

## Out Year Deals and Sunset

1. Now that the new Contract Renewal Request Form has been approved for use by OAHP, we can again accept properties in for restructuring with HAP contracts that may have an expiration dates several years in the future ("Out Year Contracts"), **without the owner having to give up their current, above-market contract.** While we have done many of these transactions over the years, the approaching Sunset of M2M authorities, and the need for a 514 contract as evidence of a "binding commitment" had required us to restrict Out Year projects. With the release of the new Contract Renewal Request Form, however, we can again accept these referrals.
2. There is a cost to OAHP for completing a restructuring plan. OAHP has set up the following guidelines for Out Year referrals (use of the Contract Renewal Request Form for Out Year Contracts when a new 514 contract will not be put in place):
3. Contract Expiration must be in excess of 18 months from owner request to enter the program **or** the Multifamily referring office must indicate that funding is not available for issuance of a 514 contract at this time. A rationale for a potential OAHP restructuring must be submitted with the request. Possible reasons may include:
  - Need for significant Rehab
  - Insufficient cash flow to meet current operating/cash flow needs
4. OAHP has in its toolbox the ability to use an Out Year Rider, which will allow the current contract to remain in place, with the higher contract rents, until maturity. The rent differential in many cases flows to property's replacement reserves. The net effect of this Rider is to create a smaller Mortgage Restructuring note, saving the owner money long term. The Rider will only be used in the following situations:
  - The outyear contract must mature between 6 months and 36 months past the closing of the M2M restructuring. If outside of this window, the owner will have to accept an M2M Full restructuring contract at market rents, beginning the month after the M2M closing
  - The gross difference between market rents and contract rents must exceed \$25,000 per year.
  - The Out Year Rider recapture agreement is administered by the respective Multifamily office. Therefore, the MF Office must agree to monitor the recovery of the outyear monies (difference between contract and market) and implement the M2M Full restructuring contract at market rents determined by OAHP, increased by OCAF since the date of closing.
5. Even when an Out Year Rider is not used, an OAHP Restructuring may benefit the property and preserve affordable housing. HUD will have a Use Agreement in place, the property will be rehabed as necessary and we will ensure that cash flow is sufficient to main the property long term.

Please contact Norman Dailey if you have any questions about this process. (Norman\_Dailey @hud.gov or at 202-708-0614, x8371)