

# Section 8 Contract Renewals and Preservation Tools

# Key Objectives

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- Chapter 9 – Rent Comparability Studies
- Preservation Tools
  - Contract Renewals
  - Early Terminations
  - Chapter 15 Transactions
  - Section 8(bb) Transfers

# Chapter 9 – Rent Comparability Studies

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- Updated March 2023
- Section 8 Contracts must be renewed at or below comparable Market Rents

# Methods for Determining Market Rents

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1. HUD Small Area Fair Market Rents (SAFMR)
2. Non-Section 8 Unit Rents
3. Rent Comparability Studies (RCS)

# Determine Market Rents: Method One

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## HUD Small Area Fair Market Rent (SAFMR)

- Option 2 Renewals or 5<sup>th</sup> Year Comparability Requirement
- Gross Rent Potential must be less than 90% of SAFMR.
- Submit HUD Form 9630

# Determine Market Rents: Method One

## HUD Small Area Fair Market Rent (SAFMR)

Unit Type	Number of Units	Contract Rents	UA	Gross Rents	Gross Rent Potential	SAFMR Rent	SAFMR Gross Rent Potential
1BR	109	\$750	\$99	\$849	\$92,541	\$1,000	\$109,000
2BR	5	\$1,000	\$121	\$1,121	\$5,605	\$1,220	\$6,100
<b>Total GRP:</b>					<b>\$98,146</b>	<b>Total SAFMR GRP:</b>	<b>\$115,100</b>
						<b>90% of SAFMR GRP</b>	<b>\$103,590</b>

**Comparison - Owner RCS gross rent potential is less than 90% SAFMR gross rent potential**

90% SAFMR GRP

\$103,590

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Owner GRP

\$98,146

# Determine Market Rents: Method Two

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## Unassisted Units at the Subject Property

- Option 1 or 2 Renewals or 5<sup>th</sup> Year Comparability Requirement
- 25% of tenants are unassisted per unit type
- Tenants pay full rent with no subsidy.
- Market unit must be nearly identical to Section 8 units
- Occupancy Rates for unassisted units must not be significantly lower than market area.

# Determine Market Rents: Method Three

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## Rent Comparability Study (RCS)

- State Licensed General Appraiser
- Should determine market rents for all unit types covered by Section 8 contract



# Determine Market Rents : Method Three

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## Rent Comparability Study (RCS) Submission Info

- Owner's Cover Letter and RCS Checklist
  - Review RCS for Accuracy
- Tenant notice of rent increase request
  - Followed by comments and Owner Certification regarding Tenant Comment Procedures\
- Renewal/Adjustment Worksheets

# Determine Market Rents : Method Three

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## Rent Comparability Study (RCS)

- Timing Issues:
  - For Contract Renewals and Rent Adjustments – should be submitted 120 Days prior to anniversary date of rent effective/expiration date.
  - Not more than 90-days should have elapsed between date of RCS and date submitted to HUD/CA.
  - May be submitted early but no more than 180 days.

# Determine Market Rents : Method Three

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- HUD RCS Requirement:
  - If the owner's RCS gross rent potential is greater than 150% of the SAFMR gross rent potential.

# Determine Market Rents :

## Method Three

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- No negotiations or appeals if owner's RCS differs from HUD's RCS.
  - HUD's RCS  $>$  Owner's RCS: Owner's RCS is used.
  - If Owner's RCS  $<$  105% of HUD's RCS: Owner's RCS is used.
  - If Owner's RCS  $\geq$  105% of HUD RCS: 105% of HUD RCS is used.

# Exceptions to the Comparability Rule

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- State or Local Government Financing
- Section 202 and 515 Projects
- Projects not subject to a HUD-held or HUD-insured mortgage

# Early Terminations

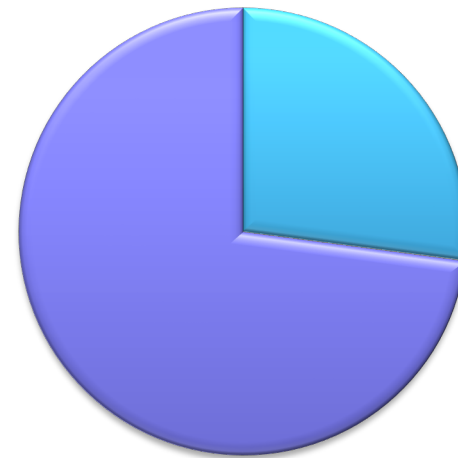
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- Mark up to Market
- Preserve Long Term Affordability
- Align Effective Date with 1<sup>st</sup> of the Month
- Combine Contracts

# 2023 Contract Renewals vs. Early Terminations

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- Expiring Contracts
  - 2023 – 26 Contracts
- Early Terminations
  - 2023 – 70 Contracts



■ Expiring Contracts. ■ Early Terminations

# Early Terminations

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- Requirements:
  - Should be submitted 120 days prior to the anticipated effective date.
  - 20-year contracts
  - Preservation Exhibit



# Contract Renewals Options

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# Option 1: Mark-Up-To Market (MU2M)

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- Option 1A: Entitlement Mark-Up-to-Market
- Option 1B: Discretionary Mark-Up-to-Market

# Option 1: General Eligibility

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- Current Contract GRP must be less than RCS rents.
- Project Condition Requirements:
  - Management & Occupancy Review rating must be Satisfactory or above.
  - A REAC/NSPIRE score of 60 or higher with no uncorrected EH&S violations
- FASS Findings must be closed or under HUD approved corrective action plan

# Option 1A: General Eligibility

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- RCS must demonstrate the market rents are at or above 100% of the HUD Fair Market Rent (FMR) rent potential.
- Project does not have any low or moderate income use restrictions that cannot be eliminated by unilateral action by the owner/HUD.
- Profit motivated or limited distribution entity.
- \*Rent Capped at the lesser of the RCS rents or 150% of HUD published FMR.

# Option 1B: Discretionary Authority Eligibility

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- Owner's who do not meet all criteria for 1A
- \*Request an increase that is greater than 150% of FMR.
- HUD will consider 1B requests for projects meeting at least one of the following:
  - Vulnerable Populations
  - Vacancy Rates
  - Community Support

# Option 1: Submission Requirements

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- Contract Renewal Request Form Cover Sheet
- Worksheet For Option 1
- RCS
- MU2M Initial Eligibility Worksheet
- One-Year Tenant Notification Letter
  - (for expiring contracts only)
- Notice to Tenants regarding rent increase followed by the owner's certification.

# Option 1

## Rent Determination & Adjustments

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- Expiring Contracts are renewed for a minimum of 5 years.
- Early Terminations require a 20-year contract, plus Preservation Exhibit.
- Project is only allowed OCAF rent adjustment for years 2-5 of the MU2M contract.
- A new RCS is due every 5<sup>th</sup> year of the contract. Rents are adjusted to the RCS rents.

# Option 2: Projects with Rents At or Below Comparable Market Rents Eligibility

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- RCS must show that Section 8 Contract rents are at or below the comparable market rents.
  - The RCS is reviewed and approved by a third-party appraiser.
  - RCS has a 5-year life span and is adjusted by OCAF each year.
- Owner's of "Exception Projects" may renew under this option.
  - RCS is required.
  - If the RCS demonstrates current contract rents are above comparable market rents, contract rents are reduced to comparable market rents.



# Option 2: Submission Requirements

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- Contract Renewal Request Form
- Worksheet For Option 2
- RCS
- OCAF or Budget Based Rent Adjustment Request
- One-Year Tenant Notification Letter

# Option 2: Projects with Rents At or Below Comparable Market Rents Rent Adjustments

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- OCAF
- Budget-Based
  
- Rents are capped at market levels.
- Owner has the option of renewing the contract for 1-20 years.

# Option 2: 20-Year Contracts

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- The initial RCS will be used to determine eligibility
- A new RCS is required every five years.
  - The Section 8 contract rents will be adjusted upward or downward to correspond to the market rents determined by the new RCS.
- Outside of the years in which a new RCS is required, the property may request either an OCAF or budget-based rent increase.
  - All rent adjustments are capped by the RCS adjusted by OCAF.
- The owner may be eligible for an increased distribution.

# Option 3: Referral to OAHP

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- Option 3A: Lite
  - Rents are reduced market.
- Option 3B: Full
  - Rents are reduced with debt restructuring.

# Option 4: Renewal of Projects Exempted from OAHP

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- Eligibility
  - State or Local Government Financing
  - Section 202 and 515 Projects
  - Projects not subject to a HUD-held or HUD-insured mortgage

# Option 4: Submission Requirements

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- Contract Renewal Request Form
- Worksheet For Option 4
- OCAF Worksheet
- Budget Based Rent Adjustment
  - Handbook 4350.1, Section 7-22.
  - Attachment 5 (1<sup>st</sup> Time Only)
- One-Year Tenant Notification Letter

# Option 4: Renewal of Projects Exempted from OAHP - Rent Adjustments

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- “Lesser of” Test
  - Renewal rents are lesser of OCAF or Budget-Based
  - If budget does not support current rents, rents will be reduced to the levels supported by the budget.
  - Only performed at renewal.
- OCAF or Budget-Based allowed for multi-year rent adjustments.
- Owner has the option of renewing the contract for 1-20 years.

# Chapter 15

## Section 8 Preservation Efforts

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- Highlights:
  - New Financing
  - Capital Repairs Completion
  - Renewal under Option 1 or 2
    - “As Is” and “Post Rehab” rents
    - 20-year contract



# Section 8(bb) Preservation Tool

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- Highlights:
  - Transfer Budget Authority from one contract to another
  - Increase number of units on existing or new Section 8 contract

# Section 8(bb) Preservation Tool

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- HUD Info:
  - HUD Notice 2015-03
  - [https://www.hud.gov/program\\_offices/housing/mfh/8bb](https://www.hud.gov/program_offices/housing/mfh/8bb)
- Letters of Interest:
  - [northeast8bb@hud.gov](mailto:northeast8bb@hud.gov)

# Internet Links

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All HUD Handbooks, Housing Notices, and Forms can be downloaded from:

<http://www.hud.gov/offices/adm/hudclips/>

and

<http://www.mamhousing.com>

Section 8 Renewal Information:

<http://www.hud.gov/offices/hsg/mfh/mfhsec8.cfm>

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