

Chapter 11 – Owner Rents, Rent Reasonableness and Payment Standards

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]

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.

All Section 8 participant families have been transitioned to the Housing Choice Voucher Program on or before October 1, 2001. Rent calculation methods for the Housing Choice Voucher Program are described at 24 CFR 982.505. The rent calculation formula is specific and is not subject to interpretation.

The PHA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the PHA'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).

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The rent to owner is limited only by rent reasonableness. The PHA 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, if the gross rent for the unit exceeds the applicable payment standard for the family, 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 PHA 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. Checks are disbursed by Office of Finance & Management to the owner each month. Checks may not be picked up by owner at the PHA.* Checks will only be disbursed on the 1st thru the 5th of the month. Exceptions may be made with the approval of the Housing Director in cases of hardship.

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Checks that are not received will not be replaced until after a 10 business day waiting period from the date the check is issued. After the waiting period, a warrant affidavit must be signed by the payee and notarized to initiate a stop payment and to reissue the check.

Excess Payments

The total of rent paid by the tenant plus the PHA 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 PHA.

Owners who do not return excess payments will be subject to penalties.

Late Payments to Owners

* It is a local business practice in Johnson County Housing Authority jurisdiction for property managers and owners to charge tenants a reasonable late fee for rents not received by the owner or property manager by the due date, notwithstanding any grace period which is typically 3-5 days past the first of the month.

* Therefore, in keeping with generally accepted practices in the local housing market, the PHA must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

*The PHA may pay a minimum dollar late fee to the owner for housing assistance payments that are not mailed to the owner between the first and the fifth day of the month, if requested by the owner.

Proof of “Mailed to” date will be the:

The following day after the check-run date.

Proof of “Received by Owner” will be:

When the check has been endorsed by owner or owner’s representative.

- To assist the PHA in its outreach efforts to owners, and to provide better customer service, the PHA will offer to make every effort to ensure that owner’s checks on or about the first of each month.

The PHA will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the PHA’s control, such as a delay in the receipt of program funds from HUD.

The PHA will not use any program funds for the payment of late fee penalties to the owner.

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

The PHA 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 PHA will not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent. The PHA 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 PHA must redetermine rent reasonableness if directed by HUD and based on a need identified by the PHA's auditing system. The PHA may elect to redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the PHA

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 PHA information on rents charged by the owner for other units in the premises or elsewhere. *The PHA will only request information on the owner's units elsewhere if the PHA has cause to demonstrate that the owner has a tendency to charge higher rents to program participants or if needed for rent reasonableness comparables.

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 zip codes/subdivisions/census tracts/neighborhoods within the PHA'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

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Age of unit

Unit Type

Maintenance

Utilities

Rent Reasonableness Methodology

* The PHA 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 Johnson County Housing Authority market area, and each unit is rated, using the PHA'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 PHA uses a "standard deviation" method and uses automation to identify the average rent for units of like size and type within the same market area. The average is adjusted up or down based on the dollar value of all HUD required comparable items.

The PHA utilizes and maintains the HAPPY software system and a notebook as well 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 12 months old.

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 PHA's discretion, the Voucher Payment Standard amount is set by the PHA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The PHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the PHA will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

The PHA will establish a single voucher payment standard amount for the entire PHA jurisdiction.

The PHA 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.

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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 PHA will not raise Payment Standards solely to make "high end" units available to Voucher holders. The PHA 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 PHA 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 PHA's jurisdiction have payment standard amounts that are creating rent burdens for families, the PHA will modify its payment standards for those particular unit sizes.

* The PHA 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 PHA's jurisdiction are paying.

Quality of Units Selected

The PHA 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.

PHA Decision Point

The PHA will review the average percent of income of families on the program. If more than (percent –40%) of families are paying more than 30% of monthly adjusted income, the PHA will determine whether there is a difference by voucher size, 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 PHA in the 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 PHA may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, the PHA will continue increasing the payment standard.

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Rent to Owner Increases

The PHA 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 PHA 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 PHA determines that this is due to 41% of 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.

Financial Feasibility

Before increasing the Payment Standard, the PHA 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 PHA 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 PHA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

F. EXCEPTION PAYMENT STANDARDS

Exception Payment Standards are not used.

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

* HUD has authorized the PHA to establish a payment standard specify number between 110% and 120% for all unit sizes in designated area/PHA jurisdiction.

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G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM (24 CFR 982.308(g))

The owner is required to notify the PHA, in writing, at least sixty days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. See 24 CFR 982.503.