



# Colorado Rural Preservation Academy

## *Beyond USDA: HUD Multifamily*

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# Agenda

Maximizing Your Section 8 Contract

Section 202 Direct Loans

Budget Based Rent Increases

Rental Assistance Demonstration

Transferring Budget Authority

# Preservation



# Preservation-Key Benefits

## Recapitalization

- Increased cash flow
- Owner Equity
- Cash Distributions
- Low Default Rates

## Long-term Affordability

- Stable Project Income
- Lock in long-term rental subsidies

## Funding for Repairs

- Owners can utilize other funding sources for repairs and replacements for capital items, thus increasing useful life of property, i.e. LIHTC, State, Local Grants, etc

## Incentives and Flexibilities

- HUD has programs to provide increased flexibility to owners working to preserve housing as affordable

# Security in Long-term Contracts

HUD encourages 20-year contracts!

Benefits include:

- Stable income stream
- Preserve long-term affordability
- Reduced processing time and paperwork
- Annual rent increases
- Potential to receive distributions
- Able to secure financing for rehab and repairs

# How do I get a 20-Year Contract?

HUD allows a qualified owner to terminate their current Section 8 contract in favor of a long-term 20-year HAP

- Discuss if long term is appropriate with your Account Executive'
- Be in Good Standing with MORs, REAC Score, financial statements, and contractual agreements
- Understand Preservation Exhibit
- Submit required documentation
- Check Section 8 Renewal Guidebook



# Section 8 Renewal Options

- **Option 1:** Mark Up to Market, 5 to 20-year term
- **Option 2:** Contract Renewals for Other Projects with Current Rents at or Below Comparable Market Rents, up to 20-year term
- Option 3: Referral to Recap, Rents with Debt Restructuring under MAHAR, up to 20-year term
- **Option 4:** Renewal of Projects Exempt from or not Eligible for Debt-Restructuring, up to 20-year term
- Option 5: Renewal of Preservation Projects
- Option 6: Opt Outs

# Option 1: Mark Up to Market (MUTM)

Preservation tool where you can increase rents up to market rate, increase distributions, and provide rehab to the property

- Available during your current contract term (except options 3 & 5)
- Owner and property must be in Good Standing
- Rent Comparability Study (RCS) required
- Must agree to Preservation Exhibit (if applicable)
- Minimum five-year term up to 20 years
- No annual budgets, but RCS required every five years
- OCAF Annual Rent Increases but rents adjusted to market every 5 years
- Access to increased distributions



# Option 1 MUTM Eligibility

## Option 1A – Entitlement

- RCS rents at or above 100% of FMR
- No use restrictions
- No mod rehab assistance contract
- No history of receiving voucher assistance after contract has been terminated

## Option 1B – Discretionary

- Vulnerable Population
- Vacancy Rates of 3% or less
- Community Support

## **No use restriction can be in existence:**

- Flexible Subsidy assistance
- Low-Income Housing Tax Credits
- Recap's Green Retrofit Program

# Key Takeaways

- Tool to allow properties with rents below market and located in strong markets to mark rents up to market as an incentive to renew the Section 8 contract
- Effective tool to recapitalize and continue providing affordable housing
- Review Chapter 3 of the Section 8 Renewal Guide
- Owner RCS required every five years
- Five to 20-year contracts
- Budget needed if renewing under Chapter 15



# Option 2: Renewal of Other Projects with Current Rents at or Below Market

Option for owners who request a renewal of their Section 8 contract where the RCS indicates that the contract's current rents are at or below comparable market rents

- One to 20-year contracts available
- Rents are adjusted by OCAF or budget
- RCS is required every five years and rents will be adjusted to market
- Access to distributions if in Good Standing
- Available to non-profit and profit entities

# Key Takeaways

- Option for when a contract's current rents are at or below comparable market rents, but the contract is not being renewed using the MUTM option
- Review Chapter 4 of the Section 8 Renewal Guide
- Owner RCS required
- One to 20-year contracts
- Budget needed if renewing under Chapter 15



# Option 3: Mark to Market (M2M)

**This option only applies to Section 8 properties with an FHA-Insured Mortgage**

Option 3A Lite: Renewal of the contract without restructuring, with rents marked down to market

- Rents reduced to Market without FHA-loan Restructuring

Option 3B Full: A mortgage or rent restructuring and contract renewal with the rents marked down to market

- Rents reduced to Market with FHA-loan Restructuring

Review Chapter 5 of the Section 8 Renewal Guide

# Option 4: Renewal of Projects Exempt From or Not Eligible for Debt Restructuring

Identifies “exception” projects, which are exempted from or ineligible for restructuring and as such, generally exempt from having to conduct RCS and lower rents to comparable market rents

Projects that are exempt from debt-restructuring under section 514(h) of MAHRA:

- Primary financing was provided by State or local government
- Section 202/8 and Section 515/8 projects
- Section 8 only properties, mortgage not insured by FHA

# Option 4: continued

At renewal, rents are determined by a “lesser of” test. The rents are set at the lesser of Current Rents adjusted by OCAF or Budget

*Note, rents can be reduced*

No Rent Comparability Study (RCS) is required.

A budget-based rent adjustment can be requested however, an RCS is required.

- If current rents are above RCS rents, the rent increase is denied
- If proposed rents adjusted by budget-based request do not exceed market rents (RCS),

# Key Takeaways

- Chapter 6 of the Section 8 Renewal Guide
- Long term contracts will eliminate the “Lesser of Test” on years 2-5
- RCS cost can be included in the budget
- Include the costs of a Service Coordinator in the budget
- Budget and RCS needed when requesting BBRI
- Review Handbook 4350.1, Chapter 7 and form HUD-9635, for a budget-based rent increase request





# Rural Housing Services

RHS properties with Section 8 are eligible to renew under Option 4 but may request to renew under any option for which they are eligible at the time of the renewal.

Approved RHS budget will be accepted by HUD (though not the RHS utility analysis)

If the rents from the RHS budget result in no increase or do not exceed the rents adjusted by OCAF the renewal moves forward. If the RHS budget exceeds the OCAF-adjusted rents, an RCS is needed to demonstrate the rents are below market.

# Chapter 15:

## Section 8 Preservation Efforts

### Capital Repair Program and Transfer Program

Developed to save affordable housing by encouraging the repair/rehabilitation of Section 8 properties controlled by non-profit entities and/or the sale of multifamily Section 8 properties to non-profit entities

For profit owners can use this chapter when renewing under Option 2. For profit owners who propose to acquire and rehabilitate a project can use this chapter under Option 1 MUTM.

# Chapter 15:

## Section 8 Preservation Efforts continued

Allows rent increases to include the cost of rehabilitation

Rent Comparability Study that determines the “as is” rents and the “after rehab” market rents that assumes all rehab was completed as of the date of the RCS.

Project Capital Needs Assessment or Comprehensive Needs Assessment and compliance with environmental regulations required.

Modest repairs/rehab and recapitalize the replacement reserve escrow or substantial rehabilitation.

# Chapter 15:

## Section 8 Preservation Efforts continued

### Basic Requirements

- Use Agreement – Owner must agree to accept 20-year recorded Use Agreement, requiring current and future owners to accept any Sec. 8 contract offered by HUD for next 20-years
- Existing Use Agreement must be extended for an additional 20-years
- 20-Year HAP Contract
- Preservation Exhibit

### Submissions will include

- Letter of intent
- Rent Comparability Study with 'as is' and 'after rehab' rents
- PCNA
- Environmental Review (Ch. 15 Option 1B)
- Sources and Uses funding statement
- HUD Form 9624 and Mark Up to Market Worksheets
- Relocation Plan, if applicable

# Key Takeaways:

Consult with your Account Executive

Not available to all property types:

- MOD Rehabs, Option 3, Preservations (LIHPHRA or ELIPHRA), and RAD

Environmental Reviews and PCNA's take awhile to complete

Detailed narrative of transactions are needed



# Section 202 Direct Loans

- To successfully position a Section 202 project that may be aging, an owner may prepay and refinance the current Section 202 mortgage (*not Capital Advance*)
  - The proceeds from the new financing may be used for project purposes or for the benefit of residents of the project.
  - The owner may choose to partner with another nonprofit organization, or form a tax credit limited partnership to pursue Low Income Housing Tax Credits
- Owners may elect to sell the project to a qualified purchaser who will maintain affordability.
- Review Housing Notice 2013-17

# Budget Based Rent Increases

All Project Rental Assistance Contracts (PRAC) for Section 202s and Section 811s must provide a Budget

For Section 8 properties, Budget may be used with Options 2, 3A, and 4

Use Handbook 4350.1, Chapter 7 for a budget-based rent increase request

Summarize why an increase in rents is needed

Submit HUD Form 92457-A (budget), form must be signed, dated, and filled out completely

# What to Include on a Budget

- Provide current debt service, if applicable
- Include the cost of a Service Coordinator
- Rent Comparability Study cost can be included
- Frontline Staff: Provide payroll analysis including salaries, projected salaries, payroll taxes
- Vacancy rate of 5 or 7 percent allowed, based on size of property, number of assisted units, and the actual vacancies.
- Explanation and supporting documents required for items increasing 5% or more or \$500; new line items not included in prior budget/audit; expense reclassifications; miscellaneous accounts



# Rental Assistance Demonstration RAD

Authorized in 2012, RAD allows public housing agencies (PHAs) and owners of other HUD-assisted properties to convert units from their original sources of HUD financing to project-based Section 8 contracts.

The primary benefit of RAD is that properties that convert under this process are no longer restricted from securing private sources of capital financing, and the owners are therefore able to address deferred maintenance issues that may have caused Public Housing and other HUD rental stock to deteriorate nationwide.

# RAD for PRACs

Section 202/PRAC properties (811s not eligible)

Convert the Project Rental Assistance Contract (PRAC) to a long-term Section 8 contract – PBRA or PBV.

This change will allow Section 202 projects to access private capital and conduct repairs and improvements, as well as maintain ownership in affordable housing properties.

Include Service Coordination to support aging-in-place.

Rents determined by current PRAC rents not to exceed 120% FMR.

Contact your Account Executive to discuss. Transaction managed by the Office of Recapitalization.

# Transferring Budget Authority

- **8bb program** - allows HUD to transfer remaining budget authority from a Section 8 property that is opting-out of its contract to a different multifamily property.
- **Bifurcation** - an option for a property that has been experiencing a long period of underutilization of subsidy.
  - An owner can request to reduce the number of subsidized units at the property and transfer the budget authority for these units to a different property.
- **Section 210** – transfer the rental assistance, existing debt, and affordability restrictions from one multifamily property to another.

# HELPFUL LINKS:

Section 8 Renewal Guidebook and other documents for renewals (June 2017):

[https://www.hud.gov/program\\_offices/housing/mfh/mfhsec8](https://www.hud.gov/program_offices/housing/mfh/mfhsec8)

FAQ's Section 8 Renewal Guidebook October 2015:

[https://www.hud.gov/sites/documents/RENEWAL\\_GUIDE\\_FAQS.PDF](https://www.hud.gov/sites/documents/RENEWAL_GUIDE_FAQS.PDF)

HUD 4350.1, Multifamily Asset Management and Project Servicing Handbook:

[https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/hsg/4350.1](https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4350.1)

HUD 4381.5 Management Agent Handbook:

[https://www.hud.gov/program\\_offices/administration/hudclips/handbooks/hsg/4381.5](https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4381.5)

# HELPFUL LINKS, continued

Service Coordinator Budget:

<https://www.hud.gov/sites/documents/91186-A.PDF>

HUD Notice 2015-04 Methodology for Completing a Multifamily Housing Utility Analysis: <https://www.hud.gov/sites/documents/15-04HSGN.PDF>

HUD RHIIP ListServ:

[https://www.hud.gov/program\\_offices/housing/mfh/rhiip/mfhrhiip](https://www.hud.gov/program_offices/housing/mfh/rhiip/mfhrhiip)

202 Direct Loan Notice: <https://www.hud.gov/sites/documents/13-17HSGN.PDF>

# HELPFUL LINKS, continued:

8bb:

<https://www.hud.gov/sites/documents/15-03HSGN.PDF>

210 Transfer Authority:

<https://www.hudexchange.info/programs/multifamily-housing/210/overview/>

RAD

<https://www.hudexchange.info/programs/rad/>

HUD Western Region Information and Contacts:

<https://www.hud.gov/states/shared/working/west/mf>

# Points of Contact

Please contact your Account Executive for any questions you may have

<http://hudatwork.hud.gov/HUD/regions/lo/8/customerservice/denver-staff#MF>

For any work items needing HUD approval send email to

[Den.incoming@hud.gov](mailto:Den.incoming@hud.gov)