

## CHAPTER 11

### OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.505, 982.503, 982.504, 982.505]

#### **INTRODUCTION**

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the “merger date.” These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

In accordance with the regulations, for those Section 8 participant families where there is a HAP Contract in effect entered into prior to October 1, 1999, the HA will continue to uphold the rent calculation methods of the premerger Regular Certificate, **OFTO**, and Voucher tenancies until the 2<sup>nd</sup> regular reexamination of family income and composition following the “merger date”. However, all new leases, moves and new admissions taking effect on or after October 1, 1999 will be subject to the regulations of the new Housing Choice Voucher Program.

The HA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the HA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This Chapter explains the HA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

#### **A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM**

The Rent to Owner is limited only by rent reasonableness. The HA must demonstrate that the Rent to Owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, the family share may not exceed 40 percent of the family's monthly adjusted income.

During the initial term of the lease, the owner may not raise the rent to owner.

#### **B. MAKING PAYMENTS TO OWNERS** [24 CFR 982.451]

Once the HAP Contract is executed, the HA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made **manually** to the HAP Register for the following month. The Office of Housing disburses checks to the owner each month.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

#### **Excess Payments**

The total of rent paid by the tenant plus the HA housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the HA.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the HA" chapter of this Administrative Plan.

#### **C. RENT REASONABLENESS DETERMINATIONS** [24 CFR 982.507]

The HA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

The HA will not approve a lease until the HA determines that the initial rent to owner is a reasonable rent. The HA must redetermine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The HA must redetermine rent reasonableness if directed by HUD and based on a need identified by the HA's auditing system. The HA may elect to redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to

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owner may not exceed the reasonable rent as most recently determined or redetermined by the HA.

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the HA information on rents charged by the owner for other units in the premises or elsewhere.

The data for other unassisted units will be gathered from **newspapers, Realtors, professional associations, inquiries of owners, market surveys, and other available sources.**

The market areas for rent reasonableness are **census tracts** within the HA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

- ✓ Size (number of Bedrooms/square footage)
- ✓ Location
- ✓ Quality
- ✓ Amenities (bathrooms, dishwasher, air conditioning, etc.)
- ✓ Housing Services
- ✓ Age of unit
- ✓ Unit Type
- ✓ Maintenance
- ✓ Utilities

### **Rent Reasonableness Methodology**

The HA utilizes a rent reasonableness system which includes and defines the HUD factors listed above. The system has a total point count which is divided into rating categories.

Information is gathered on rental units in the Albemarle Office of Housing (AOH) market area, and each unit is rated, using the HA's rent reasonableness system. Using an automated method, the average rents are identified for units of like size and type within the same market area. Each defined factor of the items listed above on the unit to be assisted will be compared, using a point adjustment system, to those factors of comparable unassisted units in the database. The average will be adjusted up or down based on the dollar value of all HUD required comparable items in comparison with the total database.

The HA uses an "appraisal" method and tests the subject unit against selected units in the same area with similar characteristics. Adjustments are made for favorable and unfavorable differences between the subject unit and the comparables. Each of the HUD factors is given a point value.

The HA maintains an automated database which includes data on unassisted units for use by staff in making rent reasonableness determinations. The data is updated on an ongoing basis and purged when it is more than 18 months old.

### **Utilities**

Utilities payment arrangements must be noted during the rent reasonableness determination and within the lease agreement.

Any agreements must specify whether utilities are included within the monthly rent payment or whether the tenant will be responsible for utility payments.

If utilities are included in the rent, the landlord may not bill the tenant separately for utilities. The HA will not accept an agreement for shared utilities if the tenant does not have a separate meter solely for their unit costs. Tenants must have meters hooked to their unit exclusively and must receive official bills in order to honor shared landlord/tenant split utility responsibilities.

### **D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM** [24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the HA's discretion, the Voucher Payment Standard amount is set by the HA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The HA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the HA will ensure that the Payment Standard is always

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within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

The HA will establish a single voucher payment standard amount for each FMR area in the HA jurisdiction. For each FMR area, the HA will establish payment standard amounts for each "unit size." The HA may have a higher payment standard within the HA's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

The HA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

### **E. ADJUSTMENTS TO PAYMENT STANDARDS** [24 CFR 982.503]

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The HA will not raise Payment Standards solely to make "high end" units available to Voucher holders. The HA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

#### **Assisted Families' Rent Burdens**

The HA will review its voucher payment standard amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30% of their annual adjusted income for rent.

If it is determined that particular unit sizes in the HA's jurisdiction have payment standard amounts that are creating rent burdens for families, the HA will modify its payment standards for those particular unit sizes.

The HA will increase its payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in the HA's jurisdiction are paying.

#### **Quality of Units Selected**

The HA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

#### **HA Decision Point**

The HA will review the average percent of income that families on the program are paying for rent. If more than **40%** of families are paying more than 30% of monthly adjusted income for a particular unit size, the HA will determine whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the HA in this Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the HA may decline to increase the payment standard.

#### **Rent to Owner Increases**

The HA may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

#### **Time to Locate Housing**

The HA may consider the average time period for families to lease up under the Voucher program. If more than **40%** of Voucher holders are unable to locate suitable housing within the term of the voucher and the HA determines that this is due predominantly to rents in the jurisdiction being unaffordable for families even with the presence of a voucher the Payment Standard may be adjusted.

#### **Lowering of the Payment Standard**

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

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### **F. Rent Increases by the Landlord**

Rent increases will be outlined in the lease agreement between the tenant and the landlord. Tenant's should review and understand the rent amount terms and duration. All increases after the initial term must be reviewed for Rent Reasonableness and approved by ACOH. Any rent that is above the approved amount must be paid for by the tenant.

### **Financial Feasibility**

Before increasing the Payment Standard, the HA may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the HA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

### **File Documentation**

A file will be retained by the HA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

### **G. EXCEPTION PAYMENT STANDARDS**

If the dwelling unit is located in an exception area, the HA must use the appropriate payment standard amount established by the HA for the exception area in accordance with regulation 24 CFR 982.503.

**The HA has received HUD approval to establish a payment standard amount that is higher than the basic range.**

### **H. OWNER PAYMENT IN THE PREMERGER OVER FAIR MARKET RENT TENANCY (OFTO) AND VOUCHER PROGRAMS** [24 CFR 982.502(b)]

The HUD regulations relating to owner rent adjustments applicable to the Over Fair Market Rent Tenancy Program will be used until the HAP Contract is no longer effective which will be no later than the second regular reexamination of the family after the merger date.