

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.501, 982.503, 982.504]

INTRODUCTION

It is the VSHA's responsibility to ensure that the rents charged by owners are reasonable based upon objective comparables in the rental market. VSHA will not approve the lease or execute a payments contract until it has determined that the unit meets the minimum HQS and that the rent is reasonable. VSHA will determine rent reasonableness at initial lease-up, before any increases in rent to owner and at other times as described in this section. VSHA will provide the owner with information concerning rent adjustments in the Certificate and Voucher programs.

VSHA will also ensure that initial gross rents do not exceed the FMR/exception rent limit under the Certificate program.

This Chapter explains VSHA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

A. OWNER PAYMENT IN THE REGULAR CERTIFICATE PROGRAM

[24 CFR 982.507]

The payment to the landlord, called the Housing Assistance Payment, is the Rent to owner approved by VSHA less the Tenant Rent determined by VSHA.

B. OWNER PAYMENT IN THE VOUCHER PROGRAM [24 CFR 982.505(b)]

The maximum subsidy for each family is determined by the Payment Standard for the Voucher size issued to the family, less 30% of the family's Monthly Adjusted Income. The actual subsidy level could be less if the family is required to pay the Minimum Total Tenant Payment (10% of the family's Monthly Income).

The Voucher size issued to the family is based on VSHA's Subsidy Standards. The payment standard for the family is based on the lesser of the Payment Standard for the Voucher size issued and the Payment Standard for the unit selected.

The Housing Assistance Payment to the owner is the lesser of the subsidy described above or the rent charged by the owner.

C. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP Contract is executed, VSHA will begin processing payments to the landlord. The effective date and the amount of the HA payment is communicated automatically, utilizing computer software, to the Accounting Office at VSHA. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Checks are disbursed by the VSHA Accounting Office to the owner each month.

Checks may not be picked up by owner.

Checks will be disbursed on the first of the month, with adjustment checks being disbursed at the end of each week.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

D. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.503]

VSHA will not approve a lease until VSHA determines that the initial rent to owner is a reasonable rent. VSHA will redetermine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

VSHA also will redetermine rent reasonableness when owners request a special rent adjustment for the Certificate program, and when an owner requests an increase in the rent to owner for a Voucher.

VSHA will redetermine rent reasonableness if directed by HUD and based on a need identified by VSHA's auditing system, the VSHA may elect to redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by VSHA.

For the Certificate and Voucher Programs, VSHA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market.

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the HA information on rents charged by the owner for other units in the premises or elsewhere. VSHA will only request information on the owner's units elsewhere if VSHA has cause to demonstrate that the owner has a tendency to charge higher rents to Program participants or if needed for rent reasonableness comparables.

The data for other unassisted units will be gathered from newspapers, Realtors, professional associations, inquiries of owners, market surveys, and other available sources.

The market areas for rent reasonableness are counties/subdivisions/neighborhoods within VSHA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

- Size (number of Bedrooms/square footage)
- Location
- Quality
- Amenities (bathrooms, dishwasher, air conditioning, etc.)
- Housing Services
- Age of unit
- Unit Type
- Utilities
- Maintenance

Rent Reasonableness Methodology

VSHA utilizes a rent reasonableness system which includes and defines the HUD factors listed above. The system has been defined for each market area within VSHA's jurisdiction and has a total point count which is divided into rating categories, and is unique for each market area within VSHA's jurisdiction.

VSHA gathers information on rental units in each market area, as defined below. Each rental unit that is inspected is rated using VSHA's rent reasonableness system.

Market Areas:

- Windsor County
- Orange County
- Essex County
- Orleans County (Towns of Newport, Barton, Orleans)
- Bennington County
- Windham County
- Rutland County
- Chittenden County
- Caledonia County (Town of Hardwick)
- Franklin/Grand Isle and Lamoille Counties (Town of Hardwick)
- Addison County
- Washington County

VSHA maintains a notebook, for each market area outlined above, which includes data on unassisted units for use by staff in making rent reasonableness determinations. The data is updated on an ongoing basis and purged when it is more than 24 months old. Comparability of each item listed above will be done by point adjustment.

E. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM

[24 CFR 982.505(b)(1)]

The Payment Standard is used to calculate the housing assistance payment for a family. The Payment Standard is set by the HA between 80 percent and 100 percent of the FMR/exception rent. VSHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the HA will ensure that the Payment Standard is within the range of 80 percent to 100 percent of the new FMR.

F. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.505(b)(3)]

Payment Standards may be adjusted to increase Housing Assistance Payments in order to keep families' rents affordable. VSHA will not raise the Payment Standards so high that the number of families that can be assisted under available funding is substantially reduced. Nor will VSHA raise Standards if the need is solely to make "high end" units available to Voucher holders.

VSHA will review the Payment Standard annually to determine whether an adjustment should be made for some or all unit sizes. The Payment Standard will be reviewed according to HUD's requirements and this policy and if an increase is warranted, the payment standard will be adjusted within 80% of the current Fair Market Rent.

VSHA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

Assisted Families' Rent Burdens

VSHA will review reports showing the percent of income used for rent by Voucher families to determine the extent to which the rent burden is more than 45% of income.

Availability of Suitable Vacant Units Below the Payment Standard

VSHA will review its rent reasonableness system and vacancy rate data to determine whether there is an ample supply of vacant units below the Payment Standard.

Quality of Units Selected

VSHA will review the quality of units selected by participant families before determining any change to the Payment Standard to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

VSHA Decision Point

VSHA will review the quality and size of units where the Rents to Owner are above the Payment Standard by more than 25%. If more than 50% of families have selected above-average units or have selected larger units than the Voucher size, VSHA may elect not to increase the Payment Standard nor continue the analysis.

If the analysis continues, VSHA will divide those rents between contracts within the first year and after the first year. If the Rents to Owner are more than 25% above the average, in any bedroom size, the HA will continue the analysis. If not, the HA may elect not to increase the Payment Standard for certain bedroom sizes.

Rent to Owner Increases

VSHA may review a sample of the units to determine how often owners are increasing rents after the first year of the lease and the average percent of increase by bedroom size. The sample will be divided into units with and without the highest cost utility included.

A comparison will then be made to the applicable annual adjustment factor to determine whether owner increases are excessive in relation to the published annual adjustment factor.

Time to Locate Housing

VSHA may consider the average time period for families to lease up under the Voucher program as compared to the Certificate program. If the average for Voucher holders exceeds that for Certificate holders by 50% the Payment Standard may be adjusted.

Rent Reasonableness Data Base/Average Rents to Owners

VSHA will compare the Payment Standards to average rents in its Rent Reasonableness Data Base and to the average rent to owners by unit size. The Payment Standards should be on a par with these amounts.

Lowering of the Payment Standard

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 80 percent of the FMR without authorization from HUD.

Financial Feasibility

Before increasing the Payment Standard, VSHA may review the budget and the project reserve, to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, VSHA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

File Documentation

A file will be retained by VSHA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

G. PAYMENT STANDARDS FOR A FAMILY [24 CFR 982.505(d)]

Regular Reexamination

If the payment standard decreases during the HAP Contract term, the Payment Standard for the family is the higher of (1) the Payment Standard at the beginning of the lease minus any amount by which the initial rent to owner has decreased, or (2) the Payment Standard at the current or most recent annual exam. If a change in family size or composition occurs affecting the certificate size, the ability to use the initial Payment Standard is lost.

Interim Examination

If after the beginning of the term of the lease the family has a change in income, family size or composition that would require or allow for an interim adjustment based on the HA's interim policy, VSHA will not apply any new or change in payment standard until the date of the next regular reexamination.

Moves

If the family moves into a different unit prior to their next recertification and the VSHA has had a change in the payment standard the new payment standard will be used. The applicable payment standard will be that which is the lower of either the certificate size issued or the unit size selected at the time of the move.

H. RENT ADJUSTMENTS [24 CFR 982.509]

Regular Certificate Program

VSHA will notify owners of their right to request a rent adjustment at least 90 days in advance of the anniversary date. The approval or disapproval decision regarding the adjustment will be based on HUD-required calculations and a rent reasonableness determination. The adjustment may be an increase or a decrease. The maximum increase will be based on the annual adjustment factor in effect 60 days before the contract anniversary date multiplied by the pre-adjusted rent to owner. A decrease may occur either as the result of an AAF less than 1.0, or the HA's rent reasonableness determination.

Owners must request the rent increase in writing . Any increase will be effective the later of (1) the anniversary date of the Contract, or (2) at least 60 days after the owner's request is received.

The change in rent does not affect the automatic renewal of the lease and does not require a new lease or contract or even an executed amendment. A notice of rent change will be sent to the owner and the family.

Special Adjustments [24 CFR 982.510]

An owner may request a special adjustment based on substantial and general increases in real property taxes, special government assessments, or costs of utilities. The rent requested must be found to be reasonable and must be approved by HUD.

Disapproval of Requests for Adjustment

If VSHA rejects the owner's request for rent adjustment as exceeding rent reasonableness and the owner rejects VSHA's determination, the owner may offer the tenant a new lease (after receiving VSHA's approval) with a sixty-day notice to the tenant. If the tenant accepts the offer of a new lease, an RFLA must be submitted and the requested rent subjected to rent reasonableness and, for the certificate program, the FMR limitations. If the tenant refuses or the owner does not offer a new lease, the owner may institute court action to terminate tenancy for a business or economic reason in accordance with the lease. VSHA will issue a Voucher to the family.

After the tenant has begun searching for a new housing unit and/or after court action has been initiated, the owner may decide to accept the current lease. If the owner and tenant agree, the lease can continue.

If a new lease is executed, a new Contract must also be executed.

Voucher Program Rent Adjustments [24 CFR 982.505(b)(3)]

Owners may not request rent adjustments in the Voucher Tenancy programs to be effective prior to the expiration of the first year of the lease. Rent adjustments are effective:

With a sixty-day notice to the family and a copy to the HA, provided language is included in the lease. The HA will advise the owner as to whether the rent is reasonable and shall approve or disapprove the rent increase.

J. AREA EXCEPTION RENT [24 CFR 982.504(b)]

VSHA has received approval of area exception rent(s), to include not more than 50 percent of the population of the fair market rent area, for the Town of Hartford in Windsor County, because it has determined that it is necessary to:

1. Assist certificate or voucher holders experiencing trouble finding housing for lease under the tenant-based program within the term of the certificate or voucher.