

OWNER RENTS, RENT REASONABLENESS AND PAYMENT STANDARDS

(24 CFR 982.505, 982.503, 982.504, 983.303)

INTRODUCTION

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 comparable(s) 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 982.305, 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of 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. This is a HUD requirement.**

At the time the HA approves a tenancy for initial occupancy of a unit by the family with tenant-based assistance under the program, and where the gross rent of the unit exceeds the applicable payment standard for the family, **the family share must not exceed 40 percent of the family's adjusted monthly income.** The determination of adjusted monthly income must be based on verification information received by the HA no earlier than 60 days before the HA issues a Voucher to the family.

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 automatically to the HAP Register for the following month. Checks are disbursed by the Accounting Department to the owner each month. Checks may be picked up by owner at the HA if requested in advance.

Checks that are not received will not be replaced until 10 days has passed from the date of mailing, 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.

Late Payments to Owners

It is a local business practice in Pinellas County 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 5 days past the first of the month.

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

The HA will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the HA's control, such as a delay in the receipt of program funds from HUD. The HA will use administrative fee income or the administrative fee reserve as its only source for late payment penalty.

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

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 re-determine 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 re-determine rent reasonableness if directed by HUD and based on a need identified by the HA's auditing system. The HA may elect to re-determine 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 re-determined by the HA

The owner will be advised that by accepting each monthly housing assistance payment she/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 may be zip codes/subdivisions/census tracts/neighborhoods within the HA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

Some or all of following 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

The HA maintains information which includes data on unassisted units for use by inspection staff/contractors in making rent reasonableness determinations.

Rent Reasonableness for PHA-owned units

As required by HUD regulations at 24 CFR 983.303 (f) the HA will use an independent third party approved by HUD to conduct rent reasonableness for PHA owned units. The independent third party must be approved by HUD. In addition, the independent third party must notify HUD of its rent determination of PHA owned units in accordance with HUD regulations.

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 payment standard is generally set at 100% of the FMR; however, when the FMR is reduced or increased, the

HA may opt to leave the payment standard at its current rate rather than reducing or increasing it, as long as it remains within 90% to 110% of the most recent published FMR, as this may be necessary from time to time due to market conditions and funding appropriations.

The HA reviews the appropriateness of the Payment Standard annually when the FMR is published, and at any other time there is a change in the payment standard. In determining whether a change is needed, the HA 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 HA may adjust the Payment Standard within the 90 – 110% range, as needed based on, but not limited to, one or more of the following reasons:

- Funding availability
- Changes in the availability of quality rental units
- Changes in the affordability of quality rental units

The HA may, at its discretion, have a higher or lower payment standard within the HA's jurisdiction if needed to de-concentrate poverty and 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.

As FMR's are published by HUD after their effective date, it is not cost-effective or efficient to recalculate certifications and recertifications that have already been processed. Therefore, it is HA procedure that payment standards increased or decreased as a result of newly published FMR's will be implemented at the first eligible action following distribution of the revised payment standards/FMRs to staff. The HA will distribute a notice establishing an effective date for implementation.

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.

Financial Feasibility

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