

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.505, 982.503, 982.504, 982.505]

INTRODUCTION

HOC will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is HOC's responsibility to ensure that the owners charge reasonable rents based upon unassisted comparable units in the rental market, using the criteria specified in the Code of Federal Regulations (CFR) 24 CFR 982.507(b).

This Chapter explains HOC's procedures for determination of rent-reasonableness, payments to owner's adjustments to the Voucher Payment Standards (VPS), and other rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

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

The only other limitation on rent to owner is the maximum rent standard at initial occupancy which is described in (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is for a new admission or a relocation to a different unit, the family share may not exceed 40 percent of the family's monthly adjusted income if gross rent exceeds the voucher's payment standard. During the initial term of the lease, the owner may not raise the rent

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP Contract is executed between the owner and HOC, HOC begins processing payments to the landlord. A HAP Register is used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. HOC's finance division disburses electronic payments to the owner on the first of each month. HOC will not replace payments if the owner claims to have not received payment, HOC will not provide a replacement payment until the payee has provided a written request and a stop payment is placed put on the payment.

Excess Payments

The total rent the tenant pays plus the housing assistance payment (HAP) may not exceed the rent to owner. The owner must immediately return any excess overpayment to the tenant or HOC.

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

Late Payments to Owners

It is a business practice in Montgomery County for property managers and owners to charge tenants a reasonable late fee for rents that is not received by the due date, notwithstanding any grace period. In Montgomery County, the industry standard is a grace period of 10 days past the first of the month.

Therefore, in keeping with generally accepted practices in the local housing market, the HOC must pay the HAP to the owner promptly and in accordance with the HAP contract.

Upon written request of the owner, HOC will pay a five percent late fee to the owner for HAP that is not mailed to the owner by the first day of the month.

The proof of payment date is the date the Electronic Funds Transfer (ETF)

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

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

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

HOC must ensure that rents charged by owners to HCV customers clients are reasonable. This reasonableness determination requires, HOC to compare rent for the unit to rent for similar unassisted units in the marketplace. (982.507)

HOC must determine rent reasonableness in all of the following four instances:

- Before entering a HAP contract. HOC must not execute a HAP contract until it has documented that the rent charged is reasonable.
- Before any increase in the rent to owner. Before approving a rent increase, HOC must determine and document whether the proposed rent is reasonable compared to the rent for similar units in the marketplace and not rents higher than those paid by unassisted tenants.
- **If there is a ten percent decrease in the published fair market rent FMR (for the unit size rented by the family) in effect 60 days before the contract anniversary date as compared with the FMR in effect one year before the contract anniversary date.** This provision is designed to ensure that when the market goes down by a significant amount HOC must reexamine rent reasonableness.

- **If directed by HUD.** If HUD has reason to question HOC's system or accuracy of its determinations, HUD may require HOC to conduct rent reasonableness reviews on all or a portion of its units.

In determining comparability, HOC must consider the following nine elements:

1. Location
2. Quality
3. Size
4. Unit type
5. Age of unit
6. Amenities
7. Housing services
8. Maintenance; and
9. Utilities the owner must provide under the lease

HOC will obtain data for other unassisted units through the information provided by a third-party contractor. If this is unavailable, HOC will access the data through a combination of MRIS (Metropolitan Regional Information System), internet real estate searches, newspapers, realtors, professional associations, inquiries with owners, market surveys, and other available sources.

In general, the market areas for rent reasonableness are neighborhoods. Subject units within the neighborhood are compared to similar units within the same area.

The owner certifies that the rent to owner is not more than the rent charged by the owner for comparable unassisted units at the same property. This certification is stated as a requirement in the contract and occurs by acceptance of each housing assistance payment.

HOC will document all rent reasonableness decisions and the basis for each decision. The documentation will identify who conducted the rent reasonableness determination and when.

HOC will complete a sample quality control review of the rent reasonableness determinations.

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

The Payment Standard is used to calculate the housing assistance payment (HAP) for a family. In accordance with HUD regulations, and at HOC's discretion, the Voucher Payment Standard (VPS) amount is set by HOC between 90 percent and 110 percent of the HUD published Small Area Fair Market Rents (SAFMR). This is considered the basic range. HOC reviews the appropriateness of the VPS annually when the SAFMRs are published by HUD. In determining whether a change is needed, HOC will ensure that the VPS is always within the range of 90 percent to 110 percent of the new SAFMR, unless an exception payment standard is approved by HUD.

HOC will establish a single Voucher Payment Standard amount for each SAFMR zip code area in the Agency's jurisdiction, or in any groupings of SAFMR zip code areas as may be determined by

HOC. For each SAFMR zip code area, HOC establishes VPS amounts for each “unit size”. HOC may provide a higher VPS within the Agency’s jurisdiction if needed to expand housing opportunities outside areas of minority and/or poverty concentration, as long as the higher VPS is within the 90-110 percent of SAFMR range.

In situations where the adoption of new Voucher Payment Standards (VPS) based on HUD’s Small Area Fair Market Rents (SAFMR) will cause a decrease in the VPS amount during the existing Housing Assistance Payments (HAP) contract term, HOC will take the following action:

HOC will change to the lower VPS based on the SAFMRs to calculate the family’s Housing Assistance Payments (HAP). This change will begin at the effective date of the family’s second regular reexamination following the effective date of the decrease in the VPS.

HOC may approve a higher Voucher 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. HOC will not raise Payment Standards solely to make "high end" units available to Voucher holders. HOC may use some or all of the measures described below in making its determination whether an adjustment to the Payment Standards is needed.

Assisted Families' Rent Burdens

HOC reviews its VPS amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30 percent of their annual adjusted income for their rent.

If it is determined that particular unit sizes in HOC’s jurisdiction have VPS amounts that are creating rent burdens for families, HOC may modify its payment standards for those particular unit sizes.

HOC may 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 HOC’s jurisdiction are paying.

HOC may establish a separate VPS , within the basic range, for designated parts its jurisdiction if it determines that a higher payment standard is needed in these designated areas to provide families with quality housing choices and to give families an opportunity to move outside areas of high poverty and low-income concentration.

Quality of Units Selected

HOC reviews the quality of units selected by participant families when making the determination of the percent of income families are typically paying for housing, and to ensure that VPS increases are only made when needed to reach the mid-range of the market.

PHA Decision Point

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

If families are paying more than 30 percent of their income for rent due to the selection of larger bedroom size units or luxury units, HOC may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, HOC will continue increase the payment standard as per the process described in this Administrative Plan

Rent to Owner Increases

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

Time to Locate Housing

HOC may consider the average time period for families to lease up under the voucher program. If more than 25 percent of voucher holders are unable to locate suitable housing within the term of the voucher and HOC determines that this is due to 10 percent 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

If the HUD issued SAFMRs decreases, it may require HOC to adjust its Payment Standards. Additionally, statistical analyses of average rents in Montgomery County may reveal that decreasing the VPS should be lowered. In any case, HOC will not set the Payment Standards below 90 percent of the SAFMR's without authorization from HUD.

Financial Feasibility

Before increasing the VPS, HOC may review its budget to determine the impact projected subsidy increases will have on funding available for the voucher program and the number of families able to be served

For this purpose, HOC will compare the number of families who could be served under a higher Payment Standard with the number of families currently by the existing Payment Standards.

File Documentation

HOC retains files for at least three years to document the analysis and findings used to justify whether or not to increase or decrease the VPS.

F. EXCEPTION PAYMENT STANDARDS

If a dwelling unit is located in a VPS exception area, HOC must use the appropriate payment standard amount established by HOC for the exception area in accordance with HUD regulation at 24 CFR 982.503.

**G. OWNER PAYMENT IN THE PREMERGER REGULAR CERTIFICATE PROGRAM
[24 CFR 982.502(d)]**

Owners must request the rent increase in writing. Any increase will be effective the later of (1) the anniversary date of the Contract, or (2) at least 60 days after the owner's request is received.

The approval or disapproval decision regarding the adjustment will be based on HUD-required calculations and a rent reasonableness determination. The adjustment may be an increase or a decrease.

The notice of rent change does not affect the automatic renewal of the lease and does not require a new lease or contract or even an executed amendment.