

CHAPTER 5. RENTS

Section 1. Introduction

- 5-1. GENERAL. Section 8 rents are determined by an annual adjustment factor or budgeted rent increase process.
- A. Section 8 rents that are established according to 24 CFR Parts 880, 881, 883, 884, and 888 may be adjusted by using the applicable Section 8 annual adjustment factor. The adjustment in rents using the AAF must be on the anniversary date of the HAP contract. The adjustment factors are published annually in the Federal Register.
 - B. Project owners whose contract rents are not determined by the annual adjustment factor, but rather the budget method, must submit a request for a rent increase to the contract administrator. Owners must request rent increases in accordance with Chapter 7 of HUD Handbook 4350.1. Adjustments in rents established in accordance with 24 CFR 886 are, in most cases, determined by the budget method. Adjustments in rents in LMSA projects where the rents are decontrolled by the State or local agency, whose mortgage has been paid off, that are receiving LMSA and are subject to Title II of the Emergency Low Income Housing Preservation Act of 1987 or Title VI of the National Affordable Housing Act of 1990 are established by using the AAF. The initial gross rent includes a utility allowance based on local utility rates and average usage. Subsequent calculation of utility allowance is based on changes in utility rates.

NOTE: WHERE HUD IS NOT THE CONTRACT ADMINISTRATOR, ALL RENT INCOMES AND APPEALS DETERMINED BY THE BUDGETED RENT INCREASE PROCESS MUST BE APPROVED BY HUD. THE PHA/STATE AGENCY MAY MAKE A RECOMMENDATION TO THE HUD FIELD OFFICE. THE HUD FIELD OFFICE WILL REVIEW THE RECOMMENDATION AND ALL NECESSARY DOCUMENTS AND WILL INFORM THE PHA/STATE AGENCY OF APPROVAL OR DENIAL OF THE RENT INCREASE OR APPEAL.

Section 2. Establishing a Revised Local Section 8 AAF

- 5-2. ESTABLISHING A REVISED LOCAL SECTION 8 AAF. If the rents resulting from the application of the AAF are lower than rents for comparable unassisted rents in the area for which the AAF was published, and if the costs of operating

comparable units have increased at a rate greater than the

AAF, the HUD Field Office may establish separate or revised AAFs for that particular area. Any revised AAF for a particular area will be published by the HUD Field Office, and will remain in effect until new AAFs are published in the Federal Register.

NOTE: UNTIL FURTHER INSTRUCTIONS AND REGULATIONS HAVE BEEN ISSUED REGARDING COMPARABILITY, PROJECTS WHOSE SECTION 8 CONTRACTS PROVIDE FOR AN "OVERALL LIMITATION," WHICH WOULD ALLOW FOR LIMITING RENTS BASED ON COMPARABILITY STUDIES MUST RECEIVE THE FULL ANNUAL ADJUSTMENT FACTOR.

Section 3. Appealing Budgeted Rent Increases

- 5-3. APPEALING BUDGETED RENT INCREASE ADJUSTMENTS. Owners are permitted to appeal budgeted rent increase decisions. The appeal must be submitted to the contract administrator in writing and postmarked within 30 days of the date of the rental rate adjustment decision letter. It must, at a minimum, include 1) a letter explaining why the owner disagrees with the new rents, and 2) state the rents being sought in the appeal. Procedures for appealing budgeted rent increase adjustments are found in Chapter 7, of HUD Handbook 4350.1.

NOTE: Projects subject to Title 24 CFR Part 245's Tenant Comment Procedures. If the owner makes any material change in any documents submitted in the initial appeal submission, it no longer constitutes an appeal, but is now a new rent increase request and must comply with Chapter 7 of HUD Handbook 4350.1.

Section 4. Adjustment of Utility Allowances

- 5-4. GENERAL. Each rent increase request must include an analysis of utility consumption and a recommendation for a utility allowance for each unit type caused by an increase in utility rate to the tenant. In addition, the owner must request approval of revised utility allowances whenever a utility rate change would cause a cumulative increase of 10 percent or more in the most recently approved utility allowance. Owners must recommend additional utility allowances if the project's design is such that utility costs will vary significantly for units of the same size (e.g., end units vs. interior units).

3/92

5-2

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- 5-5. DETERMINING THE UTILITY ALLOWANCE. As part of the submission for an increase or decrease in the utility allowance, each project owner must submit a summary supporting the proposed change to the utility allowance. The summary should:

- A. IDENTIFY THE TYPE OF UTILITIES COVERED by the utility allowance (e.g., gas for heating).
- B. STATE WHETHER ANY UTILITY RATE INCREASES OR DECREASES WERE IMPLEMENTED during the past 12 months or are expected to be implemented during the next 12 months and the amount of those increases or decreases.
- C. STATE HOW ANY ENERGY CONSERVATION initiatives have or will impact consumption.