

Section 8 Contract Renewals And Rent Adjustments



Objective

1. Recognize options available to property owners to renew their expiring Section 8 contract.
2. Identify the rent adjustment methods available under each renewal option.



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

- Option 1A: Entitlement Mark-Up-To-Market
- Option 1B: Discretionary Authority



Option 1A: Entitlement MU2M

Eligibility

- A REAC physical inspection score of 60 or above with no uncorrected EH&S violations.
- Property owner must be a profit motivated or limited distribution entity.
- RCS must demonstrate that the comparable market rents are at or above 100% of the fair market rent (FMR) potential.
- Project does not have use restrictions that cannot be eliminated by unilateral action by the owner. For example: Rent Supplement Contract, prior or present Flexible Subsidy Assistance, Low-Income Housing Tax Credits.
- Property must be decent, safe, sanitary, and in good repair. It also must have management satisfactory to the Department.

Note 1: Rents are capped at 150% of FMR.



Option 1A: Entitlement MU2M Eligibility (Cont.)

Note 2: Where the use restricted rent levels are greater than the project's Section 8 rents, the new Section 8 rents may be marked up to the use restricted level. Property must meet the criteria described in Option 1B.

Note 3: 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 Option 1A or 1B.

- Nonprofit Transfers: 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 the Section 8 Policy Guide).



Option 1B: Discretionary Authority

Eligibility

- 1B is for Owner's who do not meet all criteria for 1A or request an increase that is greater than 150% of FMR.
- HUD will consider 1B requests for projects that meet at least 1 of the following:
 - Vulnerable Populations - Demonstrated by a high percentage (at least 50%) of the units rented to elderly families, disabled families, or large families.
 - 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.
 - 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.



Option 1A and 1B

Rent Adjustments

- Owner submits an RCS.
 - If comparable market rent potential is $> 100\%$ of FMR, the RCS is accepted without analysis and an RCS is ordered through HUD.
- 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.
- Rents are capped at 150% of FMR. (Option 1A only)
- Contract is renewed for 5-years. Project is only allowed OCAF rent increases for years 2-5 of the MU2M contract.



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
0	0	0	0	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

(A)	HUD Comparable Rent Potential is:	111.0% of Current
(B)	This contract is:	Below Market
(C)	HUD Comparable Gross Rent Potential is:	115.2% of FMR
(D)	This property is:	Eligible

Notes

Total of Column K divided by total of Column I
 If Row A > 100%, then contract is below market
 Total of Column L divided by total of Column M
 If Row C >= 100% and contract below market, then property is eligible

Final Comparable Rents

(E)	Owner Comparable Rent Potential is:	109.9% of HUD
(F)	Final Comparable Market Rents are:	105.0% of HUD

Notes

Total of Column J divided by total of Column K
 If Row E < 105%, then Column N equals Column D, else Column N equals 105% of Column E

Option 2: Contract Renewals for Projects with Rents At or Below Comparable Market Rents Eligibility

- RCS submitted by the owner must show that the Section 8 Contract rents are at or below the comparable market rents.
 - Owner's RCS must be reviewed and approved by HUD/CA.
 - RCS has a 5-year life span and is adjusted by the OCAF rate 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 without debt restructuring.



Option 2: Contract Renewals for Projects with Rents At or Below Comparable Market Rents Rent Adjustments

- OCAF or Budget-Based rent adjustments are allowed.
 - Rents are capped at market levels.
- Owner has the option of renewing the contract for 1-20 years.
 - If the owner agrees to either enter into a new 20-year HAP contract, or to extend the current contract so that the remaining life of the contract is 20 years, the owner will be eligible for an increased distribution.



20-Year Contracts

- The initial RCS will be used to determine a property's eligibility for an Option 2 Renewal
- Subsequent RCS (Years 6, 11, and 16 of the contract) will be used to adjust the rents.
 - If the RCS acquired for the 6th year of the renewal indicates that the rents are below market, then the rents will be adjusted upward in order to correspond to the market rents determined by the new RCS.
 - If the RCS acquired for the 6th year of the renewal indicates that the rents are above market, then the rents will be adjusted downward in order 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.
 - However, after the initial RCS period, budget-based rent adjustments will essentially be inconsequential unless a property does not request a rent increase in a previous year. This is due to the fact that the contract rents will essentially mirror the RCS capped rents.



Option 3: Referral to OAHP

- Option 3A: OAHP Lite
 - Rents are reduced without debt restructuring.
- Option 3B: OAHP Full
 - Rents are reduced with debt restructuring.



Option 3: Referral to OAHP

Eligibility

- FHA Insured projects not identified as “Exception Projects”.
- Owner must not be suspended or debarred
 - Unless otherwise approved by HUD
- Contract Rents must be greater than Comparable Market Rents.



Option 3: Referral to OAHP

Rent Adjustments

- Entry into OAHP
 - Interim Lite Contract (Option 3A)
 - Rents remain at current levels. Contract is typically renewed for a 12-month period.
 - Interim Full Contract (Option 3B)
 - Rents remain at current levels. Contract is typically renewed for a 12-month period.



Option 3: Referral to OAHP Rent Adjustments

- Exiting OAHP
 - Option 3A
 - Two Scenarios
 - Basic Renewal Contract
 - Watch List Contract
 - Option 3B
 - One Scenario
 - Full Mark-to-Market Contract



Option 3: Referral to OAHP

Rent Adjustments

- Exiting OAHP – Option 3A
 - Basic Renewal Contract
 - Rents reduced to comparable market rent. Contract is renewed for 1-5 years.
 - Project is allowed OCAF rent increases for remainder of contract term.
 - A budget-based rent increase may be processed, if approved by HUD.
 - Watch List Contract
 - Rents reduced to comparable market rent. Contract is renewed for 1-year.
 - Only OAHP can remove contract from “Watch List” status.
 - For adjustment/renewal purposes, HUD becomes the Contract Administrator
 - Property is generally on the Watch List for 3 Years
 - Separate 1-year contracts are processed for each of the 3 years
 - The property may be eligible for an OCAF rent adjustment in years 2 and 3.



Option 3: Referral to OAHP

Rent Adjustments

- Exiting OAHP – Option 3B
 - Full M2M Contract
 - Rents reduced to comparable market rent. Contract is renewed with a term up to 20-years.
 - Project is only allowed OCAF rent adjustments for the term of the contract.
 - If a 20-year contract is processed, a Rent Comparability Study is not required during the term of the contract.



Option 4: Renewal of Projects Exempted from OAHP Eligibility

- State or Local Government Financing
 - Note: 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 OAHP as to whether or not implementation of a M2M Restructuring Plan is in conflict with applicable law, or agreements governing such financing.



Option 4: Renewal of Projects Exempted from OAHP Eligibility (Cont.)

- Section 202 and 515 Projects
- SRO Moderate Rehabilitation Projects
- Projects not subject to a HUD-held or HUD-insured mortgage



Option 4: Renewal of Projects Exempted from OAHP Rent Adjustments

- Contract rents are subject to the lesser-of the OCAF and Budget-Based method each time the contract is renewed.
 - If budget does not support current rents, rents will be reduced to the levels supported by the budget.
- OCAF or Budget-Based allowed for multi-year rent adjustments.
- Owner has the option of renewing the contract for 1-5 years.



Option 5: Portfolio Reengineering Demonstration and Preservation Contract Renewals Eligibility

- Projects that renewed their contracts under the Portfolio Reengineering Demonstration Program
 - As evidenced by a recorded Demo Program Use Agreement.
- 236 and 221d3 BMIR projects that entered into long-term use agreements with HUD under the Preservation Program (LIPHRA or ELIPHRA)



Option 5: Portfolio Reengineering Demonstration Rent Adjustment

- The owner submits an RCS and the contract rents will be adjusted up or down to the comparable market rent levels.

Note: An RCS is not required if the property has gone through a Demo Mark-to-Market restructuring that is equivalent to an OAHP-Full restructuring and the owner has signed a use-agreement.

- If an RCS is not required, then the owner may request an OCAF rent adjustment.
- Contract term cannot exceed the number of years remaining on the use-agreement.
- Cannot opt.-out during the term of the Demo use-agreement.



Option 5: Preservation Contract Rent Adjustment

- See Plan of Action (POA) for rent adjustment instructions.
- Maximum term of the renewal contract cannot exceed the lesser of 20-years or the remaining term of the use-agreement.



Option 6: Opt-Out of the Section 8 Contract

- Owner's must provide tenants and HUD with a written notification that they do not intend to renew the Section 8 Contract one year before the contract expires.
 - If tenants are not notified of the owner's intent to Opt-Out at least 1-year in advance of the contract's expiration, then the property is not eligible to Opt-Out until 1 year after the tenants were given proper notification.
 - If needed, HUD will offer a short-term contract in order for the property to fulfill the 1-year requirement.



Option 6: Opt-Out of the Section 8 Contract

- At least 120 days prior to the contract's expiration, the owner must submit the following items:
 - An owner-signed Contract Renewal Request Form (HUD-9624) that outlines the intent to Opt-Out
 - Pages, 1, 2, & 13
 - A copy of the One Year Notice that was distributed to tenants
 - A current Rent Roll
 - Copies of the 50059s for all current tenants



OCAF Adjustment

- Section 8 Renewal Policy Guide
 - OCAF Worksheet: Attachment 3B (Form HUD-9625)
 - OCAF Worksheet Instructions: Attachment 3B-1



Green Acres

OCAF RATE:	2.80%
OCAF DECIMAL:	0.028
OCAF MULTIPLIER:	1.028

NEW RCS RENT POTENTIAL	391,347
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(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)
One Bedroom	12	473	5,676
Two Bedroom	32	525	16,800
Three Bedroom	16	578	9,248
0	0	0	-
0	0	0	-
0	0	0	-

(E)	MONTHLY SECTION 8 RENT POTENTIAL FOR EXPIRING CONTRACTS (TOTAL OF COLUMN D)	31,724
(F)	ANNUAL SECTION 8 RENT POTENTIAL FOR EXPIRING CONTRACTS (E x 12)	380,688

(G)	TOTAL ANNUAL RENT POTENTIAL FOR NON-EXPIRING SECTION 8 CONTRACTS	100,000
(H)	TOTAL ANNUAL RENT POTENTIAL NON-SECTION 8 UNITS	200,000
(I)	TOTAL ANNUAL PROJECT RENT POTENTIAL (F + G + H)	680,688
(J)	EXPIRING SECTION 8 PORTION OF TOTAL RENT POTENTIAL (F / I)	0.559
(K)	TOTAL ANNUAL PROJECT DEBT SERVICE	272,275
(L)	ANNUAL EXPIRING SECTION 8 SHARE OF DEBT SERVICE (J x K)	152,284
(M)	ANNUAL EXPIRING SECTION 8 POTENTIAL LESS EXPIRING SECTION 8 SHARE OF DEBT SERVICE (F - L)	228,404
(N)	ANNUAL EXPIRING SECTION 8 RENT POTENTIAL ATTRIBUTED TO OPERATIONS MULTIPLIED BY PUBLISHED OCAF (M x 1.047)	234,800
(O)	ADJUSTED CONTRACT RENT POTENTIAL (L + N)	387,083
(P)	LESSER OF (O) AND COMPARABLE RENT POTENTIAL FROM RENT COMPARABILITY STUDY	387,083
(Q)	INCREASE FACTOR (P / F)	1.017

(R)	(S)	(T)	(U)	(V)	(W)
UNIT TYPE AND CONTRACT AND/OR STAGE	# OF UNITS	CURRENT CONTRACT RENTS	OCAF ADJUSTED RENT (Q x T)	ANNUAL ADJUSTED RENT (U x 12)	ADJUSTED ANNUAL RENT POTENTIAL (S x V)
One Bedroom	12	473	481	5,772	69,264
Two Bedroom	32	525	534	6,408	205,056
Three Bedroom	16	578	588	7,056	112,896
0	0	0	-	-	-
0	0	0	-	-	-
0	0	0	-	-	-

(X) ANNUAL ADJUSTED RENT POTENTIAL OF THE EXPIRING CONTRACT(S): 387,216
(total Column W)



Budget-Based Rent Adjustment

- HUD Handbook 4350.1
 - Chapter 7: Guidelines for submitting and processing a budget-based rent increase.
 - Appendix 5: Instructions for budget-based rent calculation and calculation worksheet.



Internet Links

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

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

also

<http://www.mmam.net>

Section 8 Renewal Information:

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

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Michigan Multi-Family Asset Managers