



ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention of:

Multifamily Regional Center Directors
Multifamily Satellite Office Directors
Multifamily Asset Management Division
Directors
Multifamily Account Executives
Multifamily Owners and Management Agents

NOTICE H 2022-05

Issued: 09/27/2022

Expires: This Notice remains in
effect until amended,
superseded or rescinded

Cross Reference: HUD Handbook 4350.1,
Chapter 7 *Project Servicing Handbook*
Housing Notice 2015-04

Supersedes: Housing Notice 2002-17

**Subject: Renewal of Expiring Project Rental Assistance Contracts (PRACs) for
Projects Under the Section 202 Program of Supportive Housing for the Elderly and
the Section 811 Program of Supportive Housing for Persons with Disabilities**

I. Purpose

This notice updates the contract renewal procedures and standard renewal contract language for Project Rental Assistance Contracts (PRACs) under the Section 202 Program of Supportive Housing for the Elderly and Section 811 Program of Supportive Housing for Persons with Disabilities. The Notice also establishes a process to move all Section 202 PRAC properties into contracts with a 5-year term. This change will reduce paperwork associated with annual renewals and streamline the annual funding process. To assist in balancing HUD workload and improve timely completion of all renewals going forward, the conversion from annual to 5-year terms will be phased in over the next three years.

The Consolidated Appropriations Act, 2022 (the “Act”) (P.L. 117-103) authorized HUD to issue Section 202 PRAC renewal contracts for terms of up to five years, subject to annual appropriations. The Act continued HUD’s authority to renew Section 811 PRACs for a period of up to one year. This notice supersedes guidance issued in Notice 2002-17 on PRAC renewal contracts.

Applicability

Section III of this Notice applies to administration of the following programs:

- A. Section 202 Capital Advance PRACs
- B. Section 811 Capital Advance PRACs

Section IV applies only to Section 202 Capital Advance PRACs.

Please note that this notice does *not* apply to Section 202/162 Project Assistance Contracts (PACs) or Section 811 Project Rental Assistance administered under state agency cooperative agreements.

III. PRAC Renewal and Rent Adjustment Procedures

A. Contract Renewal Procedures for Section 202 and Section 811

The general procedures for requesting a PRAC renewal and budget-based rent adjustments are unchanged. In order for the HUD Regional or Satellite Office to adequately and timely process the request for the renewal of a PRAC, the request should be submitted to HUD no later than 120 days prior to the expiration of the contract. Owners must submit an operating budget on HUD Form 92547-A, Budget Worksheet, for all projects with an expiring PRAC.

If the owner is requesting an increase in project rental assistance, the request cover letter must detail project needs and summarize the reasons why an increase in project rental assistance is needed, including any necessary increases to the Reserve for Replacement account (supported by a Capital Needs Assessment, where appropriate). Should owners fail to submit all necessary documentation for a rent increase in accordance with HUD guidelines, renewal contracts may be issued to owners with no change in contract rents when necessary to avoid a prolonged lapse of PRAC assistance agreements.

Routine utility allowance adjustments must also be processed at the time of renewal following the methodology in Notice H 2015-04. For general guidance on requesting and processing a rent increase, consult HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*, Chapter 7.

B. End-of-Month Alignment

For contracts that expire in the middle of a month, 5-year renewal contracts will be adjusted so that the contract terminates at the end of the prior month, i.e. a 202 PRAC renewing on January 5, 2023 would receive a new expiration date of December 31, 2027. Alignment to the end of the prior month rather than the month in which these contracts expire is necessary to ensure no contract exceeds five years in duration, as specified by law.¹

For any Section 202 contracts expiring mid-month and renewing for an annual term, HUD will advance the expiration dates to the end of the month in which the ending expiration will occur, e.g. contracts expiring March 20, 2023, will be renewed with an expiration date of March 30, 2024.

¹ If an owner has a PRAC with a mid-month expiration that is selected to renew for a 5-year term in 2023 and does not wish to end the renewal contract term in the prior month, they may opt to renew instead for a 1-year term that allows for expiration at the end of the current month of expiration and defer signing a 5-year contract to a 2024, i.e. renew August 20, 2023 through August 30, 2024, followed by a 5-year renewal. Such requests should be made in writing to the servicing field office prior to HUD issuance of a renewal contract to the property.

Expiration dates for annual Section 811 renewals may not be advanced to the end of the month due to a current statutory maximum term of one year but may be shortened slightly at the owner's request to align the expiration date to the last day of the prior month. At this time, HUD is not permitting any other changes in contract renewal/anniversary dates due to appropriations limitations.

C. Form of the Contract Renewal Amendment

HUD will utilize the updated contract renewal amendment text in Attachment A when renewing PRACs that expire after December 31, 2022. Attachment A may be superseded by issuance of the PRAC renewal amendment as a new standard HUD form, subject to review and comment in the Federal Register. For contracts expiring prior to January 1, 2023, contract renewal amendment language will reflect amendment language included in Appendix A of Notice H 2002-17.

D. Funding of PRAC Renewals

HUD will continue to provide funding to all PRACs, including those under one-year or multiyear terms, on an annual basis, in increments estimated to address subsidy needs for a 12-month period. Continuation of payments under multi-year contracts will be subject to the availability of annual appropriations. The calculation of new funding increments will consider undisbursed balances from prior year allocations to the contract.

E. Adjustments to Operating Expenses/Contract Rents

For projects under a multi-year 202 PRAC, and at the request of the owner, HUD will consider budget-based rent adjustments to reflect operating expense changes in the years following the renewal. Budget-based rent adjustments will be effective on the 1st day of the month in which the contract anniversary date falls. (For example, a contract renewing for 5-years on November 5th, would receive a rent adjustment on November 1st in the four subsequent years if a change is requested by the owner.) Rent adjustment requests should be submitted to HUD 120-days in advance of the contract anniversary date and must include the same supporting documents that are indicated above for adjustments to rents at contract renewal (see Section A).

Alignment of rent adjustments to the contract renewal anniversary is a critical factor in HUD's ability to fund all contracts accurately, efficiently, and on schedule.

If an owner under a multi-year contract does not submit a budget-based rent adjustment request prior to the contract anniversary, operating expense amounts under the multi-year contract will remain unchanged for the duration of the immediately subsequent contract-year, with the limited exceptions discussed in the following paragraph. Note, submission of a utility allowance analysis is required annually and may necessitate an adjustment to gross contract rents even if no change is being made to operating expense amounts.

An increase to operating expense amounts (rent adjustment) for any Section 202 or Section 811 PRAC under either an annual or multi-year term that is proposed to be effective at a point-in-time other than the renewal date or in the month of the contract anniversary will be approved only in circumstances where HUD determines that unexpected and material changes in costs are

jeopardizing property operations. Mid-year recognition of changes in operating costs may also consider time-sensitive needs to adjust reserve for replacement deposits prior to conversion to a Section 8 contract through the Rental Assistance Demonstration (RAD) (see Notice H-2019-09 or successor). Notwithstanding these criteria, any project that has received an adjustment to contract rents for routine cost increases at a date other than their renewal effective date within the last year, may receive approval for a similar off-cycle adjustment only during their current active contract term. Rent adjustments under any subsequent PRAC renewal are subject to standard timing and exception criteria.

All rent adjustments are subject to the availability of appropriations, as determined by HUD. Any rent adjustments for either Section 202 PRACs or Section 811 PRACs proposed to be effective at a point-in-time other than renewal or in the month of the renewal contract anniversary date will be subject to secondary funding reviews by HUD.

F. Regulatory Agreement Requirement for Annual Operating Budget Submission

Properties that meet certain conditions will be excepted from the annual budget requirement in Section 3 of the Capital Advance Regulatory Agreement, which mandates that an owner submit an operating budget not less than 30-days prior to the end of each project fiscal year. If an operating budget was submitted by the owner for a given contract year – either in conjunction with a contract renewal or an annual rent adjustment – a second budget submission prior to the end of the project fiscal year is not required. Furthermore, if a property under a multi-year contract does not submit a budget-based rent adjustment request during a given project fiscal year and remains in good standing with HUD, the previously submitted budget will be treated as current and a new budget submission will not be required to comply with the Regulatory Agreement.

Should any property’s risk rating become “Troubled”, the MOR rating fall below “Satisfactory”, or the REAC score drop below 60, HUD reserves the right to require an owner to submit an updated project operating budget no later than 30-days prior to the end of the project’s fiscal year, consistent with the Capital Advance Regulatory Agreement.

G. Early Termination of PRAC Contracts

Early termination of a PRAC will be granted in the case of project conversion to Section 8 through the RAD program, only where permitted by the RAD Notice (H-2019-09 or successor). HUD will also consider early termination requests for properties reaching the end of their 40-year Capital Advance Program Use Agreement in the middle of a 5-year contract.

IV. Schedule for Transition of Section 202 PRAC Contracts 5-year Duration

For annual or initial-term Section 202 PRAC contracts expiring after December 31, 2022, HUD will assign all contracts to one of three renewal cohorts:

- Cohort 1: Section 202 PRAC Contracts with a Capital Advance Project Number (example: 063-EE000) ending in 0,1,2,3 will sign a 5-year contract at their next renewal (from January 1, 2023, through December 31, 2023).

- Cohort 2: Section 202 PRAC Contracts with a Capital Advance Project Number ending in 4,5, 6, or 7 will be issued an annual contract at their next renewal and a 5-year contract at the subsequent renewal (from January 1, 2024, through December 31, 2024).
- Cohort 3: Section 202 PRAC Contracts with a Capital Advance Project Number ending in 8 or 9 will be issued an annual contract for the next two renewal cycles, and a 5-year contract in the 3rd year (from January 1, 2025, through December 31, 2025).

HUD may adjust the above cohorts in consideration of new Capital Advance properties achieving occupancy over the next two years. Owners will be notified of any changes by their administering HUD field office. Multifamily Regional Directors may approve owner requests for cohort changes at their discretion and only to the extent such changes do not impede efficiency improvements in HUD operations.

It is expected that no later than January 1, 2026, all Section 202 PRACs currently operating under 1-year agreements, will be operating under 5-year contract renewal amendments.

V. Paperwork Reduction Act

Paperwork reduction information collection requirements contained in this document are currently pending revision by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and have been assigned OMB Control Number 2502-0470. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

Julia R. Gordon
Federal Housing Commissioner-
Assistant Secretary for Housing

ATTACHMENT A

**U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF HOUSING
PROJECT RENTAL ASSISTANCE CONTRACT
RENEWAL AMENDMENT**

I. Contract Information:

Project Rental Assistance Contract Number:

Project Name: _____

Capital Advance Project Number: _____

Project Address: _____

Unique Entity Identification Number/SAM Registration:

This Project Rental Assistance Contract Renewal Amendment (Contract Renewal Amendment) is entered into between the United States of America acting through the Department of Housing and Urban Development (HUD) and _____ (Owner) subject to the applicable appropriations act(s) and:

Section 811 of the National Affordable Housing Act of 1990 (limited to annual term)

or

Section 202 of the Housing Act of 1959

Annual (less than 13 months)

Up to 5-Year Term

II. EXPIRING CONTRACT:

Except as specifically modified by this Contract Renewal Amendment, all provisions of the Expiring Project Rental Assistance Contract are renewed.

III. TERM OF THE RENEWAL:

The term of the Contract Renewal Amendment begins on __/__/____.

Subject to the availability of appropriations to make rental assistance payments for any year in accordance with the Contract Renewal Amendment, as determined by HUD, the Contract Renewal Amendment shall be effective until __/__/____ (Term).

IV. INITIAL OPERATING EXPENSE AMOUNTS/CONTRACT RENTS

At the beginning of the Contract Renewal Amendment Term, and until contract rents for units in the project are adjusted in accordance with section V, the operating expense amount and contract rent for each bedroom size (number of bedrooms) shall be the initial amount listed in Exhibit A of the Contract Renewal Amendment.

V. OPERATING EXPENSE/CONTRACT RENT ADJUSTMENTS

- 1) For contracts with terms of 13 months or more, HUD will adjust operating expenses and correlating contract rents annually on the 1st day of the month in which the anniversary of the Contract Renewal Amendment falls, if requested by the owner in accordance with all procedures established by HUD, including without limitation all HUD procedures and legal requirements established in HUD Notices, Handbooks, rules, Title 24 of the C.F.R., or other HUD guidance implementing Section 202 of the Housing Act of 1959, as amended, and implementing Section 811 of the National Affordable Housing Act of 1990, as amended, as such HUD guidance may be amended from time to time.
- 2) Interim rent adjustments effective on dates other than the effective date of the Contract Renewal Amendment or the 1st day of the month during which the annual renewal anniversary falls may be approved for annual or multi-year contracts at HUD's discretion due to changes in project operating expenses.
- 3) All operating expense/contract rent changes are subject to the availability of appropriations, as determined by HUD.

VI. BUDGET AUTHORITY

- 1) Execution of the Contract Renewal Amendment by HUD is an obligation by HUD of \$_____, an amount that together with any undisbursed balances on the contract is sufficient to provide rental assistance payments for approximately 12 months.
- 2) HUD will provide additional funding for subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner or property management agent written notification of the amount of such additional funding.

SIGNATURES

**DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT**

**BY _____
Signature by authorized representative**

**_____
Name and official title (Print)**

Date

OWNER

**BY _____
Signature of authorized representative**

**_____
Name and official title (Print)**

Date

EXHIBIT A

**IDENTIFICATION OF CONTRACT UNITS BY SIZE AND
APPLICABLE OPERATING EXPENSE AMOUNTS AND RENTS**

PROJECT NAME: _____

PROJECT RENTAL ASSISTANCE CONTRACT NUMBER: _____

CAPITAL ADVANCE PROJECT NUMBER: _____ **Effective Date:** _____

Number of Contract Units	Number of Bedrooms	Operating Expense Amount	Utility Gross Allowance Rent
-------------------------------------	-------------------------------	-------------------------------------	---

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------