Office of Housing Programs and Grant Administration in Headquarters as early as possible before terminating the contract. A detailed summary of the actions taken on behalf of the project should also be provided to Headquarters.

B. Owner's Dispute and Appeal of Rejection. If HUD/CA refuses to renew an Owner's contract, the following appeal process should be followed. In the case of an appeal, HUD/CA staff should take all steps necessary to protect the families. This includes executing a short-term contract to complete the appeal process and issue vouchers if necessary.

1. HUD/CA will provide a Notice to the Owner giving the reason(s) for rejection.

2. The Owner has 30 calendar days from receipt of this Notice to provide written objections or cure the problems identified. If the Owner does not submit written

objections or cure the problems identified during that period, the decision will become a final determination under Section 516(c) of MAHRA and is not subject to judicial review.

3. If the Owner submits written objections or asserts that the problems identified have been cured, HUD/CA will consider the matter, review the Owner's action, if any, and send the Owner a final decision affirming, modifying, or reversing the rejection and setting forth the rationale for the final decision.

4. Within 10 days of receiving the final decision, the Owner may submit a written appeal to HUD/CA contesting the decision and requesting a conference to discuss the issues with the Hub that has jurisdiction over the project.

5. A representative of the Hub will meet with the Owner at a mutually agreeable time, but no later than 10 calendar days after request by Owner for meeting.

6. If the Owner wants to provide additional information, establish a mutually agreeable deadline for submission of the material.

7. Within 20 days after the conference, or 20 days after any agreed-upon extension of time for submission of additional materials, the Hub will advise the Owner in writing of the decision to either reverse, modify or affirm the original decision.

8. HUD will designate an official to review any appeal, conduct the conference, and issue the written decision. The official designated will be one who was not directly involved in making the decision being appealed.

   The reviewing official's decision is a final determination and is not subject to judicial review.

Chapter Fourteen

RHS Section 515/8

Representing a significant share of the affordable housing in many rural communities, RHS housing projects with Section 8 are exempt from OMHAR under 524(b). The information below provides additional guidance on the renewal process for these exception projects which is discussed in general in Chapter 6.

A. Owners of Section 515/8 projects who are requesting a contract renewal under Option 4 pursuant to 524(b) of MAHRA must submit their project budget approved by the Rural Housing Service. HUD staff /CAs are not required to review and approve these budgets. As long as the budget has been approved by RHS, the budget-based rent should be accepted by HUD/CA's. The RHS budget-based rent is the "basic" rent.

B. HUD/CA will accept RHS-approved budgets reflecting the appropriate 8 percent allowable Owner's distribution on equity or any higher level as approved by RHS as an incentive to the Owner to prevent prepayment. (This is explained in RHS's administrative Notice dated April 12, 1999)

   Note: If the Owner of the project is a for- profit who is not restricted by RHS at the State level, HUD cannot and will not limit the owner distributions for the project.

C. An Owner of a Section 515/8, 236 and 221(d)(3)BMIR project may receive a short-term renewal to align the project's accounting cycle with the anniversary date of the Section 8 HAP contract. The PM/CA will issue a short-term contract covering the months between the end of the current HAP contract and the end of the current accounting cycle (December 31). Upon expiration of the short-term contract, the Owner will be eligible for renewal under the provisions of MAHRA, as described above.

   The short-term contract is the Initial renewal under both 524(a) and 524(b) of MAHRA. After the short-term contract expires, the first full subsequent renewal contract will be based on current rents adjusted by an OCAF or RHS-approved budget as described in Chapter Six of this Guide.

Note: RHS projects are exempted from OMHAR under 524(b). Like all other 524(b) projects, at initial renewal, they are subject to the "lesser of" OCAF or budget-based test.

D. An Owner who has executed a HAP contract expiring on December 31st, is requested to submit its request for renewal to HUD/CA annually by September 1. The Owner may submit a non-approved budget at this time. The Owner should submit the RHS-approved budget to the local HUD Hub or Program Center/CA no later than November 15.

E. After the loan with RHS has been paid in full, the Owner will submit their budget and request for contract renewal directly to HUD/CA. The contract will be handled in accordance with HUD procedures for non-insured projects with Section 8 contracts. The budget should be completed in accordance with the instructions in HUD Handbook 4350.1. After the contract receives an initial renewal under either Sections 524(a) or 524(b) of MAHRA, the Owner will receive OCAF adjustments in subsequent years, without submitting an annual budget, unless the Owner requests and the Secretary approves a budget-based increase. Owners who renew under Section 524(a) are required to submit a comparability study at the time of initial renewal and at the end of five years. HUD may also request that the Owner submit one additional comparability study within the five year period.

Chapter Fifteen

Nonprofit Rent Increases

Background Applicability and Overview

Section 15-1

This Chapter gives additional guidance on Mark-Up-To-Market for Nonprofit Transfers and the Budget-Based Rent Increase for Capital Repairs by Nonprofit Owners. Throughout this Chapter, the two will be referred to as the Transfer Program and Capital Needs Program respectively. These programs were initially introduced in Housing Notice H 99-36, dated 12/29/99, titled *Project-Based Section 8 contracts Expiring in Fiscal Year 2000*.

The Department wants to obtain practical case-by-case experience processing these types of transactions. For the Department to determine what adjustments may need to be made to these guidelines for more effective administration of these procedures, any processing variance from these instructions must be sent to Headquarters, Attn: Office of Housing Assistance and Grant Administration.

A. Under the Transfer Program, HUD will use its discretionary authority to mark rents up to market to facilitate a change in ownership from a for-profit owner or limited-dividend owner to a nonprofit; or from one nonprofit owner to another nonprofit owner. The current and prospective owners may not be affiliated entities.

B. Under the Capital Needs Program, HUD will permit a Section 8 budget-based rent increase for nonprofit projects to perform capital improvements that will maintain the long-term financial and physical viability of the project when current rents are not sufficient.

C. Both initiatives share a number of characteristics. For example:

1. Rent increases are capped at the lesser of comparable market rents or 150 % of the Fair Market Rent (FMR), less the interest rate subsidy adjustment factor (IRP), if applicable;

2. Requirement of a 20-year use agreement, which requires the owner to accept Section 8 contract renewals if offered by HUD.(Appendix 15-1);

3. The same property eligibility criteria;

4. The minimum term of the Section 8 contract is five years; and

5. The Section 524(a) Contract form is used.

Nonprofit Owner

Section 15-2

An acceptable nonprofit owner is defined as:

A. Organized under State non-profit laws.

B. Financially solvent with no open or unresolved audit findings or findings from analyses of the audited annual financial statements.

C. Having managerial experience in owning and/or operating multifamily projects or significant activities related to the provision of decent housing that is affordable to very low, low, and moderate income families.

D. Having a tax exemption ruling from the Internal Revenue Service under Section 501(c) of the Internal Revenue Code of 1986.

1. If the nonprofit is in the process of applying for the tax exemption ruling, the entity is eligible for either program. However, increased rents will be withheld until the entity provides HUD with evidence that the tax exempt ruling has been issued.

2. Exceptions:

a. Any project where the nonprofit owner was not previously required to have a 501(c)(3) rating from the IRS to participate in HUD programs.

b. Limited-Equity Cooperative entities that are not 501(c)(3) eligible.

E. Having ties to the community. National or regional nonprofit organizations that are not active in the community may meet this requirement by:

1. Entering into a joint venture with a local nonprofit organization; or

2. Obtaining the support of a majority of the residents living in the project.

F. Documenting a resolution from the organization's Board of Directors that authorizes the additional debt to be incurred to purchase and/or rehabilitate the project.

NOTE: Parts C and E above specifically apply to the Transfer Program.

Nonprofit Controlled Limited Partnership

Section 15-3

A. A nonprofit owner may be a nonprofit-controlled limited partnership formed to obtain tax credits and raise capital through the sale of the tax credits.

B. If the nonprofit-controlled limited partnership applies for mortgage insurance, the PM/CA shall process as a for-profit mortgagor entity.

1. The entity will be regulated by the terms and conditions of the regulatory agreement applicable to a profit-motivated entity including the distribution of surplus cash.

2. The entity is subject to the mortgage limitations applicable to a profit-motivated mortgagor.

3. If the nonprofit provides evidence that it has obtained exemption from real estate taxes, refer to instructions in paragraph 3-6.E. of HUD Handbook 4470.1.

4. Form HUD-3433, Request for Preliminary Determination of Eligibility as Nonprofit Sponsor and/or Mortgagor, is not required.

Note: While a nonprofit-controlled limited partnership (existing owners or purchasers) is eligible for the options described in this chapter, they may also proceed under the regular Mark-Up-To-Market Option outlined in Chapter Three of this guide.

Eligible Project

Section 15-4

A. Most of the eligibility restrictions in the Mark-Up-To-Market Option involving for-profit owners do not apply in these programs. For example, the project may have:

1. Comparable Market Rents below 100% of the FMR potential.

2. A low and moderate income use restriction that cannot be eliminated by unilateral action by the owner.

Examples include properties with:

A Rent Supplement Contract;

Flexible Subsidy Grant or Loan;

Low Income Housing Tax Credits; or

An approved Preservation Plan of Action.

B. The following eligibility restrictions apply:

1. The Capital Needs Program requires that the project have a physical inspection performed using the Uniform Physical Condition Standard [24 CFR Part 5] by the REAC with a score of greater than 30. This is not a requirement for the Transfer program.

2. The new Section 8 contract rents may not exceed the lesser of comparable market rents, based on a rent comparability study (RCS) or 150% of the FMR. If the property has a subsidized mortgage, both the comparable market rents and the 150% of the FMR cap must be adjusted by the interest rate subsidy adjustment factor.

   NOTE: Comparable market rents are post-rehabilitation rents where rehabilitation is scheduled.

3. Regarding the Capital Needs Program, the nonprofit owner must be:

   a. In good standing and not subject to administrative sanctions (i.e., debarment suspension, unresolved adverse audit findings or has failed to correct material violations of HUD rules).

   b. In compliance with the terms of the Regulatory Agreement, Note, and Mortgage.

   c. Current in debt service and all payments, including the Reserve Fund for Replacement (or current under a workout agreement).

   NOTE: Current owners that are subject to administrative sanctions, or otherwise violate the terms above may participate in the Transfer Program. Such owners may not receive funds from the transaction until all costs associated with bringing the project to an acceptable standard are covered.

Criteria For Participation

Section 15-5

The nonprofit owner must agree to accept:

A. A 20-year recorded Use Agreement requiring the current and future owners to accept any Section 8 contract offered by the Department for the next 20 years.

NOTE: If the project has an existing Use Agreement:

The term must be extended for an additional 20 years. For example, if the current Use Agreement ends in 2010 the term will be extended to 2030.

There are various conditions imposed by the use agreement, therefore the existing Use Agreement may have to be modified to include the conditions imposed by the sample Use Agreement found in Appendix 15-2.

B. Renewal of the Section 8 contract.

1. The existing Section 524 Contract(s) may be terminated early in order to take advantage of these programs.

2. Owners must combine multiple contracts or stages. The only exception to combining contracts is in cases where a project has both pre- and post-October 1, 1981 contracts. Due to conflicting income eligibility requirements for these two categories of contracts, it is not practical at this time to allow owners to combine a pre-October 1981 contract or stage with a post-October 1981 contract or stage.

3. The nonprofit owner will enter into a 20-year Section 8 Contract, subject to annual appropriations.

   a. The nonprofit owner will obtain a comparability study at the end of years 5, 10 and 15. The RCS will be used to establish contract rents for years 6,.11 and 16. The new rents can either be greater than or less than rents in the prior year. Rents in the intervening years will be adjusted by the published OCAF.

   b. In general, HUD will not approve budget-based rent increases during the term of the section 524 contract.

Unassisted Units in the Project

Section 15-6

In order to protect low and moderate income tenants who do not receive Section 8 assistance but live in affordable units, rent increases for these units are restricted. These are tenants who live in other HUD subsidized units, including Rent Supplement, RAP, BMIR, and 236 properties (refer to Occupancy Handbook, Chapter 3).

A. For the Transfer Program, tenants living in these non-Section 8 units will not have their rents increased as a result of the transaction.

B. For the Capital Needs Program, tenants living in these non-Section 8 units *may have* their rents increased by up to 10 percent as a result of the transaction.

NOTE: Owners who raise these rents are reminded that they must comply with the notification requirements in 24 CFR 245.

C. Restrictions on rent increase for the non-Section 8 units do not apply for budget-based rent increases that are approved for regular operating expenses. Prior to requesting a budget-based rent increase owners should take into serious consideration the affect that a combined rent increase (for capital repairs in addition to regular operating expenses) would have on the non-Section 8 residents.

Timing of Rent Increases

Section 15-7

A. The owner submits:

1. A RCS

2. For the Transfer Program, a letter of intent to sell the project to an eligible nonprofit.

3. For the Capital Needs Program, a budget-based rent increase request to address the physical needs of the project, including a description of the proposed rehabilitation. If applicable, this rehabilitation must be in compliance with HUD's environmental regulations at 24 CFR Part 50. The Department does not foresee many of the proposals triggering the need for an environmental review.

B. Upon receiving the owner's submission, the Project Manager (PM):

1. Checks the owner's RCS for completeness and timeliness.

2. If applicable, ensures that the proposed rehabilitation for the Capital Needs Program is in compliance with the applicable sections of HUD's environmental regulations at 24 CFR Part 50 prior to any approval or commitments and before work can proceed for any project requiring rehabilitation or substantial rehabilitation.

3. Verifies that the current and prospective owners for the Transfer Program are not affiliated entities. Affiliated entities means entities that the field office determines to be related to each other in such a manner that it is appropriate to treat them as a single entity. Such a relationship includes any identity of interest among such entities or their principals and the use by any otherwise unaffiliated entities of an owner that have any identity of interest themselves or their principals. An identity of interest includes, but is not limited to, any situation in which any officer, director, board member, partner, authorized agent, or principal ("interested party") of one entity holds the same or a similar position with the other entity; or where a relative of an interested party, including wife, mother, father, child, brother or sister, including such relationships created by law, holds the same or similar relationship in the other entity.

4. Immediately orders a HUD comparability study.

   a. HUD will hire an independent third-party appraiser through its Contracting Officer.

   b. Upon receipt of the third-party RCS:

      1) The PM checks the third-party RCS for completeness and timeliness.

      2) The PM, or another HUD qualified staff, performs a substantive review of the third-party RCS.

C. Differences in Comparability Studies. In cases where an owner's RCS differs from HUD's RCS, there is no appeal process nor are negotiations permitted. Differences will be resolved based on instructions contained in Chapter Three, Section 3-7, item F-2 of this guide.

D. The PM will use the Real Estate Management System (REMS) for:

1. Comparing the owner's and HUD's comparability studies.

2. Determining the Final Comparable Market Rents.

3. Determining final eligibility.

E. Effective Date of the New Rents.

The PM will notify the owner of the maximum new rent levels, however;

1. For the Transfer Program, the finalized new rents will not be effective until the transfer is approved.

2. For the Capital Needs Program:

   a. For modest repair or rehabilitation, the finalized new rents will not be available until the Project Capital Needs Assessment is done and financing is approved.

   b. For substantial rehabilitation with a construction loan, the final rents will not be available until all the work is completed and accepted. In this case, HUD will enter into an Agreement to Enter Into Housing Assistance Payment Contract, including the Addendum to Agreement to Enter into Housing Assistance Payments Contract, found at Appendix 15-2, when the financing is approved.

Cap on Market Rents

Section 15-8

A. Rents are capped at the lesser of comparable market rents or 150% of the FMR, less interest subsidy adjustment factor if applicable, to limit rent increases to a reasonable level.

B. Waiving the Cap.

   1. A nonprofit owner may request a waiver to exceed the 150% FMR cap, but may never exceed comparable market rents. HUD will consider these requests on a case-by-case basis if the project meets at least one of the following criteria.

      a. A high percentage of the residents are a particularly vulnerable population, demonstrated by more than 50% of the units being rented to elderly, disabled, or large families.

      b. Located in a low-vacancy area where there is a lack of comparable rental housing and tenant-based vouchers would be difficult to use. A market with a rental vacancy rate of 3 percent or below is considered a low-vacancy area.

      c. A high priority for the local community as demonstrated by a minimum 25% contribution of State or local funds to the property. This match requirement may be in the form of tax abatements, capital improvement funds, etc.

   2. The Hub with jurisdiction must submit the waiver request, along with their recommendation and supporting evidence to Headquarters, Attention: Willie Spearmon, Director, Office of Housing Programs and Grant Administration.

HUD Mortgage Insurance Programs

Section 15-9

Owners are encouraged to consider utilizing the Department's insured loan programs that are available to facilitate the Transfer and Capital Repairs Programs. These programs include 241(a), 223(f) and 221(d).

Secondary Financing Used With a HUD Insured Project

Section 15-10

A. As required by FHA processing guidelines, secondary financing for FHA-insured properties must be submitted to field offices for approval. Project Managers are reminded to insure that Davis-Bacon provisions are included when an owner seeks new FHA mortgage insurance under a program that is subject to Davis-Bacon wage rates.

1. The secondary financing must be represented by a promissory note, Form FHA-1710 or 2223, as appropriate. This note shall not be altered in any manner.

2. The amount of the secondary financing *cannot exceed the difference between the HUD insured mortgage and the HUD Fair Market Value of the project*. This requirement may be further limited if the first lien is refinanced under one of the Department's mortgage insurance programs like Section 223(f). The loan(s) may be made by:

   a. A Federal, State or local government agency or instrumentality; or

   b. Other entities or natural persons (either alone or in combination).

3. When the financing vehicle for the secondary financing is provided by a Federal, State or local government agency or instrumentality *the amount of the loan cannot exceed the difference between the HUD insured mortgage and the HUD Fair Market Value of the project*. However, no other form of secondary financing may be used. Examples of acceptable financing vehicles are 501(c)(3) tax exempt bonds issued by nonprofit organizations and the more common forms of tax exempt financing.

4. Repayment of the secondary financing, including interest, is geared solely to the availability of surplus cash or residual receipts. Include the following language in the Note:

   "So long as the Secretary of Housing and Urban Development or his/her successors or assigns, are the insurers or holders of the first mortgage on (insert project name and FHA Project No.), *payments due under this Note shall be payable only from surplus cash (or residual receipts) of said project, as the term surplus cash (or residual receipts) is defined in the Regulatory Agreement dated*

(insert date) *between HUD and* (insert name of mortgagor). *The restriction on payment imposed by this paragraph shall not excuse any default caused by the failure of the maker to pay the indebtedness evidenced by this Note."*

B. The mortgagor may secure a promissory note with an inferior lien against the property under *the following conditions:*

1. The mortgagee of the first mortgage must consent to the placing of the inferior lien and agree that its existence does not constitute a basis for default on the first mortgage.

2. There must be a simultaneous closing and same day recordation of the secondary financing documents and the insured first mortgage loan documents, if applicable.

3. The terms of the second mortgage are:

   a. Approved by the Area Counsel.

   b. Consistent with the terms of the promissory note, the first mortgage, the Regulatory Agreement and all HUD regulations and requirements.

   c. The second mortgage shall not contain a cross default provision or any right of foreclosure before the termination of the HUD mortgage insurance, *if applicable*.

   d. The term of the second mortgage may be extended, if:

      1) The note matures, there are no surplus cash funds or residual receipts available for repayment, and the first mortgage has not been repaid in full.

      2) HUD grants a deferment of amortization or forbearance that results in an extended maturity of the insured mortgage.

   e. The second mortgage is assumable when a sale or transfer of physical assets occurs and the mortgage insurance remains in place.

      1) The holder of the second mortgage cannot require that more than 70 percent of the net proceeds of the sale or transfer be applied to the reduction of the loan.

      2) For these instructions, net proceeds are the funds available to the original mortgagor after:

         a) Correcting any monetary or covenant default on the first mortgage.

         b) Making required contributions to any reserve funds.

c) Completing needed improvements to the property as evidenced by HUD's annual inspection reports.

f. The second mortgage automatically terminates if HUD acquires title to the project by a deed in lieu of foreclosure.

g. Only 50 percent of surplus cash or residual receipts can be pledged to the repayment of the secondary loan(s). However, at the owner's option additional payments may be made from time to time from residual receipts and from other non-project funds..

Transfer of Physical Assets (TPA) For Mark-Up-to -Market Nonprofit Transactions

Section 15-11

To encourage nonprofit transfers, HUD will waive the transfer fee. Follow outstanding TPA instructions

Budget-Based Rent Increase For Capital Needs

Section 15-12

One of HUD's primary concerns is the long-term preservation of affordable housing. Many nonprofit-owned projects are in need of recapitalization to perform repairs that will preserve them for the long-term as affordable housing.

A. This option is an addition to existing policy on budget-based rent increases and does not replace any existing options for owners. Both for-profit and nonprofit owners continue to be eligible for budget-based increases for standard operating expenses *found in Chapter 7 of HUD Handbook 4350.1.* For example, any nonprofit owner may renew under Option Two with a regular budget-based increase request for increased replacement reserve contributions attributable to the Section 8 units in the property.

B. A Section 8 contract rent increase may be approved for the following:

1. Capital needs (e.g., lead-based paint, energy efficient developments, repairs, etc.) including debt financing.

2. Recapitalize the replacement reserve escrow.

3. Providing a 6 percent return on initial equity as computed on Form HUD-2580, Maximum Insurable Mortgage, limited to those activities that carry out the entity's nonprofit purpose.

NOTE: In cases where a higher return and higher base was authorized, some Preservation Use Agreements, for example, use the higher percentage.

C. For a Section 8 contract rent increase request for capital repairs to be approved, the nonprofit owner must provide:

1. The proposed budget.

2. A PCNA (or CNA), as discussed in Section 15-14 below.

3. A financing plan for funding the repair, replacement, and major maintenance needs of the project. As part of the plan,

a. Nonprofit owners, as defined in Section 15-3 above, are encouraged to contribute as much as they are able towards the capital repairs effort.

b. Nonprofit-controlled limited partnerships, as defined in Section 15-4 above, must raise at least 10 percent of the estimated repair costs from other than project funds. The 10 percent requirement:

1) Applies to the estimated cost of critical, health and safety, repairs and non-critical repairs to be completed within one year.

2) *Does not apply to* monthly deposits to the replacement reserve account to pay for other future repairs.

4. An estimate of the initial deposit to the replacement reserve, if any, and the estimated monthly deposit to the replacement reserve for the next 10 years. In the tenth year the estimated monthly deposit will be recomputed to make sure it meets the project's estimated needs.

D. Davis-Bacon prevailing wage rate requirements apply under the Capital Needs Program where the owner seeks new FHA mortgage insurance under a program that is subject to Davis-Bacon wage rates. Where Davis Bacon requirements apply, Form HUD 2554 or successor form shall be utilized. Performance of rehabilitation under an Agreement to Enter into a Housing Assistance Payments Contract (AHAP) involving renewal of a Section 8 contract along with conventional financing does not trigger application of Davis-Bacon requirements.

E. The debt-service for the capital repair loan may be included in the budget.

F. To the extent that funds are available to pay the 6 percent return, this distribution may be available on an annual basis. Distributions may only be taken after all project

expenses have been paid, all reserve requirements have been met, and as long as the project meets minimum Uniform Physical Condition Standards. Owners are required to sign a *Certification of Conformance* included in the surplus cash documents.

Project Needs Assessment and Increased Deposits to the Replacement Reserve Account

Section 15-13

Under the Capital Needs Program the owner is responsible for providing the following required information.

A. If the transaction includes new debt, the owner must submit a Project Capital Needs Assessment (PCNA) prepared in accordance with Appendix 15-3.

1. A Physical Inspection Report (PIR) containing detailed information about:

   a. The condition of the Project.

   b. Identification of the Project's immediate repair needs and expected repair, replacement, and major maintenance needs over a specified time period, such as ten years.

   c. An estimated cost, adjusted for inflation, to complete the needs identified.

2. A Statement of Resources and Needs which discusses:

   a. The Mortgagee's review of and possible adjustment to the PIR.

   b. All critical repairs which must be completed before initial/final endorsement and the associated cost of doing the work.

   c. Non-critical repairs to be completed after final endorsement and the associated cost to be escrowed.

   d. Recommendations to HUD regarding:

      1) The amount of the initial and monthly deposits to the replacement reserve.

      2) How the monthly deposit to the replacement reserve will be funded and its impact on the long-term viability of the project. This should detail the level monthly payment and a monthly payment that increases over time.

B. If the transaction does not include new debt, the nonprofit owner assumes the role of the Mortgagee and obtains the PCNA discussed in Section A above.

C. HUD staff should review the additional application exhibits. If the material and recommendations are found acceptable, HUD may incorporate them, in part or whole, into HUD's underwriting determinations for a rent increase.

D. Those projects that are legally required to submit Comprehensive Needs Assessment (CNA), as detailed in HUD Notice H 97-02 and extended by HUD Notice H 99-35, may submit a current CNA in lieu of a PCNA. The CNA must have been updated or resubmitted within the previous 12 months.

Waivers of Original Limitations of Distributions

Section 15-14

A. Waiver Requests

Nonprofit entities are not allowed to distribute profits to individuals or entities comprising of the nonprofit owner or to others. By regulation (24 CFR 880.205, 881.205, 883.306 and 24 CFR 236.10) nonprofit owners are not allowed to receive distributions from the project. To receive the 6 percent distribution discussed in this Chapter for both the Transfer Program and the Capital Needs Program, the nonprofit owner must request a wavier of the regulations prohibiting such distributions from the Assistance Secretary for Housing-Federal Housing Commissioner. Waivers will be granted on a case-by-case basis. Requests may be submitted to Willie Spearmon, Director, Office of Housing Programs and Grant Administration, Headquarters.

B. Purpose of Waivers.

The purpose of the waiver is to provide a permissible distribution through increased rents and Section 8 assistance and to induce the nonprofit owner to participate or to continue participation in the project-based program. In the waiver request, the owner must establish good cause through a discussion of the reasons that the distribution will cause the nonprofit owner to participate in the Section 8 program and how the funds will be used. These funds may be retained for non-project use for those nonprofit purposes established in the organization's articles of incorporation, charter, etc. or pledged to the repayment of surplus cash or residual receipts notes given in favor of secondary financing.

C. Establishing "good cause."

Good cause may be established by demonstrating how the owner will utilize the 6 percent distribution to further their nonprofit mission and how their mission would benefit the tenants in the property or HUD (increasing neighborhood services, developing more affordable housing, for example). Nonprofit owners may also discuss the need for

the distribution to go towards operating costs in order to maintain competitiveness in the local affordable housing market.

D. Individual Waivers.

The waiver is a one-time waiver provided for an individual project and is designed to further the preservation of the low-income housing stock. The Department is preparing a proposed regulation change to authorize a distribution to nonprofit owners. Until such a time that the regulations are changed, each waiver must be granted on an individual basis.

The limited waiver will apply to regulatory provisions at:

1. 24 CFR 880.205(a), and 883.306(a), which prohibit nonprofit owners from taking a distribution of project funds.

2. 24 CFR 236.10(a), which defines nonprofit owners as organized other than the making of profit or gain.

SAMPLE USE AGREEMENT

Mark-up-to-Market Where a For-Profit Owner is Transferring the Property to a Non-Profit Owner
or
Budget-Based Rent Increase for Capital Repairs for a Nonprofit Owner

_____

This Agreement entered into this _____ day of _____, 2000 by and between _____ (herein called “Housing Owner") and the Secretary of Housing and Urban Development, acting by and through the Assistant Secretary for Housing-Federal Housing Commissioner (herein called “HUD"),
Witnesseth:

WHEREAS, pursuant to section 24 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, (P.L.105-65, 111 Stat. 1384) HUD is authorized in connection with the expiration of section 8 project-based Housing Assistance Payments contracts to renew such contracts with owners of eligible projects upon such terms and conditions as HUD considers appropriate; and,

WHEREAS, HUD may approve rent levels at budget-based rents, not to exceed comparable market rents for the area, and has determined to approve such budget-based rents as may be necessary to restore or maintain the financial soundness of certain eligible projects, to assist in improvement of the management, and to maintain the low-to-moderate-income character of the eligible projects; and,

WHEREAS, HUD has determined that renewals providing for increased section 8 budget-based comparable market rents may be made available to eligible housing owners only if said

eligible housing owners have agreed to maintain the project as affordable for low-income families and the housing owners agree to accept future section 8 project-based contract renewals for twenty (20) years in accordance with this Use Agreement and the section 8 Housing Assistance Payments contract for the project, subject to the availability of appropriations; and

WHEREAS, the Housing Owner and HUD, or a section 8 Contract Administrator under an Annual Contributions Contract with HUD, have entered into a section 8 Housing Assistance Payments Contract for _____ (project name or contract number) pursuant to said authority under section 524, and the parties intend said contract to be incorporated herein and made a part hereof.

NOW THEREFORE, in consideration of the mutual promises set forth herein and in the said section 8 Housing Assistance Payments Contract, the parties hereto agree as follows:

1. The Housing Owner, for itself, its successors and assigns, covenants with HUD that the Housing Owner will continue to operate the project in accordance with the requirements of section 8 of the U.S. Housing Act of 1937 (42 USC 1437f), as amended, all applicable Federal regulations, the section 8 Housing Assistance Payments Contract and applicable HUD requirements for twenty (20) years from the date of this Use Agreement.

2. Subject to the availability of appropriations and so long as Housing Owner is in compliance with all HUD requirements, including but not limited to this Use Agreement, HUD shall provide the Housing Owner and the Housing Owner shall accept annual renewals of the section 8 Housing Assistance Payments contract in accordance with its terms.

3. In the event of a breach or a threatened breach of any of the above covenants and agreements by the Housing Owner, HUD and/or any tenant of the project receiving the benefits of the section 8 Housing Assistance Payments Contract as a third-party beneficiary shall be entitled to institute legal action to enforce performance and observance of such covenants and agreements and to enjoin any acts which are violative of such covenants and agreements.

4. The Housing Owner shall not (a) impede the reasonable efforts of tenants to organize as detailed in 24 CFR Part 245, or (b) unreasonably withhold the use of any community room or other available space appropriate for meetings which is part of the mortgaged property when requested by: (1) a resident tenant organization in connection with the representational purposes of the organization; or (ii) tenants seeking to organize or to consider collectively any matter pertaining to the operation of the mortgaged property.

5. The Housing Owner, for itself, its successors and assigns, hereby agrees and acknowledges that this Use Agreement shall be recorded in the appropriate land records and that HUD and any successors and assigns and/or any third-party beneficiary may file suit against the Housing Owner or any of its successors or assigns for an order of the court demanding specific performance of any of these covenants and agreements, enjoining any acts which are violative of such covenants and agreements, for an award of whatever damages can be proven and/or for such other relief as may be appropriate.

Should any of the above covenants be held invalid in whole or in part, it shall not affect or invalidate the balance of such covenant or any other covenants.

In witness whereof, the parties hereto have hereunto

caused these presents to be executed on their behalf and their seals affixed the day and year written below.

WITNESS

_____

(Housing Owner)

BY

_____	_____
	Secretary of Housing and Urban Development Acting by and through the Assistant Secretary for Housing - Federal Housing Commissioner
	BY
_____	_____
	(Authorized Agent)

ACKNOWLEDGEMENT BY OWNER BEFORE NOTARY PUBLIC
(Complete according to requirements of state of execution.)
ACKNOWLEDGEMENT BY COMMISSIONER:)
STATE OF) SS:
CITY AND COUNTY OF)

ON this _____ day of _____, 20___, before me _____, a Notary Public in and for the City and County of _____, _____, appeared _____ to me personally known and known to me to be the duly Authorized Agent of _____, and the person who executed the aforesaid instrument bearing the date of _____, 20___, and acknowledged that he executed the aforesaid instrument for and on behalf of _____ for the purposes herein.

_____
(NOTARY PUBLIC)

My Commission Expires:

ACKNOWLEDGEMENT BY COMMISSIONER:)
STATE OF) SS:
CITY AND COUNTY OF)

ON this _____ day of _____, 20___, before me _____, a Notary Public in and for the City and County of _____, _____, appeared _____ to me personally known and known to me to be the duly Authorized Agent of the Secretary of Housing and Urban Development acting by and through the Assistant Secretary for Housing - Federal Housing Commissioner, and the person who executed the aforesaid instrument bearing the date of _____, 20___, and acknowledged that he executed the aforesaid instrument for and on behalf of the said Secretary of Housing and Urban Development for the purposes herein.

_____
(NOTARY PUBLIC)

My Commission Expires:

ADDENDUM TO AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT

Section 8 Budget-Based Rent Increase for Capital Repairs to be used when there is no FHA Mortgage Insurance

(HUD-52521-C, 3/95 and HUD-52521-D, 3/95)

Project Name: _____

Project Number: _____

The Agreement to Enter into the Housing Assistance Payments contract (Contract), dated the ____ day of _____ 20___, between the U.S. Department of Housing and Urban Development (HUD) and

_____

is amended as follows:

This Agreement is governed by the requirements contained herein and by Chapter Fifteen of the HUD Section 8 User Guide implementing Budget-Based Rent increase for Capital Repairs by Nonprofit Owners).

I. "HUD" means the Department of Housing and Urban Development, or where applicable, the AHAP/HAP Contract Administrator carrying out administrative authority.

II. The second sentence of the introductory paragraph to Part I is amended to read:

The Owner agrees to repair and rehabilitate the project to meet all applicable local standards and the following requirements:

a. Substantial Rehabilitation. The following standards apply to substantial rehabilitation:

- State and local building codes, ordinances and regulations.
- Handicapped Accessibility Guidelines, 24 CFR Part 35.
- Smoke Detector requirements, 24 CFR 882.109(r).
- Lead-Based Paint requirements of 24 CFR Part 35.

b. The rehabilitation is permissible under the applicable zoning, building, housing and other codes, ordinances

or regulations as modified by any waivers obtained from the appropriate officials.

Upon the acceptance and completion of the rehabilitation of the project, the Owner and HUD will enter into a Housing Assistance Payments Contract (Contract) for the purpose of making housing assistance payments to enable Section 8 eligible Families (Families) to occupy, or continue to occupy, units in the project.

III. Section 1.1(e) is amended in part to read:

Exhibit A: The Final Working Drawings and Specifications, the Management Certifications, the Affirmative Fair Housing Marketing Plan, tenant selection criteria, the Approved Relocation Plan (if required) and details of financing. Exhibit A may incorporate these items by reference, specify the location of the items, and list them, including any amendments.

Exhibit D: HUD standards for decent, safe, and sanitary housing are all applicable local codes and ordinances.

Exhibit H: Executed Certification of Disclosure of other governmental assistance.

IV. Section 2.3(b) is deleted, and amended in whole to read:

Project Completion

A. The Nonprofit Owner will notify HUD of project completion by submitting to HUD:

1. A certificate of occupancy and/or other local approvals necessary for occupancy;

2. A certificate by the owner and inspecting architect that there were no changes in the work that would result in a reduction in contract rents;

3. A certification by the owner and inspecting architect that the project was rehabilitated in compliance with the standards set forth in the Project Capital Needs Assessment, PCNA;

4. A certification by the owner and inspecting architect that there are no defects or deficiencies in the work except for ordinary punch list items or items of delayed completion

which are minor in nature or which are incomplete because of weather conditions and, in any case, do not preclude or affect occupancy; and

5. An owner's certification as to compliance with the following:

   a. any environmental conditions that were prepared for this project pursuant to the Environmental Regulations in 24 CFR Parts 50 and 51;

   b. If applicable, the requirements of Section 2.9 pursuant to the Clean Air and Federal Water Pollution Control Act;

   c. If applicable, purchase of flood insurance in accordance with Section 2.8;

   d. If applicable, the relocation plan or statement that was prepared for this project pursuant to any HUD requirements or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations and handbook requirements, to persons displaced from the project site.

B. Cost Certification.

1 Prior to execution of the Housing Assistance Payments Contract, the Nonprofit Owner must submit to HUD an owner’s certification of actual costs prepared by a certified public and a certification that the certified costs support the contract rents. The form used for the cost certification is Form HUD-2330, Mortgagor’s Certificate of Actual Cost.

2. In the event certified costs are less than the estimated replacement cost and do not support the contract rents, HUD may reduce the contract rents to an amount determined by HUD to be supportable.

3. Financial Information: The Nonprofit Owner must submit financial information, including sources and uses of funds date, sufficient to document the 1everage affect of the Section 8 assistance, i.e., the direct and indirect project cost and benefits. This information must be submitted simultaneously with the cost certification requirements also required herein.

V. Section 2.3(c) is deleted and amended in whole to read:

Project Inspection.

Prior to submission of the evidence of completion required by section 2.3(b), the Nonprofit Owner or an architect employed or engaged by the Nonprofit Owner, must inspect the project for acceptable completion. The inspection must be sufficient to enable the inspector to report that he/she has inspected the observable elements and features of the project (both assisted and unassisted units) in accordance with professional standards of care and judgement and that, on the basis of the inspection, the project has been completed in accordance with this agreement that there were no observable conditions inconsistent with the evidence of completion required in Section 13(b).

HUD may perform an inspection of its own prior to accepting the project.

VI. Section 2.3(d) is deleted and amended in whole to read:

If it is determined by HUD that the project has been completed according to this Agreement, HUD may accept the project.

VII. Section 2.3(e) is deleted and amended in whole to mot.

If there are minor punch list items or items of delayed completion awaiting seasonal opportunity which do not preclude or affect occupancy, and all other requirements of the Agreement have been met, the project may be accepted and the Contract executed. However, an escrow will be required, along with a written agreement between the owner and HUD specifying a schedule for completion. If the owner fails to complete the items within the agreed upon time, HUD may terminate the Contract and/or exercise its other rights thereunder.

VIII. Section 2.3(f) is deleted and amended in whole to read:

If other defects or deficiencies exist, HUD will determine whether and to what extent the defects or deficiencies are correctable, what corrective actions are necessary to permit acceptance of the project and whether and to what extent contract rents should be reduced as a condition of acceptance. If the owner is unwilling to correct such defects or deficiencies, HUD need not accept the project.

IX. Section 2.3(g) is deleted.

X. Section 2.3(h) is amended to read:

If HUD determines that the project cannot be accepted, the Nonprofit Owner will be notified of this decision, and the reason hereof.

XI. Section 2.3(i) is deleted.

XII. Sections 2.4(f),(g),(h) and (i) are deleted.

XIII. Section 2.4(f) is added and reads:

(j) Adjustment Based on Other Governmental Assistance.

1. Disclosure. Nonprofit Owner agrees to disclose (a) any Federal, State or local Government assistance, other than the Section 8 Assistance provided under this Housing Assistance Payments Contract(s) (Contract), that he/she will receive or reasonably expects to receive during the term of this Contract; and (b) in cases where the Nonprofit Owner will receive or reasonably expects to receive such other assistance, the expected sources and uses of all funds that are to be made available to the project. Such other assistance includes any loan, grant guarantee, insurance, payment, rebate, subsidy, credit, tax benefit or other form of direct or indirect governmental assistance. To comply with this requirement, the Nonprofit Owner has completed and executed the Certification of Disclosure form attached hereto. The Secretary will take the information in the Certification of Disclosure into account in the final computation of the amount of Section 8 assistance that will be provided under this Contract.

2. Changed Circumstances. Within 30 days of any changes in circumstances occurring at any time before or during the term of this Contract that affect the accuracy of the Certification of Disclosure, the Nonprofit Owner shall submit to the Secretary a revision of such Certification. The Secretary shall reduce the amount of Section 8 assistance provided for the project to compensate in whole or in part, as the Secretary deems appropriate, for any increases in other assistance.

XIV. Section 2.5(c) is amended to include:

The Owner must also comply with Section 504 of the Rehabilitation Act of 1973,

XV. Section 2.5(d) is added to include:

The Owner must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations and Handbook requirements, for persons displaced from the project site.

XVI.Section 2.10 is deleted.

PROJECT CAPITAL NEEDS ASSESSMENTS AND REPLACEMENT RESERVE ESCROW

I. WHAT IS A PROJECT CAPITAL NEEDS ASSESSMENT?

A Project Capital Needs Assessment (PCNA) identifies the immediate and long-term capital needs of a project and provides a plan detailing the financing to address those needs. It consists of two distinct components:

- Physical Inspection; and
- Statement of Resources and Needs.

II. THE PHYSICAL INSPECTION.

A. The Physical Inspection Report (PIR) supplies the Mortgagee and HUD with detailed information regarding:

1. The condition of the project.

2. Immediate critical and non-critical repair needs.

3 Expected repair, replacement, and major maintenance needs over a specified time period.

3. The total estimated cost, adjusted for inflation, to complete the identified needs.

B. The Mortgagee hires a "Needs Assessor" to prepare a PIR on the project.

1. A Needs Assessor is any firm or individual qualified by training and experience to evaluate building systems and site conditions and to provide cost estimates.

   a. HUD does not approve the Needs Assessor.

   b. The Mortgagee is solely responsible for the final determination of the acceptability of the firm and/or the individual and its work.

2. The Needs Assessor and its Subcontractors participating in the preparation of the PIR may not have an identity-of-interest with the

Mortgagee, Mortgagor, sponsor and managing agent (if any) of the proposed project. An “arms-length” relationship is essential.

C. Conducting the Inspections.

1. The Needs Assessor may find it desirable to subcontract with other entities or persons for portions of the project's physical inspection. For example, the Needs Assessor may wish to engage the services of a roofing subcontractor to furnish a roof inspection, a paving subcontractor to inspect the parking lots and sidewalks, a plumbing subcontractor to inspect the plumbing system, etc.

2. The Mortgagee and the Needs Assessor are responsible for the working details of these arrangements.

3. The Needs Assessor must inspect enough dwelling units to be able to formulate an accurate estimate of repair, replacement and major maintenance needs.

   - In some cases, depending on the size and condition of the project, all or nearly all units will need to be inspected by the Needs Assessor.

   - In other cases, a lesser number of units may need to be inspected by the Needs Assessor.

   - The Department expects that the Needs Assessors will employ appropriate statistical sampling methods and techniques to reach their conclusions about repair needs.

D. Estimating Repair, Replacement and Major Maintenance Needs Costs.

Regardless of the inspection procedures used, the final cost estimates of repairs should be as accurate as practical in terms of present dollar values. The present dollar values will then be trended for future repairs using a reasonable inflation factor supplied by the Mortgagee.

E. Explicit Assumption for Estimating Future Repair, Replacement and Major Maintenance Needs.

1. The Needs Assessor should assume that the project will be in a better than "Satisfactory" condition when the project's note and mortgage is paid off.

   a. This assumption is made explicit only for the purpose of standardizing or normalizing the data that will be furnished to the Department.

   b. Assume the project to be in such a financial and physical condition that no unfunded major capital repairs would be anticipated for a period ending approximately two years after the maturity date of the note. In other words, the PIR should not anticipate that the buildings would be run down or in need of unfunded major repairs as of the maturity dates of their notes and mortgages.

2. The Department realizes that these long-term estimates are projections that are subject to change.

F. Projections of Repairs, Replacements and Major Maintenance Costs.

The Needs Assessor itemizes repairs, replacements and major maintenance needs. The following format shall be used to break-out the estimated dates, by year, that repairs, replacements, and major maintenance needs will be required.

1. "Immediate critical (health and safety) and non-critical” after issuance of the firm commitment and before initial/final endorsement of the mortgage.

   Note: For deferred maintenance items, if the project is being processed as:

   - ***A refinance transaction, the items must be completed before initial/final endorsement of the mortgage.***

   - ***A purchase transaction, the items may be included in the non-critical repairs list to be completed after initial/final endorsement.***

At the Mortgagee's option, other non-critical repairs may be completed after initial/final endorsement.

2. "Near-term" from the initial/final endorsement through the tenth year of the mortgage.

3. "Long-term" from the eleventh through the twentieth year of the mortgage.

4. "Remainder" from the twenty first year until approximately two years beyond the maturity date of the note and mortgage.

G. The Needs Assessor will prepare a schedule to estimate the remaining useful life of all short-lived building components equipment included in the project. The estimated useful life estimates must come from a nationally recognized organization such as "Marshall and Swift."

H. The Physical Inspection Report.

The PIR describes the current and future physical needs of the multifamily project in the following format.

1. Cover Sheet, which must include:

   a. The project name, number and location.

   b. Name, address, and telephone number of the preparer(s).

2. Table of Contents.

3. Summary of Physical Inspection Report.

4. Project description.

5. Project Inspection Report(s).

6. Project Inspection Work Write-Up.

7. Physical Inspection Cost Estimate(s).

8. Computation of:

   a. The cost of "immediate critical (health and safety) and non-critical" items.

b. The initial deposit to the Reserve for Replacement Account and the annual deposit to the Reserve for Replacement Account based on the “Near-term” repair, replacement and major maintenance needs of the project.

c. The cost of “Long-term” repair, replacement and major maintenance needs of the project.

d. The cost of “Remaining” repair, replacement and major maintenance needs of the project.

9. Engineering and Specialty Reports.

10. Standard size color photographs with narrative descriptions are necessary to illustrate the conditions discussed in the report.

III. STATEMENT OF RESOURCES AND NEEDS.

The Mortgagee’s statement must:

A. Address the quality of the PIR.

B. Discuss any adjustments made to the PIR by the Mortgagee.

C. Identify the repair, replacement, and major maintenance items for which the owner may be reimbursed from the Replacement Reserve.

Note: HUD will only disburse funds for those repair, replacement, or major maintenance items specifically listed in this statement.

D. Recommend to HUD the dollar amount for:

1. The cost of repairs to be completed before initial/final endorsement of the mortgage.

2. The cost of, and the amount to escrow for, non-critical repairs to be completed within one year of the date of initial/final endorsement of the mortgage.

3. The initial deposit, if any, and the amount of the monthly deposits and the funding schedule of such deposits into the Replacement Reserve based on “Near-term” Projections of repair, replacement and associated costs.

E. Describe:

1. Current financial or other assistance needs and resources of the project.

2. Future financial or other assistance needs and resources. Specifically how “Long-term” and “Remainder” projected repair, replacement and major maintenance costs will be covered.

3. The debt service coverage selected for the transaction.

4. The strength of the market in which the project is located.

5. The amount of competition that the project currently faces.

6. The probability of increased competition from new properties.

7. The Mortgagor's motivation and ability (including consideration of the Mortgagor's liquidity and other obligations) to finance necessary repairs, replacements and major maintenance items in case the Replacement Reserve is depleted.

F. An estimate of the likelihood of obtaining the resources identified above

IV. REVIEW OF THE PHYSICAL INSPECTION REPORT.

The Mortgagee reviews the PIR and makes any appropriate adjustments as indicated below.

A. The Mortgagee’s review is to determine whether:

1. The PIR covers the appropriate mortgage term.

2. All items requiring action (during the term covered by the PIR) are included in the Needs Assessor’s Summary.

3. An adequate sampling of units was made, and management reported replacements have been verified and considered.

4. The appropriate age is given for individual elements and whether any deviations from the expected useful lives are adequately justified.

5. The Needs Assessor’s Summary contains any material mathematical errors.

B. Some items identified in the PIR may be part of the current operating budget for the project.

1. If these items (such as replacement of garbage disposals or smoke detectors) are included in the normal operating budget for the project, funds for their repair or replacement do not need to be included in the Replacement Reserve.

2. The Mortgagee should only remove such items from the Needs Assessor's estimates if there is clear evidence that the operating budget for the project includes such items and the items are of relatively nominal cost.

3. The Mortgagee should also ensure, in the review of prior operating statements for the project, that any "capital" items deleted from the maintenance line items are addressed in the calculation of reserves if they are likely to recur during the term covered by the PCNA.

C. The Mortgagee should review the PIR to confirm that all items of the type listed below are appropriately listed and that the Needs Assessor’s cost estimates and projected dates of completion are reasonable.

1. Complete list of repair, replacement or major maintenance items that could potentially impact the health or safety of tenants (e.g., installation of exit lighting at a basement exit).

2. Complete list of repair, replacement or major maintenance items (other than routine items). Included in this category are any items that are necessary to:

a. Correct any deferred maintenance (i.e., conditions that should have been prevented or repaired as part of a previous year's project maintenance program. Items that coincidentally become necessary at the time

of underwriting are not considered deferred maintenance).

b. Prevent physical deterioration of the project.

c. Correct conditions that violate applicable codes.

d. Correct conditions that decrease the marketability of the project.

3. The Mortgagee must determine the dates for the completion of all work.

a. These completion dates must be appropriate for the significance of the work being done.

b. However, in all events, the critical repairs must be completed before and non-critical repairs no later than 12 months after initial/final endorsement.

D. The Mortgagee should review the PIR to ascertain that the time period identified to complete repairs, replacements, or major maintenance items represents a reasonable conclusion and that the Needs Assessor's cost estimate is reasonable and adequate to address the project's needs. The Needs Assessor should not:

1. Estimate costs based on the worst case (e.g., replacement of all aging refrigerators in a single year).

2. Be unduly optimistic in determining the schedule or costs (e.g. replacement of only a small percentage of refrigerators per year such that replacements are stretched beyond the term of the Mortgage without justification).

V. METHOD FOR COMPUTING THE REPLACEMENT RESERVE ACCOUNT.

The Needs Assessor prepares an analysis of the remaining useful life of short-lived building components and systems, and other project features. Mortgagee uses this to evaluate the adequacy of the Replacement Reserve Account and any necessary initial deposit to that account.

A. Ineligible items. Items generally considered routine maintenance are not included in the calculation of Replacement Reserve Account.

1. To derive the remaining useful life of an item, subtract the actual age of the item from the estimated economic life of the item.

2. The schedule shall provide a description of the item, actual age and estimated economic life of the item using the format shown below.

B. Prepare a 100 percent replacement cost estimate (less salvage) for each item in the group whose estimated remaining useful life is expected to expire within ten years.

1. Include the sum of the costs of labor/ installation, materials, and appropriate fees, when applicable. Using a cost adjustment factor for time, project the cost of each item from the date (month and year) of the estimate to the expected expiration date. The sum of the estimated cost is the total initial deposit.

2. Where the owner seeks new FHA mortgage insurance under a program that is subject to Davis-Bacon prevailing wage requirements, the Davis-Bacon wage rates shall be used in computing the costs of labor.

3. Identify the location of items, if required for clarification.

VI. EVALUATION OF THE REPLACEMENT ACCOUNT FOR THE FIRST TEN YEARS.

A. The total replacement reserve includes the initial deposit. The annual deposits should be satisfactory to provide for any anticipated repairs, replacements and major maintenance needs which may occur within the first ten-year period.

B. An additional evaluation must be made every ten years to determine whether annual deposits to the reserve account are sufficient.

C. The Mortgagee must address how later adjustments in the annual deposit will be made and the financial risk to HUD.

VII. COMPLETION OF REPAIRS.

The Mortgagee is expected to exercise independent judgment when recommending which items must be completed before initial/final endorsement and which items are non-critical items that may be completed after initial/final endorsement.

A. At initial/final endorsement of the mortgage, the project shall not have any conditions that threaten the health or safety of tenants.

B. Non-critical repairs may be completed after initial/final endorsement.

VIII. DETERMINATION OF TOTAL REPLACEMENT RESERVE AMOUNT.

After reviewing the PIR, the Mortgagee must, in the Statement of Resources and Need, determine and recommend to HUD the Total Replacement Reserve Amount for the project.

A. The Total Replacement Reserve Amount must be at least equal to the total estimated cost ***(adjusted for inflation)*** of completing the items shown in the "Near-term" repair and replacement needs of the project.

B. The total deposits by the Mortgagor into the Replacement Reserve should equal the Total Replacement Reserve Amount.

C. The Total Replacement Reserve Amount must be at least equal to $150 per unit, per annum.

IX. FUNDING SCHEDULES FOR THE REPLACEMENT RESERVE.

The Mortgagee recommends to HUD the appropriate funding structure for the Replacement Reserve based on the timing of the expected repairs, replacements and major maintenance items, and the overall ***financing*** structure of the mortgage (e.g., whether the Mortgagor will receive cash upon closing the mortgage). If HUD accepts the Mortgagee's recommendation, the funding schedule will be inserted into the Regulatory Agreement by HUD.

A. The following are examples of alternative ***funding schedules:***

1. No initial deposit and large monthly deposits because the repairs and replacements are

concentrated in the later years of the mortgage term.

2. Monthly deposits that increase over the term of the mortgage (e.g. payments which increase five percent per year over the term of the mortgage) to match the estimated timing of repairs and replacements may be appropriate in some instances.

Note: Absent an initial deposit, a disproportionately small monthly deposit in the first year, designed to reduce the impact on underwriting is unacceptable.

B. If the Mortgagor is required to make an initial deposit into the Replacement Reserve, the Mortgagee may subtract the amount of the initial deposit from the Total Replacement Reserve Amount in determining the amount of the monthly deposits to the Replacement Reserve to be made by the Mortgagor.

C. The Mortgagee’s Statement of Resources and Needs must set forth a funding schedule and demonstrate that the funding schedule shows that money will be there yearly to meet the physical needs of the project and the overall underwriting of the loan.

X. HUD FIELD OFFICE REVIEWS.

A. The Field Office should:

1. Review the PCNA for completeness and adequacy. The review should include a careful examination of the Department’s long-term risk associated with non-traditional calculation of annual deposits to the replacement reserves.

2. Discuss all weaknesses or inadequacies of the PCNA with the Mortgagee in an effort to reach consensus about the needs and resources of the project. The results of these discussions and agreements reached must be incorporated into the firm commitment and loan closing documents.

B. If the Field Office determines that a PCNA is substantially incomplete or inadequate:

1. Notify the Mortgagee of the portion(s) of the PCNA that require completion or revision and require

the Mortgagee to submit an amended PCNA within thirty (30) days from receipt of the Field Office's notification.

2. If HUD and the Mortgagee fail to reach closure, HUD will impose its own methodology for computation of annual deposit to the replacement reserve.

C. The Mortgagee will recommend, and HUD may set up, the Total Replacement Reserve Amount as though the mortgage term were ten years.

1. If the Mortgage term is over ten years. HUD will reevaluate the project's Replacement Reserve needs and, if appropriate, adjust the Mortgagor's required deposits to the Replacement Reserve every ten years.

   a. To assist in completing this evaluation, the Mortgagee must obtain a new PCNA every ten years which covers the next ten years (or the remaining term of the Mortgage) plus two years.

   b. Replacement Reserve funds may be used to pay for the additional PCNAs.

2. At the time of initial/final endorsement the Hub or Program Center will have a rider signed by the Mortgagee and HUD to attach to the Mortgagee’s Certificate which will require the Mortgagee to comply with the requirements of C.1. above.

Chapter Sixteen

Other Issues

Other Rent Increases

Section 16-1

A. Budget-based rent increase requests. PM/CA's should consider a project's residual receipts account balance prior to approving budget-based rent increase requests. PM/CAs should be certain that some or all of the increase in expenses being requested in the budget can not be covered by existing surplus project funds.

B. Rent increases for Sections 236 and 221(d)(3) BMIR Projects.

1. These projects traditionally have used the budget-based method for all rent increases. Under MAHRA, Section 8 rents are renewed according to the option selected by the Owner. However, unassisted units continue to follow Chapter 7 of HUD Handbook 4350.1. Recent legislation gave the Department more flexibility in setting Section 236 rents. The Department's policy is that this flexibility will only be used for units with project-based Section 8 assistance.

2. PM/CAs may approve a short-term renewal to permit Owners to bring into alignment the Section 8 contract renewal process and the submission of the annual budget-based rent increase.

C. Other rent adjustments.

1. Normally all rent adjustment requests should be made on an annual basis. These requests should be submitted to PM/CA at least 120 days prior to contract anniversary date.

2. On a case-by-case basis, the Field Office may permit a rent adjustment more than annually due to unusual circumstances. The situations are defined and discussed in HUD Handbook 4350.1

REMS Reporting

Section 16-2

A. Enter the initial renewal date in the REMS system as "Expiration Date Causing Initial Renewal Pursuant to MAHRA."

B. For example, a project has one contract that expired June 30, 2001. This contract received its Initial Renewal on July 1, 2001, using a 524(a) contract for a one-year term. The "Expiration Date Causing Initial Renewal Pursuant to MAHRA" which is entered in the REMS system for this project is June 30, 2001. In this case, when the contract is renewed on July 1, 2002, this will be a Subsequent Renewal. Had this same owner elected to renew his contract for a five year term, in July 2002, his contract would receive a rent adjustment, the same would take place in July 2003, 2004, 2005. The subsequent renewal for this project would not take place until July 2006.

   PM/CAs should use the Real Estate Management System (REMS) to track the progress of the project up to, and including when it is sent to OMHAR. Once the request is turned over to OMHAR, its tracking system will be used to monitor the progress of the request and feed back reports to REMS.

Refinancing of FHA Insured Properties

Section 16-3

In keeping with MAHRA, the Department must implement policies that ensure that Section 8 rents are capped at comparable market rents or are limited to a level necessary to operate the property when an owner prepays the mortgage and refinances. How rents are determined at the time of renewal depends upon the type of mortgage in existence at the time of Section 8 contract expiration. If a property is eligible for OMHAR at the time of contract expiration, the property remains eligible for OMHAR even if the FHA-insured mortgage is prepaid after expiration of the contract. However, if the FHA-insured mortgage is prepaid before expiration of the contract, the property becomes an exception project and is no longer eligible for OMHAR.

Effective with the publication date of this Guide, the Department requires the owner of an exception project to use the debt service associated with the original insured mortgage when establishing the budget based rent. For example, a project that prepays the FHA-insured mortgage to become an exception project must use the debt service that was associated with the FHA-insured mortgage in computing the budget-based rent level for the required comparison to the current rent level plus OCAF to determine the renewal rent level. The Department believes that this policy is consistent with the intent of Congress to ensure that subsidized rent levels that are above comparable market rents are not higher than necessary to operate the project. Note: Owners of exception projects with rents less than market are also eligible to renew under Option 1 or Option 2.

For Further Information

Section 16-4

A. Section 8 Renewal Help Desks have been established in each Hub and certain Program Centers to provide technical assistance to Project Owners, managers and contract administrators who have questions regarding the Section 8 contract renewal process. Appendix 10 includes a complete list of all Section 8 Renewal Help Desk Officers.

B. Information is also available on the following HUD web pages:

   1. The Multifamily Business Page:
      http://www.hud.gov/fha/fhamf.html

   2. HUDCLIPS: http://www.hudclips.org

C. To ask a Section 8 question regarding expiring contracts, write to:
   sec_8_expiring_contracts@hud.gov

D. To read the Section 8 questions:
   http://www.hud.gov/fha/mfh/mfhsec8.html

ACRONYMS USED IN THIS NOTICE AND ATTACHMENTS

ACC	Annual Contributions Contract
BMIR	Below Market Interest Rate
CNA	Comprehensive Needs Assessment
DEC	Department of Enforcement Center
EHS	Exigent Health and Safety
ELIHPA	Emergency Low-Income Housing Preservation Act
FMR	Fair Market Rents
HA	Housing Authority
HAP	Housing Assistant Payment
HUDCAPS	PIH's Accounting System
LIHPRHA	Low-Income Housing Preservation and Resident Homeownership Act
LMSA	Loan Management Set Aside
MAHRA	Multifamily Assisted Housing Reform and Affordability
NHA	National Housing Act
OCAF	Operating Cost Adjustments Factor
OMF	Office of Multifamily Housing
OMHAR	Office of Multifamily Housing Assistance Restructuring
OPH	Office of Public Housing
PAE	Participating Administrative Entity
PBS	Project-Based Contract
PHA	Public Housing Agency
PIH	Public and Indian Housing

PM	Housing Project Manager
POA	Plan of Action
QHWRA	Quality of the Quality Housing and Work Responsibility Act of 1998
RCS	Rent Comparability Study
REAC	Real Estate Assessment Center
REMS	Real Estate Management System
RHS	Rural Housing Service - 515/8 Projects
SRO	Single Room Occupancy
TRACS	Tenant Rental Assistance Certificate System

GLOSSARY OF TERMS

Adjusted Rents. Existing rents under the expiring contract, as adjusted by an operating cost adjustment factor (OCAF) established by the Secretary (which shall not result in a negative adjustment) or adjusted by budget-based method.

Affiliate. Any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an Owner or purchaser, is controlled by an Owner or purchaser, or is under common control with the Owner or purchaser.

Annual Interest Subsidy. For Section 236 properties, the Annual Interest Subsidy equals the current Annual Interest Reduction Payment Amount, as defined in 24 CFR 236.520. For other properties, the Annual Interest Subsidy equals the unpaid principal balance of the subsidized loan multiplied by the difference between the annual original interest rate (7% if original market note rate is not available) and the annual subsidized interest rate (1% for Section 515, 3% for Section 221(d)(3) BMIR).

Annual Eligible Interest Subsidy. The Annual Interest Subsidy multiplied by the percentage of the total units in the property that are in the Section 8 contract(s) eligible under the Mark-Up-To-Market Procedure.

Assisted Dwelling Unit. A unit that is in a covered project and receives project-based rental assistance.

Budget-Based Increase. Rent increase used to promote the efficient management and continued financial viability of projects when current rent levels are not sufficient to cover operating costs.

Capped Comparable Gross Rents. If the Final Comparable Gross Rent Potential is less than 150% of the FMR Potential, then the Capped Comparable Gross Rents are the Final Comparable Gross Rents. If the Final Comparable Gross Rent Potential is not less that 150% of the FMR Potential, then the Capped Comparable Gross Rents are 150% of the FMRs.

Capped Comparable Gross Rent Potential. The lesser of the Final Comparable Gross Rent Potential or 150% of the FMR.

Comparable Market Rents. Comparable market rents are the rents charged for properties determined to be comparable

properties, which means, properties in the same market areas that are similar to the eligible multifamily housing project as to neighborhood (including risk of crime), type of location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, utilities, and other relevant characteristics; and are not receiving project-based assistance.

Comparability Study. Also known as a Rent Comparability Study (RCS). A method of estimating market rent for the Section 8 units in the subject property. The appraiser derives an indicated (market) rent by comparing the Section 8 units with similar, but unsubsidized properties, applying appropriate units of comparison and making adjustments as appropriate to the comparable rents. The results should then be correlated into an indicated market rent. The study must include all Section 8 units in the subject property.

Comparability Analysis. These analysis summarizes the results of the Comparability Study, however, only those unit types in the expiring contract will be considered in this report. The report will include an estimate of income generated by the Section 8 unit types as though they were generating as market units.

Community-based nonprofit organization. A private nonprofit organization that 1) is organized under State or local laws, 2) provides no part of net income to anyone, and 3) has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

Control. Direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the Owner or purchaser.

Coterminous. This term means to bring contracts or stages into alignment so that they expire at the same time.

Covered Project. Any multifamily housing that consists of more than 4 dwelling units and receives project-based assistance.

Current Section 8 Rents. The rents specified by the Section 8 contract(s).

Current Section 8 Rent Potential. The sum of all current Section 8 Rents for the units in the Section 8 contract(s).

Current Section 8 Gross Rents. The Current Section 8 Rents plus the applicable Utility Allowances, if any.

Current Section 8 Gross Rent Potential. The sum of all Current Section 8 Gross Rents under the Section 8 contract(s).

Eligible Multifamily Housing Project. A property that consists of more than 4 dwelling units and receives project-based assistance.

Enhanced Vouchers. Vouchers that are worth the market value of the unit, provided that the Local Housing Authority approves the rent as reasonable. These enhanced vouchers can only be used in opt-outs and prepayments.

Expiring Contract. Project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

Fair Market Rent (FMR). The rent, including the cost of utilities (except telephone), that would be required to be paid in the housing market area to obtain privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair Market Rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms), and are published in the Federal Register in accordance with 24 CFR part 888.

Final Comparable Market Rents. The rents that will be used by HUD as the comparable market rents for determining rent increases under the Mark-Up-To-Market Procedure. The Final Comparable Market rents will be set based on the comparison of the Owner Comparable Market Rents and the HUD Comparable Market Rents described in Section VI of Attachment 4B of this Notice.

Final Comparable Rent Potential. The sum of all Final Comparable Market Rents for units in the Section 8 contract(s).

Final Comparable Gross Rents. The Final Comparable Market Rents plus the applicable Utility Allowances, if any.

Final Comparable Gross Rent Potential. The sum of all Final Comparable Gross Rents for units in the Section 8 contract(s).

FMR Potential. The sum of FMRs for all units in the Section 8 contract(s).

HUD Comparable Market Rents. The rents specified by the comparability study performed by the HUD appraiser.

HUD Comparable Rent Potential. The sum of all HUD Comparable Market Rents for the units in the Section 8 contract(s).

HUD Comparable Gross Rents. The HUD Comparable Market rents plus the applicable Utility Allowances, if any.

HUD Comparable Gross Rent Potential. The sum of all HUD Comparable Gross Rents for the units in the Section 8 contract(s).

HUD Section 236 Fair Market Rental Charge. The rental charge in a Section 236 project based upon operating it with payments to principal and interest under the actual mortgage interest rate, and also including payment of the mortgage insurance premium.

HAP Contract. A housing assistance payments contract between HUD (or the Housing Agency) and the Owner. HUD (or the Housing Agency) pays housing assistance payments to the Owner in accordance with the HAP contract.

Interest Subsidy Adjustment Factor. The Interest Subsidy Adjustment Factor is the Annual Capped Comparable Gross Rent Potential minus the Annual Eligible Interest Subsidy, all divided by the annual Capped Comparable Gross Rent Potential.

Initial Renewal. The first renewal of a project’s contract or stage that is processed under Section 524 of MAHRA.

MAHRA. Multifamily Assisted Housing Reform and Affordability Act of 1997.

Market Rents. Comparable market rents for the market area.

New Authorized Rents. For Section 236, Section 221(d)(3) BMIR and Section 515 properties, the rents calculated by following the existing guidance under Handbook 4350.1 Chapter 7 using a budget submitted by the Owner, if any.

New Authorized Rent Potential. The sum of all new Authorized Rents for the units in the Section 8 contract(s).

New Authorized Gross Rents. The New Authorized Rents plus the applicable Utility Allowances, if any.

New Authorized Gross Rent Potential. The sum of all New Authorized Gross Rents for the units in the Section 8 contract(s).

New Section 8 Rents. The New Section 8 Gross Rents minus the applicable Utility Allowances, if any.

New Section 8 Rent Potential. The sum of all New Section 8 for the units in the Section 8 contract(s).

New Section 8 Gross Rents. The new gross rents for the Section 8 contract(s).

New Section 8 Gross Rent Potential. The sum of all New Section 8 Gross Rents for the units in the Section 8 contract(s).

Use Agreement. A document governing use and that restricts a project's rents to a level that is less than market.

OCAF. Operating Cost Adjustment Factor. A factor that is established by HUD, which may not be negative, that is applied to the existing contract rent (less the portion of the rent that is paid for debt service).

OHMAR-lite/Haircut. Request for contract renewal without restructuring, with rents marked down to market.

Owner. Any private person or entity, including a cooperative, an agency of the Federal Government or a public housing agency, having the legal right to lease or sublease dwelling units.

Owner Comparable Market Rents. The rents specified by the comparability study submitted by the Owner.

Owner Comparable Rent Potential. The sum of all Owner Comparable Markets Rents for the units in the Section 8 contract(s).

Owner Comparable Gross Rents. The Owner Comparable Market Rents plus the applicable Utility Allowances, if any.

Owner Comparable Gross Rent Potential. The sum of all Owner Comparable Gross rents for units under the expiring Section 8 contract(s).

Participating Administrative Entity. A public agency (including State housing finance agency or a local housing agency), a nonprofit organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under Section 513(b) of MAHRA.

Purchaser. Any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser.

Project-Based Assistance. Rental assistance that is attached to a multifamily housing project.

Renewal. Replacement of an expiring Federal rental contract with a new contract under Section 8 of the United States Housing Act of 1937.

Rent Comparability Study (RCS). See Comparability Study.

Stub Contract. Short-term renewals for less than 12 months, which is designed to protect the tenants and to align multiple contracts or stages in a project.

Subsequent Renewal. The renewal of an expiring contract that was initially renewed under 524 of MAHRA.

Tenant-Based Assistance. Rental assistance that is not project-based assistance and provides for eligible families to select suitable housing.

Termination. Expiration of the Section 8 contract or an owner’s refusal to renew the contract.

Contract Renewal Request Form Instructions

General Directions

This format should be used by all Owners of projects that are requiring a renewal of a Section 8 contract expiring in the current fiscal year. At least 120 days before the contract expiration, Owners must provide the Renewal Cover Sheet along with appropriate Worksheets and supporting material to the Director of the Multifamily Hub or Program Center Director (or Contract Administrators (CA), if applicable) with jurisdiction over the project. If an Owner requires additional space, please attach pages. The Rent Comparability Studies that are required must be prepared in accordance with Chapter Nine of this Guide. Finally, the Worksheet for each Option requires that the Owner sign the certification in order for the renewal request to be complete.

COVER SHEET

A. The Cover Sheet provides the Project Manager/CA with the general information regarding the property at which an Owner is requesting a Section 8 contract renewal.

B. Owners shall complete the general property information along with the chart that exhibits all of the Section 8 contracts and stages in the project, regardless of when they are expiring. Owners should indicate which contracts they wish to renew and they need to indicate whether or not they wish to combine any contracts/stages by placing a "Y" in the appropriate space(s). Contracts/stages may only be combined if: (1) they expire in the current Fiscal Year; (2) are associated with the same Loan Number; and (3) are all "pre-1981" or "post-1981" (no "pre-1981" indicator). If there are a mixture of pre-1981 and post-1981 contracts at a property, there will be a minimum of two surviving contracts. (See Chapter Two of the User Guide for further details regarding combing contracts).

C. Owners shall indicate under which option they are selecting to renew.

1. **Option One: Mark-Up-To-Market**. Indicate whether or not this is an initial renewal under the MAHRA guidelines or a subsequent renewal which is any renewal of a 524 contract. For specific information on the Mark-Up-To-Market renewal, see Chapter Three of this Guide.

2. **Option Two:** Indicate whether or not this is an initial renewal under the MAHRA guidelines or a subsequent renewal which is any renewal of a 524 contract. Owners should indicate the term they are requesting (one year or multiple years). For specific information regarding a renewal under this option, see Chapter Four of this Guide.

3. **Option Three:** Specific information on the Mark-To-Market program can be found in Chapter Four of this Guide. An Owner selects 3A if the rents are above market and the Owner does not want to restructure but simply wants the rents reduced to market. If the Owner is interested in mortgage restructuring, they should select 3B

4. **Option Four:** Owners of "Exception" Projects should indicate whether or not this is an initial renewal under MAHRA guidelines or a subsequent renewal, which is any renewal of a 524 contract. Owners should indicate the term they are requesting (one year or multiple years). For detailed information on renewing under Option Four, refer to Chapter Six of this Guide.

5. **Option Five:** Preservation Contract renewals are for one year only. Owners of Demonstration projects that are requesting an initial renewal under 524 may receive a four-year term. Subsequent renewals for Demonstration projects should be renewed under Option Two. Details regarding a renewal under this Option may be found in Chapter Seven of this Guide.

6. **Option Six:** Owners who do not wish to renew the Section 8 contract should check Option Six. Specific guidelines for opting-out of the Section 8 program can be found in Chapter Eight of this Guide.

WORKSHEET FOR OPTION ONE

A. Owners must complete a Rent Comparability Study (RCS) in compliance with Chapter Nine of this Guide. Using the figures from the RCS, Owners must complete the "Initial Eligibility Worksheet" and meet its threshold eligibility test. The RCS and Worksheet must be submitted along with the Renewal Request Form.
B. If the Comparable Market Rent Potential is greater than 100% of the published Fair Market Rents, the Owner should check the first option and then sign and date the certification.
C. If the Comparable Market Rent Potential is not greater than 100% of the FMRs, the owner may request a waiver based on one of three reasons. Whichever waiver option the Owner selects, they must provide supporting documentation. The burden is on the Owner to provide adequate evidence that the waiver is justified.

    1. If the property has more than 50% of the units rented to a vulnerable population (i.e., elderly, disabled or large families, as defined by five or more people) the 100% FMR threshold may be waived.
    2. If the property is located in an area where the vacancy rate is less than 3%, the FMR threshold may be waived.
    3. The Owner can demonstrate that the property is a priority for the local community by providing documentation of commitments of State or local funds to the property.

D. If the Mark-Up-To-Market eligibility requirements are not met but the property is being sold to an eligible non-profit (as detailed in Chapter 15 of the Guide), the Owner may request a renewal under this Option.
E. The Fair Market Rents used to establish eligibility are published annually in the Federal Register. The FMRs are available on the web at www.hud.gov.huduser.org/datasets/fmr.html.
F. Owners should refer to Chapter Three of this Guide for specific details on this Option.
G. Owners must certify, sign and date the Renewal Request Form.

WORKSHEET FOR OPTION TWO - INITIAL RENEWALS

A. Owners must complete the comparison chart in order to demonstrate that the Rent Potential for the Section 8 units is not greater than the Comparable Market Rent Potential as exhibited by the Rent Comparability Study. The information is only for those Section 8 units in the expiring contract or the other contract(s)/stages that the Owner wishes to combine with the expiring contract. If the RCS included Section 8 units that are not expiring in the current Fiscal Year, the Owner should only include the information that applies to the units of the contract(s)/stage(s) expiring.

   I. Enter the unit type (1 BR, 2-BR, etc.) along with the contract/stage number.
   II. Enter the number of units that correspond to the unit type and contract/stage number.
   III. Enter the current monthly Section 8 contract rent (including utilities, if applicable) for the corresponding unit type.
   IV. Enter the comparable market rents. This figure is the Estimated Subject Market Rents from the HUD form 92273S8 (from Chapter Nine).
   V. Enter the current Section 8 rent potential by multiplying the number of units in Column II by the monthly contract rent in Column III.
   VI. Enter the current Estimated Subject Market Rent Potential by multiplying the number of units in Column II by the Estimated Subject Market Rents in Column V.
B. Compare the Section 8 Rent Potential with the Comparable Market Rent Potential by adding columns V and VI. For the most cases, the total of Column V must be less than or equal to the total of column VI for an Owner to renew under this option. The exception to this rule is Owners of "exception" projects (See Option Four) that are electing to renew under this Option and are willing to reduce their rents to market, if needed. These Owners must check the option in the box below the Comparison Chart.
C. The Owner should check the statement that corresponds to the type of rent increase they are requesting, OCAF, Budget-Based or Budget-Based for Capital Repairs.
   1. To receive an OCAF adjustment, Owners must submit the OCAF calculation worksheet.
   2. For Budget-based rent increase, Owners must submit a budget prepared in accordance with HUD Handbook 4350.1, Chapter 7 and Attachment 5 of this Guide along with the required documentation. For Section 515/8 projects, the Owner must submit an RHS approved budget. Owners requesting a budget-based rent increase must abide by the tenant notification and access to information requirements found in 24 CFR 245.
   3. Eligible nonprofit owners that meet the eligibility requirements outlined in Chapter 15 of this Guide may request a budget-based rent increase to cover capital repairs. At no time may the rents exceed market.

D. Chapter Four of this Guide provides detailed information on renewals under this Option.
E. Owners must certify, sign and date the Renewal Request Form.

WORKSHEET FOR OPTION TWO - SUBSEQUENT RENEWALS

A. Owners requesting a subsequent renewal of their contract and utilizing an RCS that is less than five years old do not have to complete a comparison chart.
   1. Owners requesting current rents adjusted by the OCAF simply have to enter the date of the RCS and the OCAF adjustment worksheet.
   2. Owners requesting a budget-based increase have to enter the date of the RCS and submit a budget in accordance with the requirements in HUD Handbook 4350.1, Chapter 7 and Attachment 5 of this Guide. Owners must abide by the tenant notification and access to information requirements in 24 CFR 245.
      a. The RCS must be adjusted to determine the new market level. Owners must enter the Comparable Rent Potential from the original RCS and then adjust this figure by the OCAF for each year that has passed since the RCS was originally completed.
      b. The budget-based rent increase request can not exceed the New Comparable Rent Potential.
B. Owners requesting a subsequent renewal with an RCS that is five years old must submit a new RCS in accordance with Chapter Nine of this Guide. These Owners must complete the Comparison Chart from the Option Two Initial Renewal Request. Adjusted rents may not exceed the Comparable Market Rent that is supported by the RCS.
   1. Owners requesting that currents rents be adjusted by OCAF must submit the OCAF adjustment worksheet.
   2. Owners requesting a budget-based rent increase must submit a budget in accordance with Chapter 7 in HUD Handbook 4350.1 and Attachment 5 of this Guide. Owners are required to abide by the tenant notification and access to information requirements in 24 CFR 245.
   3. Eligible nonprofit owners that meet the eligibility requirements outlined in Chapter 15 of this Guide may request a budget-based rent increase to cover capital repairs. At no time may the rents exceed market.
C. Chapter Four of this Guide provides detailed information on renewals under this Option.
D. Owners must certify, sign and date the Renewal Request Form.

WORKSHEET FOR OPTION THREE

A. Owners that are eligible for the Mark-To-Market program and want their rents reduced to market rather than going through a full restructuring should check Option 3A. A RCS must be submitted in accordance with Chapter Nine of this Guide. The Owners are eligible to enter into a short-term contract at current rents in order to have time to go through the OMHAR-Lite process.
B. Owners that are eligible for the Mark-To-Market program and are interested in going through the full restructuring process should check Option 3B. These Owners are not required to submit an RCS. Owners will be offered a short-term contract while the contract goes through the restructuring process.
C. Owners must certify, sign and date the Request for Referral to OMHAR.
D. Chapter Five of this Guide offers details about this Option.

WORKSHEET FOR OPTION FOUR - INITIAL RENEWAL

A. Owners of projects that meet the eligibility requirements for "exception" projects must check the characteristic that applies to the contract that is being renewed.
   1. Owners of projects that have the primary financing or mortgage insurance provided by State government or a unit of general local government (or any agency or instrumentality of either) and financing involves mortgage insurance of the National Housing Act. Owners must submit all of the required documentation with the Renewal Request Form in order to confirm eligibility as an "exception" project.
   2. Owners of projects that fall under Section 512(2) of MAHRA must submit a RCS in accordance with Chapter Nine of this Guide.
B. At Initial Renewal, the "lesser of" test is conducted. Owners must submit an OCAF adjustment worksheet and a budget in accordance with Chapter 7 of HUD Handbook 4350.1 and Attachment 5 of this Guide. Owners must enter the Annual Adjust Rent Potential from the OCAF worksheet and the Rent Potential based on the budget. The new rent will be the lesser of the OCAF adjusted rent or the budget.
C. Owners must certify, sign and date the Renewal Request form
D. Details about this Option are available in Chapter Six of this Guide.

WORKSHEET FOR OPTION FOUR - SUBSEQUENT RENEWAL

A. Owners of "exception" projects requesting a subsequent renewal do not have to utilize the "lesser of" test.
   1. Owners requesting an OCAF adjustment to the rents must check that option and submit a OCAF adjustment worksheet.
   2. Owners requesting a budget-based rent increase must select that option and submit a budget in accordance with the established requirements. In addition, these Owners must check off that they abided by the tenant notification and access to information requirements in 24 CFR 245.
B. Owners must certify, sign and date the Renewal Request form.
C. Details regarding this Option can be found in Chapter Six of this Guide.

WORKSHEET FOR OPTION FIVE

A. Owners that had their projects go through the Portfolio Reengineering Demonstration Program should check the first option. Following this, the Owner should select the statements that apply to their project.
   1. In cases where the project had the mortgage restructured, and/or the rents reduced to market, the Owner must check off this statement and the three statements that apply.
   2. In cases where the project did not have the mortgage restructured nor the rents reduced to market, the Owner must check off the appropriate statement. In addition, the Owner must submit details as to why restructuring would be inappropriate. The Owner must check off this statement to show that they agree to having the rationale forwarded to HUD Headquarters for processing.

B. Owners of Preservation Projects should check off the appropriate statement. These Owners agree to renew the contract in accordance with their approved Plan of Action for a one year term.
C. Owners must certify, sign and date the form.
D. Chapter Seven of this Guide provides details for renewing under this option.

WORKSHEET FOR OPTION SIX

A. Owners who elect to opt-out of the Section 8 contract must certify that they provided every assisted tenant with a one-year written notice of their intent to opt-out. Owners must be able to produce acceptable evidence of such a notice if requested by HUD.

   1. In some cases, additional time may be required to get tenant-based assistance in place for all of the residents. If an Owner is willing to enter into a short-term contract in order to cover the time necessary for all eligible tenants to receive vouchers, the Owner should check the appropriate statement.

   2. Owners must certify that they agree to honor the tenants right to remain at the property, provided that the PHA approves a rent equal to the new rent charged for the unit, and that the rent is reasonable. I also agree not to terminate the tenancy of a tenant who exercises their right to remain, except for cause under State or local law.

B. Owners must certify, sign and date the form.
C. Specific details on this Option may be found in Chapter Eight of this Guide.

Contract Renewal Request Form

Cover Sheet

PROJECT NAME: _____

PROJECT ADDRESS: _____

PROJECT OWNER: _____

FHA PROJECT NO.: _____

TOTAL UNITS IN PROJECT: _____ **TOTAL SECTION 8 UNITS IN PROJECT:** _____

DATE OF SUBMISSION: _____ **DATE RECEIVED BY HUD:** _____

Section 8 contracts and stages in the project:

Section 8 Contract Number	Stage Number (if applicable)	Combine (Yes?)	# Units	Expiration Date	Renew (Yes?)

I hereby elect to renew the above indicated contracts under the following option (*Check the appropriate box(es) below and provide the corresponding worksheet(s)*)**:**

_____OPTION 1 - Request Renewal Under Mark-Up-To-Market Procedures

◊ **Initial Renewal**
◊ **Subsequent Renewal**

_____OPTION 2 - Request Renewal With Rents At or Below Comparable Market Rents And Without Restructuring

◊ **Initial Renewal**
◊ **Subsequent Renewal**
I request a contract renewal for a _____-year term.

_____OPTION 3 - Request Referral to OMHAR for :

Choose One

◊ **OPTION 3A** - Reduction of Section 8 Rents to Comparable Market Rents without Restructuring (OMHAR-Lite)
◊ **OPTION 3B** - Restructure of the mortgage and reduction of Section 8 Rents to Comparable Market Rents

_____OPTION 4 - Request Renewal of the Contract for Projects Exempted from OMHAR

◊ **Initial Renewal**
◊ **Subsequent Renewal**
I request a contract renewal for a _____-year term.

_____OPTION 5 - Portfolio Reengineering Demonstration and Preservation Contract Renewals

Demonstration projects only:
◊ **I request an initial contract renewal.**
Subsequent renewals for Demonstration projects should renew under Option Two.

_____OPTION 6 - Opt-Out of the Section 8 Contract

Owner's signature:_____ Date:_____

RENEWAL WORKSHEET FOR OPTION ONE

Requesting a Contract Renewal Under the Mark-Up-To-Market Procedure

I hereby request a renewal of my contract under the Mark-Up-To-Market procedures. I am attaching a **Rent Comparability Study** (RCS) and a completed "Initial Eligibility Worksheet" for the Section 8 contract(s) eligible under this Option (*Owners should check the appropriate statement*):

_____ Based on the RCS and the attached "Initial Eligibility Worksheet," the Comparable Market Rent Potential is at or above **100%** of the published Fair Market Rents (FMRs);

OR

_____ I request a waiver of the Mark-Up-To-Market eligibility requirements because *(check the statement(s) that apply)*:

- ◊ the project has a high percentage (≥50%) of units rented to elderly, disabled or large families;
- ◊ the project is located in a low-vacancy area (≤3%) where tenant-based assistance is difficult to be used and there is a lack of comparable rental housing; *and/or*
- ◊ the project is a high priority for the local community as the attached documentation of State or local funds demonstrates.

OR

_____ I request that HUD use its discretionary authority to mark rents up to market to facilitate a change in ownership to an eligible nonprofit. The nonprofit owner is not an affiliated entity.

I hereby certify that:

_____ the property does not have any low or moderate-income use restrictions that I cannot eliminate;

AND

_____ neither I, nor any of my affiliates, are suspended or debarred, OR _____ I, or my affiliates, are suspended or debarred and are requesting a contract renewal subject to HUD approval;

AND

_____ this information is true and complete**.**

Project Name_____

Owner's Name_____

Owner's signature:_____ **Date**_____

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

RENEWAL WORKSHEET FOR OPTION TWO

Requesting An Initial Contract Renewal At or Below Comparable Market Rent

I hereby request an **INITIAL RENEWAL** of my contract without restructuring and am attaching a **Rent Comparability Study** (RCS) and the OCAF Adjustment Worksheet. The comparison chart below reflects the results of the study and compares them to the expiring Section 8 units in my project.

(I)	(II)	(III)	(IV)	(V)	(VI)
UNIT TYPE AND CONTRACT/STAGE NUMBER	# OF UNITS	CURRENT SECTION 8 CONTRACT RENTS	COMPS ESTIMATED SUBJECT MARKET RENTS	CURRENT SECTION 8 RENT POTENTIAL (II x III)	COMPS ESTIMATED SUBJECT MARKET RENT POTENTIAL (II x IV)

*For Option Two, the total of Column V must be less than the total of Column VI.**

≤

*For Owners of "exception" projects (see Option Four) that have current rents above the comparable market rents:

◊ I am electing to renew under Option Two. I understand that my rents will be reduced to a level not to exceed the comparable market rents as indicated in the attached Rent Comparability Study.

Based on the attached RCS, the current contract rent potential of the project is **less than or equal to** the market rent potential of the comparable market rents (*check the appropriate statement*):

_____ I understand that the initial renewal rents will be set at current rent adjusted by OCAF but not to exceed comparable market rents.

◊ I am submitting the required OCAF calculation worksheet;

OR

_____ I request a budget-based rent increase rather than an OCAF adjustment.

◊ I am submitting an attached budget which reflects the projected costs for the first 12 months covered by the renewal contract. I understand that the increase cannot take the rents above the comparable market rents.

- I have abided by the requirements in 24 CFR 245 regarding tenant notification of a proposed rent increase; and
- The attached budget and rent schedule was available to tenants upon their request.

OR

_____ I request a budget-based rent increase for capital repairs, not to exceed market.

◊ The ownership entity is an eligible nonprofit and meets all of the requirements outlined in Chapter 15 of this Guide;
◊ The ownership entity agrees to accept a 20-year recorded Use Agreement.

I hereby certify that:

_____ neither I, nor any of my affiliates, are suspended or debarred, OR _____ I, or my affiliates, are suspended or debarred and are requesting a contract renewal subject to HUD approval;
AND
_____ this information is true and complete**.**

Project Name_____

Owner's Name_____

Owner's signature:_____ **Date:**_____

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RENEWAL WORKSHEET FOR OPTION TWO

Requesting Subsequent Renewal of Contract At or Below Comparable Market Rent

I hereby request a **SUBSEQUENT RENEWAL** of my Section 524 contract without restructuring and (*Owner should check ONE of the following):*

_____ My Rent Comparability Study is less than five years old. I request that the contract rents be adjusted by the currently published OCAF.

◊ The date of my comparability study is _____.
◊ I am submitting the OCAF Adjustment Worksheet.

_____ My Rent Comparability Study is less than five years old. I request a budget-based rent adjustment.

◊ The date of my Rent Comparability Study is _____.
◊ I am submitting an attached budget which reflects the projected costs for the first 12 months covered by the renewal contract. I understand that the increase cannot take the rents above the New Comparable Market Rent Potential.

° I have abided by the requirements in 24 CFR 245 regarding tenant notification of a proposed rent increase.
° The attached budget and rent schedule was available to tenants upon their request.

◊ The *New Comparable Market Rent Potential* is:

Comparable Rent Potential from original RCS: _____

OCAF	year _____:	_____	Adjusted Rent Potential _____
OCAF	year _____:	_____	Adjusted Rent Potential _____
OCAF	year _____:	_____	Adjusted Rent Potential _____
OCAF	year _____:	_____	Adjusted Rent Potential _____

New Comparable Market Rent Potential : _____

Rent Potential Based on Attached Budget: _____

◊ I request a budget-based rent increase for capital repairs, not to exceed market.

° The ownership entity is an eligible nonprofit and meets all of the requirements outlined in Chapter 15 of this Guide;
° The ownership entity agrees to accept a 20-year recorded Use Agreement.

_____ My Rent Comparability Study is five years old. I request that the contract rents be adjusted by the currently published OCAF.

- ◊ I am submitting a new Rent Comparability Study.
- ◊ I am submitting the comparison chart from the Option Two Initial Renewal Request that reflects the results of the study and compares them to the expiring Section 8 units in my project.
- ◊ I am submitting the OCAF Adjustment Worksheet.

_____ My Rent Comparability Study is five years old. I request a budget-based rent adjustment. I understand that the increase cannot take the rents above the comparable market rents.

- ◊ I am submitting a new Rent Comparability Study.
- ◊ I am submitting the comparison chart from the Option Two Initial Renewal Request that reflects the results of the study and compares them to the expiring Section 8 units in my project.
- ◊ I am submitting an attached budget which reflects the projected costs for the first 12 months covered by the renewal contract. I understand that the increase cannot take the rents above the comparable market rents.
    - ° I have abided by the requirements in 24 CFR 245 regarding tenant notification of a proposed rent increase.
    - ° The attached budget and rent schedule was available to tenants upon their request.
- ◊ I request a budget-based rent increase for capital repairs, not to exceed market.
    - ° The ownership entity is an eligible nonprofit and meets all of the requirements outlined in Chapter 15 of this Guide;
    - ° The ownership entity agrees to accept a 20-year recorded Use Agreement.

I hereby certify that:

_____ neither I, nor any of my affiliates, are suspended or debarred, OR _____ I, or my affiliates, are suspended or debarred and are requesting a contract renewal subject to HUD approval; AND

_____ this information is true and complete**.**

Project Name_____

Owner's Name_____

Owner's signature:_____ **Date:**_____

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

RENEWAL WORKSHEET FOR OPTION THREE

Requesting Referral to OMHAR

I hereby elect to participate in the **Mark-To-Market program** and request a renewal of the Section 8 contract(s) shown on the attached Cover Sheet (*Select one of the following Options*):

_____ 3A **-** Based on the RCS**,** the current contract rent potential of the project is **greater than** the market rent potential of the comparable market rents. I would like a contract renewal at rents that do not exceed the comparable market rents, without a restructuring of the mortgage (**OMHAR-Lite**);

◊ I understand that I will receive a Interim Light contract renewal at current rents while my renewal request is being processed.

_____ 3B - I believe that the current contract rent rents are **greater than** the market rent potential of the comparable market rents. I would like to restructure the mortgage and reduce the Section 8 contract rents to market (**Mortgage Restructuring**).

◊ I understand that I will receive a Interim Full contract renewal at current rents while my project goes through the restructuring process.

I hereby certify that:

_____ the project rents exceed comparable market rents; AND

_____ the project currently has a HUD-insured (or HUD-held) mortgage; AND

_____ neither I, nor any of my affiliates, are suspended or debarred, OR _____ I, or my affiliates, are suspended or debarred and are requesting a contract renewal subject to HUD approval; AND

_____ this information is true and complete**.**

Project Name_____

Owner's Name_____

Owner's signature:_____ **Date:**_____

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

RENEWAL WORKSHEET FOR OPTION FOUR 4

Request Initial Renewal of Contract for Projects Exempted From OMHAR

I hereby request an **INITIAL RENEWAL** of my contract under Option Four and I am submitting an OCAF Worksheet and a budget calculation to determine which adjustment meets the **"lesser of" test**. My project is eligible to renew under this option because it falls in the following category (*choose one*):

- ◊ State or Local Government financing. I am submitting:
  - ° Copies of the original financing documents;
  - ° The underlying statutory authority which I believe conflicts with a Mark-To-Market restructuring plan;
  - ° My bond counsel's opinion as to the conflict.
- ◊ Section 202/8 and 515/8 Project;
- ◊ SRO Moderate Rehabilitation Project;
  OR
- ◊ Section 512(2) of MAHRA.
  - ° I am submitting a Rent Comparability Study.

_____ I understand that **Initial Renewal** rent is set at the **lesser of:**

◊ The Annual Adjusted Rent Potential of the Expiring Contracts (based on the attached OCAF Worksheet)

OR

◊ The Section 8 Contract Rent Potential from the budget-based rent determination (reflected in the attached budget)

I hereby certify that:

_____ neither I, nor any of my affiliates, are suspended or debarred OR _____ I, or my affiliates, are suspended or debarred and are requesting a contract renewal subject to HUD approval; AND

_____ this information is true and complete**.**

Project Name: _____

Owner's Name: _____

Owner's signature:_____ **Date:**_____

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

RENEWAL WORKSHEET FOR OPTION FOUR

Request Subsequent Renewal of Contract for Projects Exempted From OMHAR

I hereby request a **SUBSEQUENT RENEWAL** of my contract under Option Four. I request the current rents be adjusted by:

◊ the currently published OCAF. I have attached the completed OCAF Worksheet;

OR

◊ a budget-based rent adjustment. I am including a budget and rent schedule completed in accordance with the requirements of HUD Handbook 4350.1 Chapter 7 and Attachment 5 or, for Section 515/8 projects, an RHS-approved budget.

- I have abided by the requirements in 24 CFR 245 regarding tenant notification of a proposed rent increase.
- The attached budget and rent schedule was available to tenants upon their request.

I hereby certify that:

_____ neither I, nor any of my affiliates, are suspended or debarred OR _____ I, or my affiliates, are suspended or debarred and are requesting a contract renewal subject to HUD approval; AND

_____ this information is true and complete**.**

Project Name: _____

Owner's Name:_____

Owner's signature:_____ Date:_____

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

RENEWAL WORKSHEET FOR OPTION FIVE

Request Renewal of Contract for Portfolio Reengineering Demonstration or Preservation Projects

_____ My project is a **Portfolio Reengineering Demonstration Project**. I hereby request an **INITIAL RENEWAL** of my contract under Option Five. (*Select the statements that apply*):

◊ The project had the mortgage restructured, and/or had the rents reduced to market.

- I understand that the contract renewal will be processed in accordance the Department's policies for renewing contracts at or below market;
- I am submitting the OCAF Worksheet. I understand that the contract will receive an annual OCAF adjustment; *and*
- on the fifth year I will follow the renewal procedures for projects at or below market, including submitting a RCS.

OR

◊ The project did not have the mortgage restructured, nor did it have the rents reduced down to market. I am attaching rationale as to why debt restructuring is inappropriate for this project. I understand that the rationale and this renewal request shall be referred to the Office of Housing Assistance and Grant Administration in Washington, DC, for processing.

_____ My project is a **Preservation Project** (LIPHRA or ELIPHRA). I hereby request a **RENEWAL** of my contract under Option Five in accordance with the approved Plan Of Action. I understand that the contract term will be for one year.

I hereby certify that:

_____ neither I, nor any of my affiliates, are suspended or debarred OR _____ I, or my affiliates, are suspended or debarred and are requesting a contract renewal subject to HUD approval; AND

_____ this information is true and complete**.**

Project Name:_____

Owner's Name:_____

Owner's signature:_____ **Date:** _____

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

RENEWAL WORKSHEET FOR OPTION SIX

Notification of Non-Renewal of Contract

I hereby elect to **OPT-OUT** of the Section 8 program. I understand that notification of this opt-out is required to be given to the Department of Housing and Urban Development 120 days prior to the expiration of the contract.

I hereby certify:

_____ I provided the assisted tenants and HUD with a one-year written notification of the contract expiration and our intention not to renew the contact as required by Section 8(c)(8) of the United States Housing Act of 1937. This notification was provided on _____. A copy of the notification letter is attached.

◊ I am willing to execute a short-term renewal of my contract if HUD needs additional time to provide the tenant-based assistance.

Or,

_____ I provided written notification to the tenants and HUD of the contract expiration and our intention not to renew the contract however, a full year has not elapsed. I agree to execute a contract renewal for a term that will fulfill the entire one-year notification requirement.

I hereby certify that:

_____ the property does not have any Use Agreement in effect; AND

_____ I agree to honor the tenants right to remain at the property, provided that the PHA approves a rent equal to the new rent charged for the unit. I agree not to terminate the tenancy of a tenant who exercises their right to remain except for cause under State or local law.

_____ this information is true and complete**.**

Project Name:_____

Owner's Name:_____

Owner's signature:_____ **Date:** _____

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

OCAF RENT ADJUSTMENT WORKSHEET

PROJECT NAME: _____

PROJECT ADDRESS: _____

PROJECT OWNER: _____

FHA PROJECT NO.: _____

TOTAL UNITS IN PROJECT: _____ **TOTAL SECTION 8 UNITS IN PROJECT:** _____

DATE OF SUBMISSION: _____ **DATE RECEIVED BY HUD:** _____

STEP 1:

Calculate the current Section 8 Rent Potential for EXPIRING contracts

(A)	(B)	(C)	(D)
UNIT TYPE AND CONTRACT AND/OR STAGE	# OF UNITS	CURRENT SECTION 8 CONTRACT RENTS	CURRENT SECTION 8 RENT POTENTIAL (**B x C**)

(E) Monthly Expiring Section 8 Contract Rent Potential (total of column ***D)***: _____

(F) Annual Section 8 Rent Potential for Expiring Contracts (E x 12): _____

STEP 2:
Calculate Increase Factor Adjusted by OCAF for Expiring Contracts

(G)	TOTAL ANNUAL RENT POTENTIAL FOR **NON-EXPIRING SECTION 8 CONTRACTS**	
(H)	TOTAL ANNUAL RENT POTENTIAL **FORNON-SEC. 8 UNITS**	
(I)	TOTAL ANNUAL PROJECT RENT POTENTIAL **(F + G + H)**	
(J)	EXPIRING SECTION 8 PORTION OF TOTAL PROJECT RENT POTENTIAL **(F ÷ I)**	
(K)	TOTAL ANNUAL PROJECT DEBT SERVICE	
(L)	ANNUAL EXPIRING SECTION 8 SHARE OF DEBT SERVICE **(J x K)**	
(M)	ANNUAL EXPIRING SECTION 8 POTENTIAL **LESS** EXPIRING SEC. 8 SHARE OF DEBT SERVICE **(F-L)**	
(N)	ANNUAL EXPIRING SECTION 8 RENT POTENTIAL ATTRIBUTED TO OPERATIONS MULTIPLIED BY PUBLISHED OCAF **(M x OCAF)**	
(O)	ADJUSTED CONTRACT RENT POTENTIAL **(L + N)**	
(P)	LESSER OF (**O**) AND COMPARABLE RENT POTENTIAL FROM RENT COMPARABILITY STUDY	
(Q)	INCREASE FACTOR **(P ÷ F)**	

STEP 3:
Calculate OCAF Adjusted Contract Rent Potential for Expiring Section 8 Contracts ONLY.

(R)	(S)	(T)	(U)	(V)	(W)
UNIT TYPE AND CONTRACT AND/OR STAGE	# UNITS	CURRENT CONTRACT RENTS	OCAF ADJUSTED RENT (**Q** x **T**)	ANNUAL ADJUSTED RENT (**U** x **12**)	ADJUSTED ANNUAL RENT POTENTIAL (**S** x **V**)

(X) Annual Adjusted Rent Potential of the Expiring Contract(s)
(total Column W):

I certify that this information is true and complete.

Project Name: _____

Owner's Name: _____

Owner's signature: _____ Date: _____

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

OCAF RENT ADJUSTMENT WORKSHEET

PROJECT NAME: _____

PROJECT ADDRESS: _____

PROJECT OWNER: _____

FHA PROJECT NO.: _____

TOTAL UNITS IN PROJECT: _____ **TOTAL SECTION 8 UNITS IN PROJECT:** _____

DATE OF SUBMISSION: _____ **DATE RECEIVED BY HUD:** _____

STEP 1:

Calculate the current Section 8 Rent Potential for EXPIRING contracts

(A)	(B)	(C)	(D)
UNIT TYPE AND CONTRACT AND/OR STAGE	# OF UNITS	CURRENT SECTION 8 CONTRACT RENTS	CURRENT SECTION 8 RENT POTENTIAL (**B x C**)

(E) Monthly Expiring Section 8 Contract Rent Potential (total of column ***D)***: _____

(F) Annual Section 8 Rent Potential for Expiring Contracts (E x 12): _____

STEP 2:
Calculate Increase Factor Adjusted by OCAF for Expiring Contracts

(G)	TOTAL ANNUAL RENT POTENTIAL FOR **NON-EXPIRING SECTION 8 CONTRACTS**	
(H)	TOTAL ANNUAL RENT POTENTIAL **FORNON-SEC. 8 UNITS**	
(I)	TOTAL ANNUAL PROJECT RENT POTENTIAL **(F + G + H)**	
(J)	EXPIRING SECTION 8 PORTION OF TOTAL PROJECT RENT POTENTIAL **(F ÷ I)**	
(K)	TOTAL ANNUAL PROJECT DEBT SERVICE	
(L)	ANNUAL EXPIRING SECTION 8 SHARE OF DEBT SERVICE **(J x K)**	
(M)	ANNUAL EXPIRING SECTION 8 POTENTIAL **LESS** EXPIRING SEC. 8 SHARE OF DEBT SERVICE **(F-L)**	
(N)	ANNUAL EXPIRING SECTION 8 RENT POTENTIAL ATTRIBUTED TO OPERATIONS MULTIPLIED BY PUBLISHED OCAF **(M x OCAF)**	
(O)	ADJUSTED CONTRACT RENT POTENTIAL **(L + N)**	
(P)	LESSER OF (**O**) AND COMPARABLE RENT POTENTIAL FROM RENT COMPARABILITY STUDY	
(Q)	INCREASE FACTOR **(P ÷ F)**	

STEP 3:
Calculate OCAF Adjusted Contract Rent Potential for Expiring Section 8 Contracts ONLY.

(R)	(S)	(T)	(U)	(V)	(W)
UNIT TYPE AND CONTRACT AND/OR STAGE	# UNITS	CURRENT CONTRACT RENTS	OCAF ADJUSTED RENT (**Q** x **T**)	ANNUAL ADJUSTED RENT (**U** x **12**)	ADJUSTED ANNUAL RENT POTENTIAL (**S** x **V**)

(X) Annual Adjusted Rent Potential of the Expiring Contract(s)
(total Column W):

I certify that this information is true and complete.

Project Name: _____

Owner's Name: _____

Owner's signature: _____ Date: _____

Warning: If you knowingly make a false statement on this form, you may be subject to civil penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

OCAF Worksheet Instructions

These instructions should be used by all Owners of projects that require an Operating Cost Adjustment Factor (OCAF)calculation (rent adjustments, “lesser of” test, etc.). Each entry of the OCAF Worksheet is explained below. All calculations should be taken out to the third decimal point (1.023). Rounding to the nearest dollar figure can take place in Step Three when the new rents are calculated with the Increase Factor.

Step One

Calculate the current Section 8 rent potential for expiring contracts. Enter information for only the Section 8 units in the project that are expiring..

A

Enter the unit type (1-BR, 2-BR, etc.) with the contract/stage number. When entering information please distinguish between similar units with different rents. For example, there is a contract that is expiring with one bedroom apartments that have different rents. Enter this information as 1BR-a, 1BR-b, etc. If an Owner elects to combine the contracts into a single contract and there are units of the same bedroom type in the combined contracts, they should be combined into one rent level that will set the rent at an average that yields the same adjusted rent potential.

For example: *total rent for combined contracts ÷ total # units = Average (# of units X rent = total rents)*

B

Enter the number of units that correspond to the unit type and contract/stage number.

C

Enter the current monthly Section 8 contract rent (including utilities, if applicable) for the corresponding unit type.

D

Multiply the contract rent by the number of units to get the monthly rent potential for the unit type.

E

Add all of the sums of Column D to get the monthly contract rent potential for the expiring Section 8 contract(s)/stage(s).

F

Multiply the sum of the monthly contract rent potential in (E) to get the annual rent potential for the expiring contract(s).

Step Two

Calculating the Increase Factor Adjusted by the Operating Cost Adjustment Factor for the Expiring Contract(s).

G

If there are multiple Section 8 contracts at the property and some are not being renewed at this time, enter the annual rent potential for those Section 8 contracts that are not being renewed.

H

If the property is not 100% Section 8, enter the annual rent potential for the non-Section 8 units in the property

I

To figure the total annual rent potential at the property, add the rent potentials for the expiring Section 8 contract(s) (F), of the non-expiring Section 8 units (G) and the non-Section 8 units in the property (H).

J

To find out what portion of the property's total annual rent potential is for the expiring Section 8 contract(s) divide the rent potential for the expiring Section 8 contract(s) (F) by the total rent potential of the project (I).

K

Enter the Debt Service. The Owner must provide this information. A project manager may confirm this information by reviewing the project's file. For a project that receives Interest Reduction Payments, enter the Total Annual 1% Project Debt Service.

L

In order to subtract the correct amount of debt service from the rent potential, multiply the debt service (K) by the portion of the overall rent potential for the expiring Section 8 contract (J).

M

In order to figure the annual expiring Section 8 rent potential attributed to operations, subtract the portion of the debt service for the expiring Section 8 (L) from the total annual rent potential for the expiring Section 8 contract(s) (F). The rent adjustment must be for the portion of the rent that is attributable to operations, there should be no rent increase on the portion of the rent that covers the debt service since this is a static figure.

N

Use the currently published OCAF for your area and multiply it by the annual expiring Section 8 rent potential attributable to operations (M). If the OCAF is 2.3%, use 1.023 in your calculations.

O

Now that we have adjusted the rent attributable to operations by the OCAF, add the expiring Section 8 portion of the debt service back in to get the adjusted contract rent.

P

If applicable, compare the adjusted contract rent potential with the Market Rent Potential (from the RCS and reflected in the Renewal Request Forms). If the adjusted contract rent potential is less that the Market Rent Potential, enter that figure. If the Market Rent Potential is less, enter that figure. ***NOTE:*** This step may not be applicable in all cases. If no RCS was required, there is nothing to compare, simply enter the adjusted contract rent potential.

Q

Due to the fact that the OCAF was applied only to the portion of the expiring Section 8 rent potential attributable to operations, the adjustment factor that will be applied to each of the rents will be slightly less than the actual OCAF. To figure this increase factor, divide the adjusted rent potential (or market rent potential, if applicable) by the total annual rent potential for the expiring Section 8 contract(s) (F).

Step Three

Calculate the OCAF Adjusted Rent Potential for Expiring Section 8 Contract(s).

R

Enter the unit type and contract/stage number (as in A).

S

Enter the number of units (as in B).

T

Enter the current Section 8 monthly contract rents (as in C).

U

Calculate the OCAF adjusted rent by multiplying the Increase Factor (P) by the monthly contract rents.

V

To get the annual adjusted rent for each unit type, multiply the OCAF adjusted monthly rent by 12.

W

The adjusted annual rent potential for each unit type in each contract/stage is calculated by multiplying the annual OCAF adjusted rent by the number of units.

X

Add the total of the adjusted annual rent potentials for each unit type in each contract/stage to calculate the total annual adjusted rent potential for the expiring contract(s).

OVERVIEW OF CONVERSION PROCEDURE

Conversion from Project-Based Contract to Rental Voucher Assistance

Note: This funding process will be revised shortly by a new PIH/Housing notice on tenant-based assistance relating to all Housing conversion actions for FY 2000.

Processing Timelines

The greatest challenge to a successful transition to voucher assistance is time. The purpose of these timelines and the processing steps is to identify the various tasks that must occur to complete the process in the context of the dates by which they should be completed.

Please keep in mind these timelines are provided as a rough guide only. While the steps are identified in the general sequence they may occur, some steps are conditioned on completion of the preceding steps, whereas others may be completed concurrently or even earlier than some of the preceding steps. The description of each step is followed by a code that identifies the entity primarily responsible for completing the step (e.g., OMH-2 indicates that the step in question is the second step for which the Field Office Multifamily staff has primary responsibility). All parties are encouraged to complete their respective tasks at the earliest opportunity possible.

Abbreviations

The following abbreviations are used:

OMH – Office of Multifamily Housing staff (Field Office unless otherwise noted)
OPH - Office of Public Housing staff (Field Office unless otherwise noted)
FMC - Section 8 Financial Management Center staff
PHA - Public Housing Agency staff
HQ - HUD Headquarters (Program area follows)
TD - Target Date (the date when a family may suffer a rent increase or displacement unless the Housing conversion action is completed and the eligible families are under Section 8 tenant-based HAP contracts).

The target dates for the various Housing conversion actions are as follows:

- Preservation prepayment -- The date the owner can first increase the rent after the prepayment, generally 60 days after effective date of prepayment.

- Straight Opt-out -- Expiration date of the project-based contract.

- Enforcement Action -- Termination or expiration of project-based contract.

- PD Sales -- The date of the sale of the property.

Timeline 1

This timeline applies to all Opt-outs and Preservation Prepayments. The timeline also applies to PD Sales where the units meet program requirements.

```
  Steps                1 - 14  15-17   18...
←|----|----|-----|----|-------|-------|--------|-→
     210   180   150  120     90      60       TD
  Days
```

Timeline 2

This timeline applies to all HUD Enforcement Actions. It also applies to PD Sales where units do not meet program requirements.

```
  Steps     1 - 14  15 - 17        18...
←|----|-----|-------|------|-------|-------|-----|→
Days  210   180     150    120     90      60
```

<u>Steps</u>

1. Field Office OMH determines that housing vouchers are needed for a Housing conversion action. Field OMH advises Field OPH of the number of occupants and family composition using the current Form HUD-50059s (or other information from the owner in cases where Form HUD-50059s do not apply). Provides copies of project fact sheet and Form HUD-50059s or other tenant profiles to OPH. **This step must occur at least**

120 days prior to the TD for opt-outs and preservation prepayments, and at least 180 days before the TD for HUD enforcement actions. (OMH-1)

2. Upon receiving notice from Field OMH, Field OPH determines the appropriate PHA to administer the tenant-based assistance Contacts, and extends invitation to the PHA. Upon PHA acceptance of offer, Field OPH completes memorandum for special fee funding that is jointly signed by OMH director. Submits memorandum to PIH HQ, PAHD, Funding Division. (OPH-1)

3. Field OPH then provides copies of the Form HUD-50059s and/or tenant profiles to the PHA and requests that the PHA submit an application with the unit distribution based on tenant profile and PHA subsidy standards as soon as possible. (OPH-2)

4. PHA informs Field OPH of bedroom distribution. The PHA submits the application (Form HUD-52515) to Field OPH as soon as possible. (PHA-1)

5. Field OPH determines budget authority requirements for tenant-based funding in consultation with Field OMH. Use the Preservation Funding Worksheet for Preservation prepayments and opt-outs to request enhanced voucher funding, for all other conversion actions, use the New Increment Funding Worksheet for Housing Vouchers. In case of an opt-out (not connected with a preservation prepayment) please indicate that this is not a preservation conversion action. Provide completed worksheet to Field OMH. (OPH-3)

6. Field OMH notifies HQ OMH of funding needs and the PHA identified by Field OPH through memo/email and Funding Worksheet. (OMH-2)

7. As necessary, Headquarters OMH reallots budget authority to Headquarters OPH through Budget Office. (HQMF-1)

8. Headquarters OPH reviews special fee memorandum and assigns budget authority for the fee. Transmits Form HUD-185 to the Financial Management Center. (HQPH-1)

9. FMC reserves special fee funds, prepares special fee ACC documents and transmittal letter. Executes special fee ACC and sends to PHA with copy of letter to Field OPH. (FMC-1)

10. PHA should review owner income certifications to determine if acceptable. PHA is encouraged to begin income examination and verification process as necessary. (PHA-2)

11. Headquarters OPH reviews Funding Worksheet and contacts Field OPH to obtain corrections if necessary. (HQPH-2)

12. Headquarters OMH authorizes HQ OPH to assign Section 8 funds to Field OPH. (HQMH-2)

13. Headquarters OPH assigns budget authority for the tenant-based assistance to FMC (form 185 Fund Assignment, HUDCAPS record). (HQPH-3)

14. PHA must submit application if they have not done so already (Form HUD-52515 and certifications). (PHA-3)

15. Field OPH reviews and approves the PHA application; transmits the application approval letter to the PHA with a copy to FMC. (OPH-4)

16. Upon receiving approval letter from FO PH and budget authority from HQ (HUDCAPS), FMC reserves/contracts the tenant-based funds. (FMC-2)

17. FMC prepares the ACC documents and the ACC transmittal letter, forwards transmittal letter and ACC documents to PHA with copy of letter to Field Office OPH. (FMC-3)

18. PHA issues vouchers to eligible families. **If at all possible, issue vouchers no later than 60 days before TD.** (PHA-4)

19. PHA prepares and submits Budget Revision to FMC. (PHA-5)

20. FMC processes Budget Revision. (FMC-5)

21. Family decides whether to stay in place or move. Family submits request for lease approval to PHA. PHA reviews rents and inspects units. If unit is approved, PHA executes HAP contract. **NOTE: If family is staying in-place, effective date of voucher HAP contract may not commence before TD.**
(PHA-6)

22. PHA submits justification for amount of special fee actually claimed to FMC as part of the PHA fiscal year-end settlement (submit with Form HUD-52681 and Form HUD 52595.) (PHA-7)

23. FMC reconciles approved fee amount during year-end settlement process. (FMC-6)

PROJECTS PREPARING A BUDGET-BASED RENT INCREASE

Guidance for preparing a budget-based rent increase may be found in HUD Handbook 4350.1,REV-1, Chapter 7. Projects that have not previously prepared or submitted a budget based increase should carefully follow these instructions. The basic components to be included are listed in paragraph 7-22.

Allowance for Owner Distribution For Profit Motivated Projects that Have Not Previously Submitted a Budget Based Rent Increase.

Projects falling under this blanket may factor in an allowance for owner return/distribution as follows:

- For **Section 515/8** projects (regardless of whether they are for the elderly or families), 8% of the initial Owner equity.

- For all other projects:
  ⇒ for **Elderly**, 6% of the initial owner equity.
  ⇒ for **Families**, 10% of the initial owner equity.

To determine initial owner equity, the owner(s) should refer to the original firm commitment from HUD (form HUD-92264). If the project was not insured, or the HUD-92264 in not available, the Owner(s) must certify as to the amount of the initial equity and provide supporting documentation.

For Section 515/8 projects:

_____ x .08 = _____
Initial Owner Equity Allowance for Owner Return/Distribution

For Elderly Projects:

_____ x .06 = _____
Initial Owner Equity Allowance for Owner Return/Distribution

For Family Projects:

_____ x .10 = _____
Initial Owner Equity Allowance for Owner Return/Distribution

I hereby certify that this accurately reflects the initial Owner equity in the project as of the date the project initially entered into a Section 8 contract.

_____ _____
Owner(s) Signature Date

The allowance for Owner Return/Distribution should be factored into the Rent Computation Worksheet (Appendix 5, Chapter 7 of the 4350.1) in Box C, “Return/Net Income Reserve.”

FY 2001 Operating Cost Adjustment Factors (OCAF)for Rent Adjustments at Section 8 Contract Renewal.

(In percent)

State	FY 2001 Operating Cost Adjustment Factor
ALABAMA	3.31
ALASKA	2.48
ARIZONA	3.45
ARKANSAS	3.19
CALIFORNIA	2.99
COLORADO	3.20
CONNECTICUT	2.88
DELAWARE	2.84
DISTRICT OF COLUMBIA	2.98
FLORIDA	3.09
GEORGIA	1.68
HAWAII	3.10
IDAHO	3.23
ILLINOIS	2.72
INDIANA	2.81
IOWA	2.79
KANSAS	2.88
KENTUCKY	2.89
LOUISIANA	3.08
MAINE	2.89
MARYLAND	3.19
MASSACHUSETTS	2.64
MICHIGAN	3.00
MINNESOTA	3.22
MISSISSIPPI	2.96
MISSOURI	2.97
MONTANA	3.54
NEBRASKA	3.08
NEVADA	3.21
NEW HAMPSHIPE	2.58
NEW JERSEY	3.31
NEW MEXICO	2.53
NEW YORK	2.79
NORTH CAROLINA	3.25
NORTH DAKOTA	2.90
OHIO	2.87
OKLAHOMA	3.03
OREGON	3.12
PENNSYLVANIA	1.94
RHODE ISLAND	2.35
SOUTH CAROLINA	3.24
SOUTH DAKOTA	3.25
TENNESSEE	3.12
TEXAS	2.79
UTAH	2.58
VERMONT	3.91
VIRGINIA	3.00
WASHINGTON	3.26
WEST VIRGINIA	3.11
WISCONSIN	3.24
WYOMING	3.07
PACIFIC ISLANDS	2.76
PUERTO RICO	3.21
VIRGIN ISLANDS	2.86
UNITED STATES AVERAGE	2.85

SECTION 8 RENEWAL HELP DESK CONTACTS

Albuquerque	Kathryn Rhine	(505) 346-7384
Atlanta Hub	Roberta Barnes	(404) 331-4001 ext. 2328
	Sue H. Barron	(404) 331-5001 ext. 2326
Baltimore Hub	Kyle Anderson	(410) 962-2520 ext. 3004
Birmingham	Donna Crane	(205) 290-7630 ext. 1083
	Liz Perryman	(205) 290-7630 ext. 1069
Boston Hub	Elaine Ormond	(617) 565-6617
	Maurice Barry	(617) 565-5138
	Jerry Melillo	(617) 565-5223
Buffalo Hub	Andy Pyshlak	(716) 551-5755 ext. 5520
Caribbean	Joe L. Castrillo	(787) 766-5400 ext. 2062
	Magaly Mendez	(787) 766-5400 ext. 2056
Charleston	Gary Fletcher	(304) 347-7000 ext. 118
Chicago Hub	Denise Johnson	(312) 353-6236 ext. 2159
Cincinnati	Alan Coupland	(614) 469-5737 ext. 8204
Cleveland	Dennis Morton	(216) 522-4058 ext. 7169
Columbia	Robert A. Rifenberick	(803) 253-3240
	Elizabeth W. Hiller	(803) 765-5880
Columbus Hub	Alan Coupland	(614) 469-5737 ext. 8204
Coral Gables	Patricia Hills	(904) 232-1777 ext. 2068
	Eleanor Hammonds	(904) 232-1777 ext. 2064
	Paul Grafton	(904) 232-1777 ext. 2003
Denver Hub	Richard D. Fox	(303) 672-5369 ext. 1135
Des Moines	Nicky Salazar	(515) 284-4627
Detroit Hub	Silas L. Polk	(313) 226-4900 ext. 8160

Fort Worth Hub	Delores Timsah	(817) 978-5845
	Trini Rodriguez	(817) 978-5505
	Barbara Herriage	(817) 978-5772
Grand Rapids	Mary P. Weston	(616) 456-2133
Greensboro Hub	Linda F. Robertson	(336) 547-4027 ext. 518
	Sue Hazelwood	(336) 547-4027 ext. 531
	Barbara Nichols	(336) 547-4027 ext. 513
Hartford	Robert Young	(860) 240-4800 ext. 3135
	Roland Hutter	(860) 240-4800 ext. 3135
Honolulu	Raymond Gota	(808) 522-8185 ext. 248
Houston	Debra Thompson	(713) 313-2274 ext. 7092
Indianapolis	Eileen Mitcheltree	(317) 226-6085
Jackson	Nita Tackett	(601) 965-4700 ext. 3035
	Vicki R. Gross	(601) 965-4700 ext. 2960
Jacksonville Hub	Patricia Hills	(904) 232-1777 ext. 2068
	Eleanor Hammonds	(904) 232-1777 ext. 2064
	Paul Grafton	(904) 232-1777 ext. 2003
Kansas City Hub	Jane Phillips	(913) 551-6812 or (913) 551-5874
Knoxville	Shawna Kitts	(423) 545-4411 ext.165
Las Vegas	Robert Skinner	(415) 436-6493
	Frank J. Castro	(702) 388-6500
Little Rock	Belinda Koros	(501) 324-6148 ext. 3437
	Olga Harper	(501) 324-6148 ext. 3435
	Suzette J. Keyser	(501) 324-6148 ext. 3431

Los Angeles Hub	Cameron Eldredge	(213) 894-8000 ext. 3600
	Donald Freeman	(213) 894-8000 ext. 3634
	Helen Haynes	(213) 894-8000 ext. 3639
	Mary Ann Carrasco	(213) 894-8000 ext. 3640
	Linda Paugh	(213) 894-8000 ext. 3641
Louisville	John Hamilton	(502) 582-6163 ext. 275
Manchester	Cecile Chabot	(603) 666-7686
Milwaukee	Robert Moser	(414) 297-3214 ext. 8691
Minneapolis Hub	Mark Campbell	(612) 370-3051 ext. 2263
	Karin Anderson	(612) 370-3051 ext. 2253
Nashville	Claudia Autry	(615) 736-5069 ext. 3822
	Julia E. Moss	(615) 736-5748 ext. 3736
Newark	Pamela M. Breitenbach	(973) 622-7900 ext. 3410
New Orleans	Virginia Cockerham	(504) 589-7236 ext. 3115
New York Hub	Doris Goodman	(212) 264-0777 ext. 3807
	Leonora McJolly	(212) 264-0777 ext. 3810
Northwest/Alaska	Gloria Garcia	(206) 220-5228 ext. 3174
Oklahoma City	Jennifer J. Takagi	(405) 553-7411
Omaha	Donna L. Lammert	(402) 492-3116
Philadelphia Hub	Theresa Triolo	(215) 656-0609 ext. 3541
Phoenix	Sandra Trepper	(602) 379-4456 ext. 6252
	Marjorie Carpenter	(602) 379-3146 ext. 6248
Pittsburgh	Jane Miller	(412) 644-6884
Portland	Gloria Garcia	(206) 220-5228 ext. 3174

Providence	Christine Keshura	(401) 528-5357
Richmond	Jean Mitrovich	(804) 278-4500 ext. 3022
Sacramento	Woody Wilson	(916) 498-5220 ext. 392
San Antonio	Carolyn H. Shields	(210) 475-6800 ext. 2374
San Fran. Hub	Robert Skinner	(415) 436-6493
Seattle Hub	Gloria Garcia	(206) 220-5228 ext. 3174
	Dwyer Dale	(206) 220-5200 ext. 3243
	Kathy Claiborne (Anchorage)	(907)271-4314
Shreveport	Annie Maywether	(318) 676-3393 ext. 338
	Roy White	(318) 676-3393 ext. 340
St. Louis	Susan Grimes	(314) 539-6353
	Tanya Schepker	(314) 539-6354
	Jeff Kroll	(314) 593-6152
Washington DC	Richard Slaten	(202) 275-9200 ext. 3056

Anticipated Abatement or Termination of Full Section 8 HAP Contracts

Report For The Month Of _____, 20____

Hub or Program Center: _____

Project Name	FHA Number	Section 8 Number	Number of Section 8 Units	Name of Officer or General Partner of Owner Entity	Reason For Action

VOUCHER PROCESSING DIVISION PROCEDURES

Voucher Intake

Owners of HUD-administered rental assistance contracts transmit monthly automated payment requests to the Tenant Rental Assistance Certification System (TRACS).

TRACS verifies that each automated payment request is supported by an active rental assistance contract and forwards it to the Line of Credit Control System (LOCCS).

LOCCS edits each automated payment request to determine if it exceeds a system-generated “program” threshold (currently 180% of the average disbursement during the previous year.) A fixed “project” threshold may also be set for the rental assistance contract.

Each automated payment request that does not exceed a threshold is scheduled for payment.

Each automated payment request that exceeds a threshold is suspended in LOCCS until it is reviewed and approved by the Voucher Processing Division. Concurrently, an electronic message is sent to the owner requesting that a copy of the paper voucher (for HUD-52670 and form HUD-52670A-Part 1) be faxed to the Voucher Processing Division for prepayment review.

Voucher Database

Lists of vouchers that exceed thresholds are downloaded from LOCCS on a daily basis and stored in a Microsoft Access database. The database contains the following information.

Rental assistance contract number
TRACS voucher identification number
TRACS processing date
Voucher receipt date
Voucher review date
Voucher status
Remarks
Voucher examiner name

Rental assistance contract numbers, TRACS voucher identification numbers, TRACS processing dates, and voucher

examiner names are system-generated. Voucher receipt dates and voucher review dates are maintained by the reviewing official (voucher specialist). Voucher status and remarks are maintained by the approving official (division director).

Voucher Review Procedures - Automated Payment Requests

Automated payment requests are required to be reviewed within three weeks of receipt of the paper voucher from the owner. A review is complete when the basis for recommending approval or disapproval is adequately documented on the attached review form and all findings that require corrective actions have been verbally communicated to the owner.

Automated payment requests must meet the following conditions for approval:

The automated payment request must conform to the total requested payment on the paper voucher.

The total units on the paper voucher must not exceed the total units authorized in the rental assistance contract.

At least 85% of tenants listed on the paper voucher must have current income certifications in the TRACS database.

Total adjustment errors must not exceed 15% of the total requested payment.

Voucher Review Procedures - Manual Payment Requests

Manual payment request is processed when an owner cannot transmit an automated payment to TRACS.

Manual payment requests are required to be reviewed within three weeks of receipt of the paper voucher from the owner. A review is complete when the basis for recommending approval or disapproval is adequately documented on the attached review form and all findings that require corrective actions have been verbally communicated to the owner.

Manual payment requests must meet the following conditions for approval:

The rental assistance contract must be TRACS-controlled (at least one automated payment request has been successfully transmitted to LOCCS).

The existing automated payment request, if any, cannot be retransmitted.

The total units on the paper voucher must not exceed the total units authorized in the rental assistance contract.

The contract rents and utility allowances used to calculate tenant assistance payments must conform to contract rents and utilities authorized in the rental assistance contract.

At least 85% of tenants listed on the paper voucher must have current income certifications in the TRACS database.

Total adjustment errors must not exceed 15% of the total requested payment.

Special claims on the voucher must be approved by the field office.

Adequate funding must be available.

Voucher Review Exceptions

Manual payment requests are approved without review if the total voucher amount is below the existing threshold.

Automated and manual payment requests for voucher months prior to April 1998 are approved without review because HUD policy prior to that date was to pay all paper vouchers without prepayment review.

Automated payment requests for service coordinator contracts are reviewed by field office staff. When an automated payment request for service coordinator fees exceeds a threshold, email is sent to the field office requesting that the voucher be approved or disapproved. For tracking purposes, a service coordinator voucher is considered to be reviewed when the email is sent. No voucher is required. A copy of the email must be attached to the review form.

Automated payment requests for the initial months of merged rental assistance contracts are approved when less than 85% of the tenants listed on the paper voucher have current income certifications in the TRACS database in order to allow owners an additional month to transfer tenant data

from canceled rental assistance contracts. (At least one current certification is required.)

Payment Approval Procedures

Payment approvals are documented on review forms. Requests for payment of approved automated and manual payment requests are sent to the CFO National Accounting Center via email on a daily basis.

When To Use A Contract

The Basic Renewal Contract (Attachment 11) should be used by Owners who request to renew their Section 8 contract(s) at or below comparable market rents (Option Two), projects exempted from OMHAR (Option Four) and by Owners of projects that went through the Portfolio Reengineering Demonstration Program (Option 5). The Basic Renewal Contract is used for all short-term renewals, excluding those that receive short-term renewals using the OMHAR Interim Renewal Contracts listed below. The Basic Renewal Contract is also used for OMHAR Lites that have completed their rent restructurings. It should NOT be used for Mark-Up-To-Market (Option One) renewals.

The Mark-Up-To-Market Contract (Attachment 12) should be used by Owners of eligible below market projects requesting renewal of their Section 8 contract(s) under Mark-Up-To-Market (Option One).

The Preservation Renewal Contract (Attachment 13) should be used by eligible Owners of Preservation projects that are requesting renewal of their Section 8 contract(s). (Option Five).

The Interim Full Contract (Attachment 14) is an interim/short-term OMHAR renewal contract that should be used when owners are referred to OMHAR for debt restructuring. Owners can make their own initial determinations that they probably will agree to restructure the debt (Option Three), or the PM/CA believe their rents are above market and can refer the project for debt restructuring.

The Interim Mark-To-Market Renewal/Re-Entry Contract (Attachment 14A) is for owners who were initially referred to OMHAR for a debt restructuring but who decide before the process is completed not to follow through with the restructure, or for projects that OMHAR has discontinued the restructuring process. The Renewal/Re-Entry contract continues the property's eligibility for debt restructuring in the event the owner decides to return to OMHAR to complete the process. For further information, see Appendix 5-4.

The Interim-Lite Renewal Contract (Attachment 15) is an interim short-term OMHAR renewal contract. This contract is used when owners are referred to OMHAR for rent restructurings. Owners can make their own initial determination that they will probably agree to restructure rents but not the debt. (Option Three) or the PM/CA believes their rents are above market and can refer the project for rent restructuring,

The Full Mark-To-Market-Renewal Contract (Attachment 16), should be used by owners that previously entered one of the two Interim Contracts discussed above, and who have reached an agreement with HUD on the terms of the debt restructuring. (Option Three)

The Watch List Renewal Contract (Attachment 17) is an OMHAR contract for owners who: (i) previously entered into one of the two Interim Contracts; (ii) chose not to restructure or OMHAR discontinued the restructuring process; and (iii) agree that they may need to change their mind and opt back into the Mark-To-Market Program. In this scenario, the Owner retains eligibility under the Mark-to-Market Program but they must make an election

to opt back into the program at a later date. Through the execution of an Interim Full Renewal/Re-Entry contract, HUD and the Owner agree to simultaneously terminate the Watch List Contract and agree to proceed in good faith to work out the terms of and complete a Debt Restructuring:

U.S. Department of Housing and Urban Development

Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

BASIC RENEWAL CONTRACT

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Basic Renewal Contract. The instructions are not part of the Renewal Contract

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U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

BASIC RENEWAL CONTRACT[1]

1 CONTRACT INFORMATION[2]

PROJECT

Section 8 Project Number _____

Section 8 Project Number of Expiring Contract

_____

FHA Project Number (if applicable) _____

Project Name _____

Project Description[3]

_____

TYPE OF RENEWAL

☐ Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).

☐ Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator[4]

_____

Address of Contract Administrator

_____

_____

_____

Name of Owner[5]

_____

Address of Owner

_____

_____

_____

2 TERM OF RENEWAL CONTRACT

a The term of the Renewal Contract begins on

_____.[6]

b Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal Contract, as determined by HUD, the Renewal Contract shall run for a period of _____ years, beginning on the first day of the term.[7] Section 8 housing assistance payments to the Owner during the Renewal Contract term shall only be made from budget authority appropriated by the Congress, and available for this purpose.

3 DEFINITIONS.

ACC. Annual contributions contract

Anniversary. The annual recurrence of the date of the first day of the term of the Renewal Contract.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

Contract units. The units in the Project which are identified in Exhibit A by size and applicable contract rents.

Fifth year anniversary. The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

Fifth year comparability adjustment. An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

HUD. The United States Department of Housing and Urban Development.

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531(a) of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act, 2000 (Public Law No. 106-74, October 20, 1999,113 Stat. 1109ff).

Mid-term comparability adjustment. An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

OCAF. An operating cost adjustment factor established by HUD.

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

Project. The housing described in section 1 of the Renewal Contract.

Renewal Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)

4 RENEWAL CONTRACT

a Parties

(1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).

(2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of the MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purposed of relocating or rehousing assisted residents in other housing.

e Contract units

The Renewal Contract applies to the Contract units.

5 EXPIRING CONTRACT – PROVISIONS RENEWED

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

b All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:

(1) Identification of contract units by size and applicable contract rents;

(2) The amount of the monthly contract rents;

(3) Contract rent adjustments; and

(4) Project account (sometimes called “HAP reserve” or “project reserve”) as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States

Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.

c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

b Contract rent adjustments

(1) OCAF or Budget-Based Rent Adjustments

(a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):

(i) Using an OCAF; or

(ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.

(b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

(2) Comparability adjustments

(a) Applicability. This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).

(b) Fifth year adjustment (comparability adjustment at expiration of each 5-year period, *if applicable*).

(i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).

(ii) At the expiration of each 5-year period of the Renewal Contract term ("Fifth Year Anniversary"), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

(iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the Owner submit to the Contract Administrator a rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.

(c) Mid-term adjustment (discretionary comparability adjustment within 5-year term)

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year

Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

(d) Adjusting contract rent

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

(3) Procedure for rent adjustments during renewal term

(a) To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.

(b) The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.

(c) Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

(4) No other adjustments

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the

contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

7 OWNER WARRANTIES

a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.

b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

8 OWNER TERMINATION NOTICE

a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.

b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

11 PHA DEFAULT

a This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.

b If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

a The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.

b The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.

c If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES

a Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.

b A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator (Print)

_____

_____

By: _____
Signature of authorized representative

_____
Name and official title (Print)

Date _____

Owner

Name of Owner (Print)

_____

_____

By _____
Signature of authorized representative

_____
Name and title (Print)

Date _____

EXHIBIT A

IDENTIFICATION OF UNITS ("CONTRACT UNITS") BY SIZE AND APPLICABLE CONTRACT RENTS

Number of Contract Units	Number of Bedrooms	Contract Rent

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

---

[1] This form of Renewal Contract must be used for initial and subsequent renewals of an expiring Section 8 project-based HAP contract in accordance with HUD requirements, and Sections 524(a) and (b)(1) of MAHRA.

This form may not be used for Mark-Up-To-Market Renewals. The HUD prescribed form of Mark-Up-To-Market Renewal Contract must be used for this purpose.

Section 2 of the Renewal Contract specifies the contract term.

[2] To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

[3] Enter a description of the housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designate the covered Project.

If necessary, attach an exhibit with a site plan, legal description or other descriptive information. Enter a reference to the attached exhibit.

[4] Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America – Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

[5] Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

[6] The Renewal Contract must be entered before expiration of the Expiring Contract. Enter the date of the first day after expiration of the term of the Expiring Contract.

[7] Enter the term of the renewal contract. The term shall be determined in accordance with HUD requirements. Insert the number of whole years.

U.S. Department of Housing and Urban Development
Office of Housing

PROJECT-BASED SECTION 8

HOUSING ASSISTANCE PAYMENTS RENEWAL CONTRACT FOR MARK-UP-TO-MARKET PROJECT

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Renewal Contract. The instructions are not part of the Renewal Contract.

RENEWAL HAP CONTRACT
FOR SECTION 8 MARK-UP-TO-MARKET PROJECT[1]

1 CONTRACT INFORMATION[2]

PROJECT

Section 8 Project Number _____

Section 8 Project Number of Expiring Contract

_____

FHA Project Number (if applicable) _____

Project Name _____

Project Description[3]

_____

_____

☐ Check this box if the project is a Section 236 project or a Section 221(d)(3) below market interest rate (BMIR) project at the beginning of the Renewal Contract term.

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator[4]

_____

Name of Owner

_____

2 TERM OF RENEWAL CONTRACT

a The term of the Renewal Contract begins on

_____.[5]

b Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal Contract, as determined by HUD, the Renewal Contract shall run for a period of _____ year(s), beginning on the first day of the term.[6] Section 8 housing assistance payments to the owner during the Renewal Contract term shall only be made from budget authority appropriated by the Congress, and available for this purpose.

3 RENEWAL CONTRACT

a Parties

(1) This contract ("Renewal Contract") is a housing assistance payments contract ("HAP contract") between the contract administrator and the owner of the housing.

(2) If HUD is the contract administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as contract administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 8 (applicable requirements), section 9 (statutory changes during term), section 10 (distributions) and section 11 (PHA default) of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 ("Section 8") (42 U.S.C. 1437f), and section 524(a) and (c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) ** (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub. L. No. 106-74, October 20, 1999,113 Stat. 1109ff).

c Expiring Contract

Previously, the owner entered into a Housing Assistance Payments Contract ("Expiring Contract") with HUD or a PHA to make Section

8 housing assistance payments to the owner for eligible families living in the project. The term of the Expiring Contract has or will expire prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

The purpose of the Renewal Contract is to renew the Expiring Contract for an additional term. During the term of the Renewal Contract, the contract administrator will make housing assistance payments to the owner in accordance with the provisions of the Renewal Contract. Such payments shall only be made for contract units occupied by eligible families ("families") leasing decent, safe and sanitary units from the owner in accordance with HUD regulations and other requirements.

e Contract units

The Renewal Contract applies to the project contract units identified in Exhibit A by size and applicable contract rents.

4 EXPIRING CONTRACT – PROVISIONS RENEWED

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

b Any provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:

(1) The amount of the monthly contract rents;

(2) Contract rent adjustments;

(3) Project account (sometimes called “HAP reserve” or “project reserve”) as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.

c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section.

5 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the project are adjusted in accordance with section 5b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A, which is attached to and made a part of the Renewal Contract. The initial contract rent amounts listed in Exhibit A have been increased to market levels under the HUD Mark-Up-to-Market Option.

b Contract rent adjustments

(1) OCAF adjustment

Except for adjustment of the contract rents to comparable market rents at the expiration of each 5-year period (as provided in paragraph 5b(2) of this section) ("fifth year adjustment"), during the term of the Renewal Contract the contract administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements, using an operating cost adjustment factor (OCAF) established by HUD. Such adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for a fifth year adjustment.

(2) Fifth year adjustment (comparability adjustment at expiration of each 5-year period, *if applicable*)

(a) This section 5(b)(2) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).

(b) At the expiration of each 5-year period of the Renewal Contract term, the contract administrator shall compare existing contract rents with comparable market rents for the market area. At such anniversary of the Renewal Contract, the contract administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the contract administrator in accordance with HUD requirements,

necessary to set the contract rents for all unit sizes at comparable market rents. Such adjustments may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

(b) To assist in the redetermination of contract rents, the contract administrator may require that the owner submit to the contract administrator a rent comparability study prepared (at the owner's expense) in accordance with HUD requirements.

(3) Procedure for rent adjustments during renewal term

To adjust contract rents during the term of the Renewal Contract (in accordance with paragraph 5b(1) or paragraph 5b(2)), the contract administrator shall give the owner notice of the revised Exhibit A. The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the contract administrator in accordance with paragraph 5b(1) or paragraph 5b(2). The notice shall specify when the adjustment of contract rent is effective. The notice by the contract administrator of the revised Exhibit A constitutes an amendment of the Renewal Contract.

(4) No other adjustments

Except for contract rent adjustments in accordance with paragraph 5b, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

6 OWNER WARRANTIES

a The owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.

b The owner warrants that the rental units to be leased by the owner under the Renewal Contract are in decent, safe and sanitary condition, as defined by HUD, and shall be maintained in such condition during the term of the Renewal Contract.

7 OWNER NOTICE

a Before termination of the Renewal Contract, the owner shall provide written notice to the contract administrator and each assisted family in accordance with the law and HUD requirements.

b If the owner fails to provide such notice in accordance with the law and HUD requirements, the owner may not increase the tenant rent payment for any assisted family until such time as the owner has provided such notice for the required period.

8 APPLICABLE REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including amendments or changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD regulations and requirements which are inconsistent with the provisions of the Renewal Contract, including the provisions of section 5 (contract rent) and section 10 (distributions), shall not be applicable.

9 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 5 or section 10 of the Renewal Contract, and if HUD determines, and so notifies the contract administrator and the owner, that the contract administrator is unable to carry out the provisions of section 5 or section 10 because of such statutory change, then the contract administrator or the owner may terminate the Renewal Contract upon notice to the other party.

10 DISTRIBUTIONS

During the term of the Renewal Contract, neither HUD nor the PHA may impose any additional limitations on distributions of project funds other than any distribution limitations specified in Exhibit B, which is attached to and made a part of this Renewal Contract.

11 PHA DEFAULT

a This section of the Renewal Contract applies if the contract administrator is a PHA acting as contract administrator pursuant to an annual contributions contract (“ACC”) between the PHA and HUD. This includes a case where HUD has assigned the Renewal

Contract to a PHA contract administrator, for the purpose of PHA administration of the Renewal Contract.

b If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as contract administrator, to make housing assistance payments to the owner in accordance with the provisions of the Renewal Contract, and that the owner is not in default of its obligations under the Renewal Contract, HUD will take actions HUD determines necessary for the continuation of housing assistance payments to the owner in accordance with the Renewal Contract.

12 SECTIONS 236 AND 221(D)(3) BMIR PROJECTS -- PREPAYMENT

a This section of the Renewal Contract shall be applicable if the project is a Section 236 project or a 221(d)(3) BMIR project (See the check-box at section 1 of the Renewal Contract).

b During the term of the Renewal Contract, the owner shall not prepay any FHA-insured mortgage on the project, except where HUD, in its sole discretion, approves the prepayment as a component of a transaction whereby the project is preserved as affordable housing.

13 EXCLUSION OF THIRD-PARTY RIGHTS

a The contract administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the owner's action or failure to act in connection with the contract administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the owner.

b The owner is not the agent of the contract administrator or HUD, and the Renewal Contract does not create or affect any relationship between the contract administrator or HUD and any lender to the owner or any suppliers, employees, contractors or subcontractors used by the owner in connection with implementation of the Renewal Contract.

c If the contract administrator is a PHA acting as contract administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the contract administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the contract administrator to

carry out functions or responsibilities in connection with contract administration under the ACC.

14 WRITTEN NOTICES

Any notice by the contract administrator or the owner to the other party pursuant to the Renewal Contract must be in writing.

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator (Print)

_____

_____

By: _____
Signature of authorized representative

_____
Name and official title (Print)

Date _____

_____

Owner

Name of Owner (Print)

_____

_____

By _____
Signature of authorized representative

_____
Name and title (Print)

Date _____

EXHIBIT A

IDENTIFICATION OF UNITS ("CONTRACT UNITS") BY SIZE AND APPLICABLE CONTRACT RENTS

Number of Units	Number of Bedrooms	Contract Rent

NOTE:
This Exhibit will be amended by contract administrator notice to the owner to specify adjusted contract rent amounts as determined by the contract administrator in accordance with section 5b(3) of the Renewal Contract.

EXHIBIT B

DISTRIBUTION LIMITATIONS

FOR PROJECT NOT SUBJECT TO DISTRIBUTION LIMITATIONS:

If the project is not subject to any limitations on distribution of project funds, either pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, neither HUD nor the PHA may impose any additional limitations on distribution of project funds during the term of the Renewal Contract.

FOR PROJECT SUBJECT TO DISTRIBUTION LIMITATIONS:

If the project is subject to any limitations on distribution of project funds pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, such limitations on distribution shall continue to be applicable during the term of the Renewal Contract, provided that the owner may take an increased distribution as calculated and approved by HUD in accordance with Chapter Three of the Section 8 Renewal Policy Guidance for Renewal of Project-Based Section 8 Contracts, issued January, 2001 (the "Guidebook").

The owner shall comply with the distribution limitations. The maximum distribution to the owner shall be equal to the total of:

1 The limited distribution permitted pursuant to the FHA Regulatory agreement or the Expiring Contract, **plus**

2 Any increased distribution as approved by HUD in accordance with the Guidebook.

INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

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[1] This form of Renewal Contract may only be used to renew an expiring Section 8 project-based HAP contract for a Section 8 project whose rents are increased to market under the HUD Mark-Up-to-Market Option. The Renewal Contract shall be entered in accordance with Section 524 of the MAHRA and HUD requirements. Section 2 of the Renewal Contract specifies the contract term.

[2] To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

[3] Enter a description of the housing that will be covered by the Renewal Contract. The description must clearly identify the housing by providing the address or other description of project location, and any other information necessary to clearly designate the covered housing.

If necessary, attach an exhibit with a site plan or other descriptive information. Enter a reference to the attached exhibit.

[4] Enter the name of the contract administrator that executes the Renewal Contract. If HUD is the contract administrator, enter “United States of America – Department of Housing and Urban Development (HUD)”. If the contract administrator is a public housing agency (PHA), enter the full name of the PHA.

[5] Enter the date of the first day after expiration of the term of the Expiring Contract.

[6] Enter the term of the renewal contract (number of whole years).

U.S. Department of Housing and Urban Development

Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

PRESERVATION RENEWAL CONTRACT

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Preservation Renewal Contract. The instructions are not part of the Renewal Contract

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U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

PRESERVATION RENEWAL CONTRACT[1]

1 CONTRACT INFORMATION[2]

PROJECT

Section 8 Project Number _____

Section 8 Project Number of Expiring Contract

_____

FHA Project Number (if applicable) _____

Project Name _____

Project Description[3]

_____

_____

Plan of Action

During the term of the Renewal Contract, the Owner shall operate the project in accordance with the Plan of Action, as submitted to HUD on _____, ____ (the "POA Submission") and as approved and/or amended by HUD on _____ ("HUD's POA Approval Letter") (the POA Submission as amended by HUD's POA Approval Letter is hereinafter referred to as the "Plan of Action").

Use Agreement or Regulatory Agreement

During the term of the Renewal Contract, the Owner shall operate the Project in accordance with the Use Agreement or/and Regulatory Agreement. The Use Agreement and/or the Regulatory Agreement (as amended, if applicable) in effect at execution of this contract is/are described as follows: [4]

_____

_____

_____

Attached hereto as **Exhibit B** is HUD's POA Approval Letter and, if applicable, copies of any provisions from the following documents necessary to understand the rental adjustment provisions: the POA Submission, Use Agreement or Regulatory Amendment.

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator[5]

_____

Address of Contract Administrator

_____

_____

_____

Name of Owner[6]

_____

Address of Owner

_____

_____

2 TERM OF RENEWAL CONTRACT

a Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal Contract, as determined by HUD, the term of the Renewal Contract begins on

_____[7],

and ends on

_____[8].

b Section 8 housing assistance payments to the Owner during the Renewal Contract term shall only be made from budget authority appropriated by the Congress, and available for this purpose.

3 DEFINITIONS.

ACC. Annual contributions contract

Anniversary. The annual recurrence of the date of the first day of the term of the Renewal Contract.

Contract units. The units in the Project that are identified in **Exhibit A** by size and applicable contract rents.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

HUD. The United States Department of Housing and Urban Development.

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub. L. No. 106-74, October 20, 1999,113 Stat. 1109ff).

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

Preservation Project. A project that is subject to a HUD-approved Plan of Action under the Emergency Low -Income Housing Preservation Act of 1987 (12 U.S.C. § 1715*l* note) or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. § 4113).

Project. The housing described in section 1 of the Renewal Contract. The housing is a Preservation Project.

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. § 1437f)

Renewal Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

4 RENEWAL CONTRACT

a Parties

(1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).

(2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's

role pursuant to the Renewal Contract, including such provisions of section 9 (applicable requirements), section 10 (statutory changes during term), and section 11 (PHA default), of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. § 1437f), and section 524(e)(1) of the MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract. Such payments provide to the owner rent benefits comparable to those provided under the Plan of Action in accordance with section 524(e)(1) of the MAHRA.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purposed of relocating or rehousing assisted residents in other housing.

e Contract units

The Renewal Contract applies to the Contract units.

5 EXPIRING CONTRACT – PROVISIONS RENEWED

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

b Any and all provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:

(1) Identification of contract units by size and applicable contract rents;

(2) The amount of the monthly contract rents;

(3) Contract rent adjustments; and

(4) Project account (sometimes called “HAP reserve” or “project reserve”) as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. § 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.

c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in **Exhibit A**, which is attached to and, by this reference, is hereby made a part of the Renewal Contract.

b Contract rent adjustments in accordance with the Plan of Action

During the term of the Plan of Action, the Contract Administrator shall adjust the amounts of the monthly contract rents in accordance with the Plan of Action. See **Exhibit B**.

c **Procedure for rent adjustments during renewal term**

(1) To adjust contract rents during the term of the Renewal Contract the Contract Administrator shall give the Owner notice with a revised **Exhibit A** that specifies the adjusted contract rent amounts.

(2) The revised **Exhibit A** shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.

(3) Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

d No other adjustments

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

7 OWNER WARRANTIES

a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.

b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

8 OWNER TERMINATION NOTICE

a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.

b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent) shall not be applicable.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

11 PHA DEFAULT

a This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.

b If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal

Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

a The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.

b The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.

c If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES

a Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.

b A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator (Print)

_____

_____

By: _____
Signature of authorized representative

_____
Name and official title (Print)

Date _____

Owner

Name of Owner (Print)

_____

_____

By _____
Signature of authorized representative

_____
Name and title (Print)

Date _____

EXHIBIT A

IDENTIFICATION OF UNITS ("CONTRACT UNITS") BY SIZE AND APPLICABLE CONTRACT RENTS

Number of Contract Units	Number of Bedrooms	Contract Rent

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

EXHIBIT B

PLAN OF ACTION

(Attached hereto)

INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

---

[1] This form of Renewal Contract must be used for initial and subsequent renewals of an expiring Section 8 project-based HAP contract for a project that is subject to an approved Plan of Action under the Emergency Low-Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) or the Low-Income Housing Preservation and Residential Homeownership Act of 1990 (12 U.S.C. 1401 et seq. Such renewals are entered pursuant to Section 524(e)(1) of MAHRA.

This term of renewal on this form shall only provide for renewal during the term of the Preservation Plan of Action, and shall not cover any period after the end of the Plan of Action. The Basic Renewal Contract shall be used to renew for any period after the period covered by the Plan of Action.

Section 2 of the Renewal Contract specifies the first and last dates of the contract term.

[2] To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

[3] Enter a description of the housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designate the covered Project.

If necessary, attach an exhibit with a site plan, legal description or other descriptive information. Enter a reference to the attached exhibit.

[4] Enter the following information: the complete title of the Use Agreement or the Regulatory Agreement; any revision(s) to the Use Agreement or Regulatory Agreement; the date of each agreement; the names of the parties signing such agreements; and all relevant recording information for each agreement. For example: "Use Agreement and Amendment of Existing Regulatory Agreement, dated as of February 1, 1997, between ABC Associates and the Secretary of

Housing and Urban Development, recorded in the Recorder's Office of Bergen County, New Jersey, in Deed Book 1 at page 2."

[5] Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America – Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

[6] Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

[7] Enter the date of the first day after expiration of the term of the Expiring Contract.

[8] Enter the date of the last day of the term of the Renewal Contract, as determined in accordance with HUD requirements. The term of the Renewal Contract shall not extend beyond the last day of the term of the Plan of Action.

This form of Renewal Contract shall not be used for a renewal term after completion of the Plan of Action.

U.S. Department of Housing and Urban Development

Office of Multifamily Housing Assistance Restructuring

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

INTERIM (FULL) MARK-TO-MARKET RENEWAL CONTRACT

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Mark-To-Market, Interim Renewal Contract. The instructions are not part of the Renewal Contract

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U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

INTERIM MARK-TO-MARKET RENEWAL CONTRACT[1]

1 CONTRACT INFORMATION[2]

PROJECT

Section 8 Project Number _____

Section 8 Project Number of Expiring Contract

_____

FHA Project Number (if applicable) _____

Project Name _____

Project Description[3]

_____

TYPE OF RENEWAL

☐ Check this box for a project renewed under Section 514(c) of MAHRA.

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator[4]

_____

Address of Contract Administrator

_____

_____

_____

Name of Owner[5]

_____

Address of Owner

_____

_____

_____

2 TERM OF RENEWAL CONTRACT

a The term of the Renewal Contract begins on

_____.[6]

b Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal Contract, as determined by HUD, the Renewal Contract shall begin on the first day of the term and shall terminate upon the date that is the earliest of: (i) twelve (12) months from the date specified in section 2a; (ii) the last day of the month of closing under the Restructuring Commitment; (iii) upon a final decision that results in the discontinuance of the Restructuring process; or (iv) upon determination that the Owner is in default under the Renewal Contract and that such event of default is continuing beyond any notice and cure periods under HUD requirements, if any. Section 8

housing assistance payments to the Owner during the Renewal Contract term shall only be made from budget authority appropriated by the Congress, and available for this purpose.

3 DEFINITIONS.

ACC. Annual contributions contract

Contract units. The units in the Project which are identified in Exhibit A by size and applicable contract rents.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

HUD. The United States Department of Housing and Urban Development.

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law No. 106-74, October 20, 1999,113 Stat. 1109ff).

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

Project. The housing designated in section 1 of the Renewal Contract.

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)

Renewal Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

4 RENEWAL CONTRACT

a Parties

(1) The Renewal Contract is a housing assistance payments contract (“HAP Contract”) between the Contract Administrator and the Owner of the Project (see section 1).

(2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency (“PHA”) for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract (“ACC”) between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD’s role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 514(c) of the MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire or terminate prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by HUD. The Renewal Contract constitutes a binding commitment for purposes of section 579(b) of MAHRA. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

e **Contract units**

The Renewal Contract applies to the Contract units.

5 EXPIRING CONTRACT – PROVISIONS RENEWED

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

b Any and all provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:

(1) Identification of contract units by size and applicable contract rents;

(2) The amount of the monthly contract rents;

(3) Contract rent adjustments; and

(4) Project account (sometimes called “HAP reserve” or “project reserve”) as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.

c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A, which is attached to and, by this reference, is hereby made a part of the Renewal Contract.

b Contract rent adjustments

There shall be no contract rent adjustments during the term of the Renewal Contract.

7 OWNER WARRANTIES, REPRESENTATIONS AND AGREEMENTS

a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.

b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

c The Owner, in full compliance with the requirements of Section 514(b) of MAHRA and Section 401.500 of the Final Rule for the Multifamily Housing Mortgage and Housing Assistance Restructuring Program (the “Mark-to-Market Program”) issued on March 22, 2000 (65 FR 15452), warrants that it has provided, or will cause to be provided, the requisite written notice of the Owner's intention to participate in the Mark-to-Market Program to: (i) the tenants residing in the Project; (ii) the chief official of the affected unit of local government having jurisdiction over the Project; and (iii) the current mortgagee on the Project's Loan(s).

d The Owner agrees to undertake all reasonable efforts to obtain any and all consents of third parties (e.g., the current mortgagee on the Project's Loan(s), the Owner's and, if applicable, the Purchaser's partners/investors that may be required in order to enable the Owner and, if applicable, the purchaser to execute a Restructuring Commitment and perform the related obligations in accordance with the Mark-to-Market Program’s requirements.

e Except as identified on Exhibit B, which is attached to and made a part of this Renewal Contract, the Owner warrants that neither it nor any of its principals or affiliates is subject to, or received any notice of, any debarment, suspension or other administrative proceeding or investigation initiated by HUD, or any other federal or state government agency, with respect to such party or the Project.

f Except as identified on Exhibit B, the Owner warrants that neither it nor any of its principals or affiliates has engaged in any material adverse actions or omissions with regard to the Project, or with regard to any other project(s) subject to a HUD-held or HUD-insured loan and/or receiving HUD assistance, which causes, or may cause, the Owner, and/or such principals or affiliates to be in default (monetary or technical) under, or in violation of, any HUD regulatory agreement, Section 8 Housing Assistance Payments Contract or other applicable HUD requirements.

g Except as identified on Exhibit B, the Owner warrants that it has not received any notice from HUD or any other governmental authority that any unit(s) within the Project fail to comply with HUD's Section 8 Uniform Physical Condition Standards and/or local housing codes.

h The Owner agrees to proceed in good faith and in a diligent manner to enter into a Restructuring Commitment with HUD and to consummate closing under the Restructuring Commitment *on or before the expiration date of the Renewal Contract.* In connection with such obligation, the Owner agrees to, among other things: (A) promptly submit to the relevant participating administrative entity and its contractors and agents (hereinafter, collectively, the “PAE”) all documents and information that may be requested by or on behalf of HUD relating to the Owner and/or the Project and to the extent any such documents or information are not in the Owner's possession or control, the Owner hereby agrees that the Owner will undertake all reasonable efforts to obtain such documents and deliver them to the PAE within ten (10) calendar days of request by HUD; (B) promptly provide the PAE (and its contractors and agents) with access to the Project; (C) attend such meetings as the PAE (and its contractors and agents) may deem reasonably necessary in connection with the Owner's participation in the Mark-to-Market Program; and (D) undertake all reasonable efforts to obtain third-party financing if refinancing of the first mortgage is found necessary under Section CFR 401.460(e).

i Upon the request of HUD, the Owner agrees that it shall provide HUD with evidence satisfactory to HUD relating to each of the foregoing certifications.

j The Owner agrees to provide written notice to the Contract Administrator immediately upon a change in circumstances making any of the above-stated representations or warranties untrue or incomplete.

8 OWNER TERMINATION NOTICE

a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.

b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 6, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

11 PHA DEFAULT

a This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract (“ACC”) between the PHA and HUD. This includes a case where HUD has assigned the Renewal

Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.

b If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

a The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.

b The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.

c If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES

a Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.

b A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives

notice when the notice is duly delivered at the party's designated address.

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator (Print)

_____

_____

By: _____
Signature of authorized representative

_____
Name and official title (Print)

Date _____

Owner

Name of Owner (Print)

_____

_____

By _____
Signature of authorized representative

_____
Name and title (Print)

Date _____

EXHIBIT A

IDENTIFICATION OF UNITS ("CONTRACT UNITS") BY SIZE AND APPLICABLE CONTRACT RENTS

Number of Contract Units	Number of Bedrooms	Contract Rent

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

EXHIBIT B[1]

Any notice of, any debarment, suspension or other administrative proceeding or investigation initiated by HUD, or any other federal or state government agency, with respect to such party or the Project:

1.

2.

Any material adverse actions or omissions with regard to the Project:

1.

2.

Violations of section 8 uniform physical condition standards and/or local housing codes:

1.

2.

[1] Owner must provide information prior to execution. Insert the word "None" where applicable – i.e. where there are no notices, violations, acts or omissions.

INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

---

[1] This form of Renewal Contract **shall only be used** for Interim Mark-To-Market renewals of an expiring Section 8 project-based HAP contract in accordance with HUD requirements, and Sections 514(c) of MAHRA.

Section 2 of the Renewal Contract specifies the contract term.

[2] To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

[3] Enter a description of the housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designate the covered Project.

If necessary, attach an exhibit with a site plan, legal description or other descriptive information. Enter a reference to the attached exhibit.

[4] Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America – Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

[5] Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

[6] The Renewal Contract must be entered before expiration of the Expiring Contract. Enter the date of the first day after expiration of the term of the Expiring Contract.

U.S. Department of Housing and Urban Development

Office of Multifamily Housing Assistance Restructuring

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

INTERIM (FULL) MARK-TO-MARKET

RENEWAL/RE-ENTRY CONTRACT

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Mark-To-Market, Interim **Renewal/Re-Entry** Contract. The instructions are not part of the Renewal/Re-Entry Contract

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U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

INTERIM MARK-TO-MARKET RENEWAL/RE-ENTRY CONTRACT[1]

1 CONTRACT INFORMATION[2]

PROJECT

Section 8 Project Number _____

Section 8 Project Number of Expiring Contract

_____

FHA Project Number (if applicable) _____

Project Name _____

Project Description[3]

_____

TYPE OF RENEWAL

☐ Check this box for a project renewed under Section 514(c) of MAHRA.

PARTIES TO RENEWAL/RE-ENTRY CONTRACT

Name of Contract Administrator[4]

_____

Address of Contract Administrator

_____

_____

_____

Name of Owner[5]

_____

Address of Owner

_____

_____

_____

2 TERM OF RENEWAL/RE-ENTRY CONTRACT

a The term of the Renewal/Re-Entry Contract begins on _____.[6]

b Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal/Re-Entry Contract, as determined by HUD, the Renewal/Re-Entry Contract shall begin on the first day of the term and shall terminate upon the date that is the earliest of: **(i) _____ months from the** date **specified in section 2a (*insert number of months not to exceed 12 months)*;** (ii) the last day of the month of closing under the Restructuring Commitment; (iii) upon a final decision that results in the discontinuance of the Restructuring process; or (iv) upon determination that the Owner is in default under the Renewal/Re-Entry Contract and that such event of

default is continuing beyond any notice and cure periods under HUD requirements, if any. Section 8 housing assistance payments to the Owner during the Renewal/Re-Entry Contract term shall only be made from budget authority appropriated by the Congress, and available for this purpose.

3 DEFINITIONS.

ACC. Annual contributions contract

Contract units. The units in the Project that are identified in Exhibit A by size and applicable contract rents.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

HUD. The United States Department of Housing and Urban Development.

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal/Re-Entry Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law No. 106-74, October 20, 1999,113 Stat. 1109ff).

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

Project. The housing designated in section 1 of the Renewal/Re-Entry Contract.

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)

Renewal/Re-Entry Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal/Re-Entry Contract).

4 RENEWAL/RE-ENTRY CONTRACT

a Parties

(1) The Renewal/Re-Entry Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).

(2) If HUD is the Contract Administrator, HUD may assign the Renewal/Re-Entry Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal/Re-Entry Contract, as Contract Administrator, in accordance with the Renewal/Re-Entry Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal/Re-Entry Contract that specify HUD's role pursuant to the Renewal/Re-Entry Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal/Re-Entry Contract.

b Statutory authority

The Renewal/Re-Entry Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 514(c) of the MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a Watch List HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project**. The term of the expiring contract was for one year. However, the owner and HUD have agreed to amend that expiring contract and enter into this Renewal/Re-Entry Contract.**

d Purpose of Renewal/Re-Entry Contract

(1) The purpose of the Renewal/Re-Entry Contract is to renew the expiring contract for an additional term sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by HUD. The Renewal/Re-Entry Contract constitutes a binding commitment for purposes of section 579(b) of MAHRA.

During the term of the Renewal/Re-Entry Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal/Re-Entry Contract.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and**/or** has abated housing assistance payments to the owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal/Re-Entry Contract for the purpose of relocating or rehousing assisted residents in other housing **or may take other action as appropriate.**

e **Contract units**

The Renewal/Re-Entry Contract applies to the Contract units.

5 **EXPIRING CONTRACT – PROVISIONS RENEWED**

a Except as specifically modified by the Renewal/Re-Entry Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal/Re-Entry Contract term).

b Any and all provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term

(1) Identification of contract units by size and applicable contract rents;

(2) The amount of the monthly contract rents;

(3) Contract rent adjustments; and

(4) Project account (sometimes called “HAP reserve” or “project reserve”) as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal/Re-

Entry Contract, or to payment of housing assistance payments during the Renewal/Re-Entry Contract term.

(5) The submission of monthly accounting reports to HUD.

c The Renewal/Re-Entry Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal/Re-Entry Contract term, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A, which is attached to and, by this reference, is hereby made a part of the Renewal/Re-Entry Contract.

b Contract rent adjustments

There shall be no contract rent adjustments during the term of the Renewal/Re-Entry Contract.

7 OWNER WARRANTIES, REPRESENTATIONS AND AGREEMENTS

a The Owner warrants that it has the legal right to execute the Renewal/Re-Entry Contract and to lease dwelling units covered by the contract.

b The Owner warrants that the rental units to be leased by the Owner under the Renewal/Re-Entry Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal/Re-Entry Contract.

c The Owner, in full compliance with the requirements of Section 514(b) of MAHRA and Section 401.500 of the Final Rule for the Multifamily Housing Mortgage and Housing Assistance Restructuring Program (the “Mark-to-Market Program”) issued on March 22, 2000 (65 FR 15452), warrants that it has provided, or will cause to be provided, the requisite written notice of the Owner's intention to participate in the Mark-to-Market Program to: (i) the tenants residing in the Project; (ii) the chief official of the affected unit of local government having jurisdiction over the Project; and (iii) the current mortgagee on the Project's Loan(s).

d The Owner agrees to undertake all reasonable efforts to obtain any and all consents of third parties (e.g., the current mortgagee on the Project's Loan(s), the Owner's and, if applicable, the Purchaser's partners/investors that may be required in order to enable the Owner and, if applicable, the purchaser to execute a Restructuring Commitment and perform the related obligations in accordance with the Mark-to-Market Program's requirements.

e Except as identified on Exhibit B, which is attached to and made a part of this Renewal/Re-Entry Contract, the Owner warrants that neither it nor any of its principals or affiliates is subject to, or received any notice of, any debarment, suspension or other administrative proceeding or investigation initiated by HUD, or any other federal or state government agency, with respect to such party or the Project.

f Except as identified on Exhibit B, the Owner warrants that neither it nor any of its principals or affiliates has engaged in any material adverse actions or omissions with regard to the Project, or with regard to any other project(s) subject to a HUD-held or HUD-insured loan and/or receiving HUD assistance, which causes, or may cause, the Owner, and/or such principals or affiliates to be in default (monetary or technical) under, or in violation of, any HUD regulatory agreement, Section 8 Housing Assistance Payments Contract or other applicable HUD requirements.

g Except as identified on Exhibit B, the Owner warrants that it has not received any notice from HUD or any other governmental authority that any unit(s) within the Project fail to comply with HUD's Section 8 Uniform Physical Condition Standards and/or local housing codes.

h The Owner agrees to proceed in good faith and in a diligent manner to enter into a Restructuring Commitment with HUD and to consummate closing under the Restructuring Commitment *on or before the expiration date of the Renewal/Re-Entry Contract.* In connection with such obligation, the Owner agrees to, among other things: (A) promptly submit to the relevant participating administrative entity and its contractors and agents (hereinafter, collectively, the "PAE") all documents and information that may be requested by or on behalf of HUD relating to the Owner and/or the Project and to the extent any such documents or information are not in the Owner's possession or control, the Owner hereby agrees that the Owner will undertake all reasonable efforts to obtain such documents and deliver them to the PAE within ten (10) calendar

days of request by HUD; (B) promptly provide the PAE (and its contractors and agents) with access to the Project; (C) attend such meetings as the PAE (and its contractors and agents) may deem reasonably necessary in connection with the Owner's participation in the Mark-to-Market Program; and (D) undertake all reasonable efforts to obtain third-party financing if refinancing of the first mortgage is found necessary under Section CFR 401.460(e).

i Upon the request of HUD, the Owner agrees that it shall provide HUD with evidence satisfactory to HUD relating to each of the foregoing certifications.

j The Owner agrees to provide written notice to the Contract Administrator immediately upon a change in circumstances making any of the above-stated representations or warranties untrue or incomplete.

8 OWNER TERMINATION NOTICE

a Before termination of the Renewal/Re-Entry Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.

b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal/Re-Entry Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal/Re-Entry Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal/Re-Entry Contract, including the provisions of section 6 (contract rent), shall not be applicable.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal/Re-Entry Contract is inconsistent with section 6, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory

change, then the Contract Administrator or the Owner may terminate the Renewal/Re-Entry Contract upon notice to the other party.

11 PHA DEFAULT

a This section 11 of the Renewal/Re-Entry Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal/Re-Entry Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal/Re-Entry Contract.

b If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal/Re-Entry Contract, and that the Owner is not in default of its obligations under the Renewal/Re-Entry Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal/Re-Entry Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

a The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal/Re-Entry Contract, or as a result of any other action or failure to act by the Owner.

b The Owner is not the agent of the Contract Administrator or HUD, and the Renewal/Re-Entry Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal/Re-Entry Contract.

c If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal/Re-Entry Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES

a Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal/Re-Entry Contract shall be given in writing.

b A party shall give notice at the other party's address specified in section 1 of the Renewal/Re-Entry Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator (Print)

_____

_____

By: _____
Signature of authorized representative

_____
Name and official title (Print)

Date _____

Owner

Name of Owner (Print)

_____

_____

By _____
Signature of authorized representative

_____
Name and title (Print)

Date _____

EXHIBIT A

IDENTIFICATION OF UNITS ("CONTRACT UNITS") BY SIZE AND APPLICABLE CONTRACT RENTS

Number of Contract Units	Number of Bedrooms	Contract Rent

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal/Re-Entry Contract.

EXHIBIT B[1]

Any notice of, any debarment, suspension or other administrative proceeding or investigation initiated by HUD, or any other federal or state government agency, with respect to such party or the Project:

1.

2.

Any material adverse actions or omissions with regard to the Project:

1.

2.

Violations of section 8 uniform physical condition standards and/or local housing codes:

1.

2.

[1] Owner must provide information prior to execution. Insert the word "None" where applicable – i.e. where there are no notices, violations, acts or omissions.

INSTRUCTIONS FOR PREPARATION OF RENEWAL/RE-ENTRY CONTRACT

The following instructions are not part of the Renewal/Re-Entry Contract.

Endnote numbers are keyed to references in the text of the Renewal/Re-Entry Contract.

---

[1] This form of Renewal Contract **shall only be used** for Interim Mark-To-Market renewals of an expiring Section 8 project-based HAP contract in accordance with HUD requirements, and Sections 514(c) of MAHRA.

Section 2 of the Renewal Contract specifies the contract term.

[2] To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

[3] Enter a description of the housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designate the covered Project.

If necessary, attach an exhibit with a site plan, legal description or other descriptive information. Enter a reference to the attached exhibit.

[4] Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America – Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

[5] Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

[6] The Renewal Contract must be entered before expiration of the Expiring Contract. Enter the date of the first day after expiration of the term of the Expiring Contract.

U.S. Department of Housing and Urban Development

Office of Multifamily Housing Assistance Restructuring

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

INTERIM (LITE) MARK-TO-MARKET

RENEWAL CONTRACT

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Mark-To-Market, Interim Renewal Contract. The instructions are not part of the Renewal Contract

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U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

INTERIM MARK-TO-MARKET RENEWAL CONTRACT[1]

1 CONTRACT INFORMATION[2]

PROJECT

Section 8 Project Number _____

Section 8 Project Number of Expiring Contract

_____

FHA Project Number (if applicable) _____

Project Name _____

Project Description[3]

_____

TYPE OF RENEWAL

☐ Check this box for a project renewed under Section 514(c) of MAHRA.

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator[4]

_____

Address of Contract Administrator

_____

_____

_____

Name of Owner[5]

_____

Address of Owner

_____

_____

_____

2 TERM OF RENEWAL CONTRACT

a The term of the Renewal Contract begins on

_____.[6]

b Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal Contract, as determined by HUD, the Renewal Contract shall begin on the first day of the term and shall terminate upon the date that is the earliest of: (i) six (6) months from the date specified in section 2a; (ii) upon a final decision that results in the discontinuance of the Restructuring process; (iii) the parties mutually agree to terminate the (Interim) Renewal Contract and enter into a new (Basic) renewal contract with reduced rents pursuant to Section 524(a) of MAHRA; or (iv) upon determination that the Owner is in default under the Renewal Contract and that

such event of default is continuing beyond any notice and cure periods under HUD requirements, if any. Section 8 housing assistance payments to the Owner during the Renewal Contract term shall only be made from budget authority appropriated by the Congress, and available for this purpose.

3 DEFINITIONS.

ACC. Annual contributions contract

Contract units. The units in the Project which are identified in Exhibit A by size and applicable contract rents.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

HUD. The United States Department of Housing and Urban Development.

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law No. 106-74, October 20, 1999,113 Stat. 1109ff).

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

Project. The housing designated in section 1 of the Renewal Contract.

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)

Renewal Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

4 RENEWAL CONTRACT

a Parties

(1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).

(2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 514(c) of the MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire or terminate prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by HUD. The Renewal Contract constitutes a binding commitment for purposes of section 579(b) of MAHRA. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

e **Contract units**

The Renewal Contract applies to the Contract units.

5 EXPIRING CONTRACT – PROVISIONS RENEWED

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

b Any and all provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:

(1) Identification of contract units by size and applicable contract rents;

(2) The amount of the monthly contract rents;

(3) Contract rent adjustments; and

(4) Project account (sometimes called “HAP reserve” or “project reserve”) as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.

c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A, which is attached to and, by this reference, is hereby made a part of the Renewal Contract.

b Contract rent adjustments

There shall be no contract rent adjustments during the term of the Renewal Contract.

7 OWNER WARRANTIES, REPRESENTATIONS AND AGREEMENTS

a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.

b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

8 OWNER TERMINATION NOTICE

a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.

b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 6, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

11 PHA DEFAULT

a This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.

b If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

a The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.

b The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.

c If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any

relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES

a Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.

b A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator (Print)

_____

_____

By: _____
Signature of authorized representative

_____
Name and official title (Print)

Date _____

Owner

Name of Owner (Print)

_____

_____

By _____
Signature of authorized representative

_____
Name and title (Print)

Date _____

EXHIBIT A

IDENTIFICATION OF UNITS ("CONTRACT UNITS") BY SIZE AND APPLICABLE CONTRACT RENTS

Number of Contract Units	Number of Bedrooms	Contract Rent

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

---

[1] This form of Renewal Contract **shall only be used** for Interim Mark-To-Market renewals of an expiring Section 8 project-based HAP contract in accordance with HUD requirements, and Sections 514(c) of MAHRA.

Section 2 of the Renewal Contract specifies the contract term.

[2] To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

[3] Enter a description of the housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designate the covered Project.

If necessary, attach an exhibit with a site plan, legal description or other descriptive information. Enter a reference to the attached exhibit.

[4] Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America – Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

[5] Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

[6] The Renewal Contract must be entered before expiration of the Expiring Contract. Enter the date of the first day after expiration of the term of the Expiring Contract.

U.S. Department of Housing and Urban Development

Office of Multifamily Housing Assistance Restructuring

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

FULL MARK-TO-MARKET RENEWAL CONTRACT

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Full Mark-To-Market Renewal Contract. The instructions are not part of the Renewal Contract

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U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

FULL MARK-TO-MARKET RENEWAL CONTRACT[1]

1 CONTRACT INFORMATION[2]

PROJECT

Section 8 Project Number _____

Section 8 Project Number of Expiring Contract

_____

FHA Project Number (if applicable) _____

Project Name _____

Project Description[3]

_____

TYPE OF RENEWAL

☐ Check this box for a project renewed under Section 515(a) of MAHRA

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator[4]

_____

Address of Contract Administrator

_____

_____

_____

Name of Owner[5]

_____

Address of Owner

_____

_____

_____

2 TERM OF RENEWAL CONTRACT

a The term of the Renewal Contract begins on

_____.[6]

b Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal Contract, as determined by HUD, the Renewal Contract shall run for a period of _____ years, beginning on the first day of the term.[7] Further, Owner hereby acknowledges and agrees that it will accept any offer of renewal or extension of the Renewal Contract if the offer is in accordance with the terms and conditions specified in the Restructuring Commitment. Section 8 housing assistance payments to the Owner during the Renewal Contract term shall

only be made from budget authority appropriated by the Congress, and available for this purpose.

3 DEFINITIONS.

ACC. Annual contributions contract

Anniversary. The annual recurrence of the date of the first day of the term of the Renewal Contract.

Contract units. The units in the Project which are identified in Exhibit A by size and applicable contract rents.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

HUD. The United States Department of Housing and Urban Development.

HUD requirements. The Restructuring Commitment, HUD regulations and other requirements, including amendments to the Restructuring Commitment and changes in HUD regulations and other requirements during the term of the Renewal Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law No. 106-74, October 20, 1999,113 Stat. 1109ff).

OCAF. An operating cost adjustment factor established by HUD.

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

Project. The housing designated in section 1 of the Renewal Contract.

Restructuring Commitment. That certain executed Restructuring Commitment previously entered into by Owner and Contract Administrator in connection with the Owner's participation in the Mark-to-Market Program.

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)

Renewal Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

4 RENEWAL CONTRACT

a Parties

(1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).

(2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 515(a) of the MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire or terminate prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

e Contract units

The Renewal Contract applies to the Contract units.

5 EXPIRING CONTRACT – PROVISIONS RENEWED

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

b Any and all provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:

(1) Identification of contract units by size and applicable contract rents;

(2) The amount of the monthly contract rents;

(3) Contract rent adjustments; and

(4) Project account (sometimes called “HAP reserve” or “project reserve”) as previously established and maintained by HUD

pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.

c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A, which is attached to and, by this reference, is hereby made a part of the Renewal Contract.

b Contract rent adjustments

(1) OCAF

During the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by using an OCAF.

(2) Procedure for rent adjustments during renewal term

(a) To adjust contract rents during the term of the Renewal Contract, the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.

(b) The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.

(c) Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

(3) No other adjustments

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

7 OWNER WARRANTIES

a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.

b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

8 OWNER TERMINATION NOTICE

a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.

b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, the Restructuring Commitment, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

11 PHA DEFAULT

a This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.

b If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

a The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.

b The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.

c If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC")

between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES

a Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.

b A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator (Print)

_____

_____

By: _____
Signature of authorized representative

_____
Name and official title (Print)

Date _____

Owner

Name of Owner (Print)

_____

_____

By _____
Signature of authorized representative

_____
Name and title (Print)

Date _____

EXHIBIT A

IDENTIFICATION OF UNITS ("CONTRACT UNITS") BY SIZE AND APPLICABLE CONTRACT RENTS

Number of Contract Units	Number of Bedrooms	Contract Rent

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

---

[1] This form of Renewal Contract must be used for initial and subsequent renewals of an expiring Section 8 project-based HAP contract in accordance with HUD requirements, and Section 515(a) of MAHRA.

This form may **not** be used for: Interim Mark-To-Market Renewals; Potentially Troubled (Dim Lite) Mark-To-Market Renewals; Basic Renewals; Mark-Up-To-Market Renewals; nor Portfolio Reengineering Demonstration or Preservation Renewals.

Section 2 of the Renewal Contract specifies the contract term.

[2] To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

[3] Enter a description of the housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designate the covered Project.

If necessary, attach an exhibit with a site plan, legal description or other descriptive information. Enter a reference to the attached exhibit.

[4] Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America – Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

[5] Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

[6] The Renewal Contract must be entered before expiration of the Expiring Contract. Enter the date of the first day after expiration of the term of the Expiring Contract.

[7] Enter the term of the renewal contract. The term shall be determined in accordance with HUD requirements. Insert the number of whole years.

U.S. Department of Housing and Urban Development

Office of Multifamily Housing Assistance Restructuring

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

WATCH LIST RENEWAL CONTRACT

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Watch List Renewal Contract. The instructions are not part of the Renewal Contract

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SIGNATURES **10**

U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

WATCH LIST RENEWAL CONTRACT[1]

1 CONTRACT INFORMATION[2]

PROJECT

Section 8 Project Number _____

Section 8 Project Number of Expiring Contract

_____

FHA Project Number (if applicable) _____

Project Name _____

Project Description[3]

_____

TYPE OF RENEWAL

☐ Check this box for a Watch List project renewed under Section 524(a) of MAHRA (while retaining eligibility under the Mark-To-Market Program).

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator[4]

_____

Address of Contract Administrator

_____

_____

_____

Name of Owner[5]

_____

Address of Owner

_____

_____

_____

2 TERM OF RENEWAL CONTRACT

a The term of the Renewal Contract begins on

_____.[6]

b Subject to the availability of sufficient appropriations to make housing assistance payments for any year in accordance with the Renewal Contract, as determined by HUD, the Renewal Contract shall run for a period of **twelve (12) months** beginning on the first day of the term.[7] Section 8 housing assistance payments to the Owner during the Renewal Contract term shall only be made from budget authority appropriated by the Congress, and available for this purpose.

3 DEFINITIONS.

ACC. Annual contributions contract

Anniversary. The annual recurrence of the date of the first day of the term of the Renewal Contract.

Contract units. The units in the Project which are identified in Exhibit A by size and applicable contract rents.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

HUD. The United States Department of Housing and Urban Development.

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384ff), as amended by section 531 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub. L. No. 106-74, October 20, 1999,113 Stat. 1109ff).

OCAF. An operating cost adjustment factor established by HUD.

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937. 42 U.S.C. 1437 et seq.).

Project. The housing designated in section 1 of the Renewal Contract.

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)

Renewal Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

4 RENEWAL CONTRACT

a Parties

(1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).

(2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (applicable requirements), section 10 (statutory changes during term) and section 12 (PHA default), of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of the MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire or terminate prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.

(2) The Renewal Contract also constitutes a binding commitment for purposes of section 579 of MAHRA. In

accordance with section 514 of MAHRA , the project will remain eligible for full debt restructuring if and only if prior to the expiration of this renewal contract, or any renewal thereof, but no later than thirty (30) days prior to the date set forth in MAHRA section 579(b), as may be amended from time to time, or in any other related legislation which extends the repeal of OMHAR's authority to restructure the project's debt ("sunset date"), the owner and HUD cancel this contract and enter into a new HAP contract, at current rents, pursuant to section 514(c) of MAHRA. In addition, if prior to the expiration of this renewal contract, the owner **requests re-entry into the Mark-to-Market Program**, it must submit a Contract Renewal Request Form for Reelection (see Attachment 3a(2) of HUD's section 8 Renewal Guide) thirty (30) days prior to such sunset date**. HUD reserves the right to reassess the Project's eligibility for debt restructuring at the time such Request Form for Reelection is submitted.** If a reelection to full debt restructuring has occurred, HUD will offer the Owner an interim restructuring contract (the "Interim Full Renewal/Re-Entry Contract") at current rents (i.e., the market rents determined in this Renewal Contract), subject to the availability of appropriations in any year. Any such Interim Full Renewal/Re-Entry Contract will be entered into pursuant to section 514(c) of MAHRA and will contain language that the Interim Renewal Contract shall be considered a "binding commitment", as that phrase is used in section 579, during the entire term of that Interim Renewal Contract.

(3) If HUD determines that the project is eligible for full debt restructuring, the Owner and HUD will amend this contract in its entirety by entering into a new HAP contract, at current rents (i.e., the market rents determined in this Watch List Renewal Contract). HUD will offer the Owner an interim **full** contract (the **"Interim Full Renewal/Re-Entry Contract**") **for up to twelve months** at current rents subject to the availability of appropriations in any year. Any such Interim Renewal/Re-Entry Contract will be entered into pursuant to section 514(c) of MAHRA and will contain language that the Interim Renewal/Re-Entry Contract shall be considered a "binding commitment", as that used in section 579, during the entire term of that Interim Renewal/Re-Entry Contract.

(4) If HUD determines that the property is no longer eligible for a full debt restructuring, HUD may decide, among other things, to: (a) offer the owner a Basic Renewal Contract; (b) continue the property on the Watch List; (c) refer the project to HUD's enforcement division; or (d) take other action as appropriate.

(5) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

e Contract units

The Renewal Contract applies to the Contract units.

5 EXPIRING CONTRACT – PROVISIONS RENEWED

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

b Any and all provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:

(1) Identification of contract units by size and applicable contract rents;

(2) The amount of the monthly contract rents;

(3) Contract rent adjustments; and

(4) Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the

Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.

c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A, which is attached to and, by this reference, is hereby made a part of the Renewal Contract.

b Contract rent adjustments

There shall be no contract rent adjustments during the term of the Renewal Contract.

7 OWNER WARRANTIES

a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.

b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

8 OWNER TERMINATION NOTICE

a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.

b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable. The Owner will submit, for the term of this contract, monthly accounting reports, as prescribed in HUD Handbook 4470.1, Chapter 3, to the Multifamily HUB/Program Center Project Manager evidencing the financial condition of the project covered under this contract.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

11 PHA DEFAULT

a This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.

b If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

a The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the

Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.

b The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.

c If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES

a Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.

b A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator (Print)

_____

_____

By: _____
Signature of authorized representative

_____
Name and official title (Print)

Date _____

Owner

Name of Owner (Print)

_____

_____

By _____

Signature of authorized representative

_____
Name and title (Print)

Date _____

EXHIBIT A

IDENTIFICATION OF UNITS ("CONTRACT UNITS") BY SIZE AND APPLICABLE CONTRACT RENTS

Number of Contract Units	Number of Bedrooms	Contract Rent

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

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[1] This form of Renewal Contract must only be used renewing a Watch List Contract where HUD and the Owner wish to retain the Project's eligibility under the Mark-To-Market Program.

Section 2 of the Renewal Contract specifies the contract term.

[2] To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

[3] Enter a description of the housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designate the covered Project.

If necessary, attach an exhibit with a site plan, legal description or other descriptive information. Enter a reference to the attached exhibit.

[4] Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America – Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

[5] Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

[6] The Renewal Contract must be entered before expiration of the Expiring Contract. Enter the date of the first day after expiration of the term of the Expiring Contract.

[7] Enter the term of the Renewal Contract. The term shall be determined in accordance with HUD requirements but shall not exceed one year. Insert the number of whole months.