

CHAPTER 2. CONTRACT TERMS

Section 1. Section 8 Contract Terms.

2-1. GENERAL. The term of the Section 8 Housing Assistance Payment (HAP) Contract will vary with each Section 8 program and will depend on whether the assisted units are in a HUD-insured or uninsured project. The term of the Section 8 contract will also depend on the date the contract was executed. Although the discussion in this Chapter cites current rules relative to contract terms, when reviewing a specific project, it will be necessary to pull the HAP contract to determine the term.

2-2. CONFLICT OF INTEREST PROVISION. The conflict clause bars the interest of a local government official who performs functions with respect to such program. The following language must be inserted in Section 8 LMSA contracts:

"IF A STATE AGENCY OR PHA IS A PARTY TO OR HAS AN INTEREST IN THIS CONTRACT, NO MEMBER, OFFICER, OR EMPLOYEE OF THE PHA; NO MEMBER OF THE GOVERNING BODY OF THE LOCALITY (CITY OR COUNTY) IN WHICH THE PROJECT IS SITUATED OR IN WHICH THE PHA WAS ACTIVATED; AND NO OTHER PUBLIC OFFICIAL OF SUCH LOCALITY OR LOCALITIES WHO EXERCISES ANY FUNCTIONS OR RESPONSIBILITIES WITH RESPECT TO THE PROJECT, SHALL HAVE ANY INTEREST, DIRECT OR INDIRECT, IN THIS CONTRACT OR IN ANY PROCEEDS OR BENEFITS ARISING FROM IT, DURING HIS/HER TENURE OR FOR ONE YEAR THEREAFTER. THIS PROVISION MAY BE WAIVED BY HUD FOR GOOD CAUSE."

2-3. SECTION 8 NEW CONSTRUCTION PROJECTS - 24 CFR PART 880.

- A. For Section 8 assisted units in a HUD-insured project, the term of the contract must not exceed 20 years.
- B. For Section 8 assisted units in an uninsured project, the contract term is the lesser of:
 - 1. the term of the project's financing (but no less than 20 years),
 - 2. 30 years, or
 - 3. 40 years if the project is owned or financed by a State or local agency, is intended for occupancy by non-elderly families, and is determined by HUD to require special financial assistance.

2-4. SECTION 8 SUBSTANTIAL REHABILITATION PROJECTS - 24 CFR Part

- A. For projects that require less than 25 percent of the estimated value of the project after completion of the rehabilitation, the term of the contract must not exceed 20 years.
- B. For projects that require 25 percent or more of the estimated value of the project after completion of the rehabilitation, the contract term must cover the longest term necessary (but no less than 20 years) to ensure repayment of the following:
 - 1. cost of rehabilitation,
 - 2. the existing debt,
 - 3. the combined costs of rehabilitation and acquisition of the project, or
 - 4. the combined costs of rehabilitation and refinancing of existing debt.
- C. For Section 8 assisted units in a HUD-insured project, the term of the contract must not exceed 20 years.
- D. For Section 8 assisted units in an uninsured project, the term of the contract shall not exceed 30 years, or 40 years if the project is owned or financed by a State or local agency, is intended for non-elderly families, and is located in an area designated by HUD to require special financial assistance.

2-5. SPECIAL ALLOCATIONS PROGRAMS

- A. SECTION 8 LOAN MANAGEMENT SET-ASIDE FOR HUD-INSURED PROJECTS - 24 CFR Part 886 Subpart A. Contract terms are discussed in HUD Handbook 4350.2.
- B. SECTION 8 PROPERTY DISPOSITION - 24 CFR Part 886 Subpart C.
 - 1. For projects requiring no rehabilitation or moderate rehabilitation, the term of the contract shall not exceed 15 years.

- 2. For projects requiring substantial rehabilitation, the term of the contract shall not exceed 30 years.
- 3. For projects that are sold with a HUD-insured loan, the term of the contract shall not exceed 20

years.

4. For projects that are financed by a State or local agency, the term of the contract shall not exceed 40 years.

2-6. SECTION 8 STATE HOUSING AGENCY PROGRAM FOR NEW CONSTRUCTION PROJECTS - 24 CFR Part 883.

- A. For Section 8 assisted units in a HUD-insured project, the contract term must not exceed 20 years.
- B. For Section 8 assisted units in a project that is owned or financed by a State or local agency and is determined by HUD to require special financial assistance, the contract will be for an initial term of 20 years, renewable in 5 year increments. The total number of years of the contract term, including initial and renewal terms, must not exceed the lesser of:
 1. 40 years, or
 2. the term of the permanent financing (but no less than 20 years).
- C. For Section 8 assisted units in all other projects, the contract will be for an initial term of 20 years, renewable in 5 year increments. The total number of years of the contract term, including initial and renewal terms, must not exceed the lesser of:
 1. 30 years or
 2. the term of the permanent financing (but no less than 20 years).

2-7. SECTION 8 STATE HOUSING AGENCY PROGRAM FOR SUBSTANTIAL REHABILITATION PROJECTS - 24 CFR PART 883.

- A. In any project, the contract term must cover the longest term necessary (but no less than 20 years) to ensure repayment of the following:

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1. the cost of rehabilitation,
2. the existing debt,
3. the combined costs of rehabilitation and refinancing of existing debt, or
4. the combined costs of rehabilitation and property acquisition.

- B. For Section 8 assisted units in a HUD-insured or coinsured project, the contract term must not exceed 20 years.
- C. For Section 8 assisted units in a project that is owned or financed by a State or local agency and is located in an area designated by HUD to require special financial assistance, the contract will be for an initial term of 20 years, renewable in 5 year increments. The total number of years of the contract term, including initial and renewal terms, must not exceed the lesser of:
 - 1. 40 years, or
 - 2. the term of permanent financing (but no less than 20 years).
- D. For Section 8 assisted units in all other projects, the contract will be for an initial term of 20 years, renewable in 5 year increments. The total years of the contract term, including initial and renewal terms, must not exceed the lesser of:
 - 1. 30 years, or
 - 2. the term of permanent financing (but no less than 20 years).

2-8. SECTION 8 SET-ASIDE FOR SECTION 515 RURAL RENTAL PROJECTS
- 24 CFR Part 884.

- A. In cases where the housing assistance payments are made to projects owned by a State or local agency, the total contract term may not exceed 40 years.

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- B. Except as provided in Paragraph 2-8.A., the contract shall be for an initial term of 20 years. At the end of the contract term, and at the request of Farmers Home Administration, HUD may, subject to availability of funds, authorize the execution of a new contract providing for a total contract term of an additional 20 years.
- C. If the project is completed in stages, the dates for the initial and renewal terms shall be separately related to the units in each stage. The total contract term for the units in all the stages, beginning with the effective date of the contract with respect to the first stage, may not exceed the overall maximum term allowance for any one unit, plus two years.

Section 2. Section 162 Assistance - Project Assistance Contract
Term (PAC)

- 2-9. GENERAL. Upon completion of the project, HUD and the project owner will execute a Project Assistance Contract (PAC) describing the rights and responsibilities of the project owner and HUD with respect to project assistance payments. Project assistance payments must be made in accordance with 24 CFR Section 885.900.
- A. The term of the PAC shall be 20 years. If the project is completed in stages, the term of the PAC for each stage shall be 20 years.
 - B. The combined term of the PAC for multiple stages of a project shall not exceed 22 years.

Section 3. Supportive Housing for the Elderly and Persons with
Disabilities - Project Rental Assistance Contract Term (PRAC)

- 2-10. GENERAL. Title VIII of the National Affordable Housing Act of 1990 authorizes HUD to enter into Project Rental Assistance Contracts (PRACs) with private nonprofit organizations and consumer cooperatives to provide services to elderly persons and persons with disabilities. The contract for project rental assistance provides for monthly payments to cover the costs of occupying a unit by a very low-income elderly person. Project assistance payments must be made in accordance with 24 CFR Parts 889 or 890.
- A. The initial term of the PRAC shall be 20 years.

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- B. The PRAC may be extended for a term of not less than 5 years.

NOTE: Instructions for the PRAC under the Supportive Housing for the Elderly and Persons with Disabilities programs will be sent to the Field Offices and contract administrators once completed.

Section 4. Section 236 Contract Term

- 2-11. INTEREST REDUCTION PAYMENTS CONTRACTS for mortgages insured under Section 236 are executed between HUD and the mortgagee. The term of the interest reduction payments contract will end upon:
- A. The termination of the contract insurance, except in cases where the mortgage has been assigned to HUD.
 - B. Maturity of the mortgage.

C. Prepayment pursuant to a plan of action.

2-12. SUBSIDY CONTRACTS IN SECTION 236 NON-INSURED PROJECTS.

Contract administrators must ensure that there is a mortgage, an eligible mortgagor, and the project owner is providing decent, safe, and sanitary housing. The contract administrator must also monitor the project owner to ensure:

- A. Proper payment of subsidy,
- B. Proper repayment of excess income,
- C. Decent, safe, and sanitary housing is provided the tenants,
- D. Compliance with occupancy rules, and
- E. Compliance with terms and conditions of subsidy contract.

Section 5. Rent Supplement Contract Term

2-13. RENT SUPPLEMENT. The rent supplement contract is between the owner and HUD, and shall be limited to the term of the mortgage or 40 years from the date of the first payment made under the contract, whichever is the lesser.

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Section 6. Rental Assistance Payments Contract Term

2-14. RENTAL ASSISTANCE PAYMENTS CONTRACTS are executed between HUD and owners of projects receiving interest reduction payments under Section 236. The rental assistance contract shall be limited to the lesser of the term of the mortgage or 40 years from the date of the first payment made under the contract.

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