
CHAPTER 6. SPECIAL ADJUSTMENTS TO CONTRACT RENTS

Section 1. General

- 6-1. GENERAL. The project owner may request a special additional adjustment to the contract rents determined by the annual adjustment factor to cover any substantial increases in property taxes, utility rates, hazard insurance, or similar cost, such as liability insurance and crime prevention costs.
- * 6-2. APPLICATION FOR SPECIAL ADJUSTMENT. To be considered for a special adjustment in contract rents established by the AAF to cover increases in property taxes, utility rates, hazard and similar costs, the owner must submit to the contract administrator sufficient supporting data and financial data to support the special adjustment in the rents. Where HUD is not the contract administrator, all special adjustments determined by the annual adjustment factor must be approved by HUD. Rent increases resulting from a special adjustment should be processed and approved or disapproved within 30 to 45 days of receipt of the request and submission of all required data. However, if the contract needs amendment dollars, the amendment money must be made available prior to approving the special adjustment.
- * 6-2. APPLICATION FOR SPECIAL ADJUSTMENT. To be considered for a special adjustment in contract rents established by the AAF to cover increases in property taxes, utility rates, hazard and similar costs, the owner must submit to the contract administrator sufficient supporting data and financial data to support the special adjustment in the rents. Where HUD is not the contract administrator, all special adjustments determined by the annual adjustment factor must be approved by HUD. Rent increases resulting from a special adjustment should be processed and approved or disapproved within 30 to 45 days of receipt of the request and submission of all required data. However, if the contract needs amendment dollars, the amendment money must be made available prior to approving the special adjustment.

Section 2. Procedures for Appealing Section 8 Rent Adjustments

- 6-3. GENERAL. These procedures apply to AAFs or Special Adjustments of Section 8 rents or utility allowances made according to 24 CFR Parts 880, 881, 883, 884, and 888. These procedures also apply to rental adjustment made under Parts 885 and 886 for projects using the Section 8 AAF.
- 6-4. OWNER APPEAL PROCEDURES. There is only one level of appeal, unless the Field Office determines another level of appeal is available. The appeal is to the HUD Field Office which issued the contested decision. This appeal to the Field Office is at least one administrative level above the level which made the final decision on the owner's original submission. For example, if the Branch Chief signed the original rent adjustment letter, then the next level for an appeal is the Director, Multifamily Division.
- A. Owners are permitted to delay implementation of rent changes while the HUD Field Office is processing the appeal.

- B. Rents resulting from the appeal will be implemented as of the effective dates specified in the Field Office's original decision letter. Rent increases are either effective on the anniversary date of the HAP contract (pre-1979 projects) or the first day of the month which begins one month after the date of the original decision letter, but no earlier than the anniversary of the HAP contract (post-1979 projects).
- C. When a decision on an owner's appeal is issued, a copy of the decision letter should be forwarded to the Director, Multifamily Division, and a copy to the Branch Chief.

6-5. INITIAL APPEAL TO FIELD OFFICE OR CONTRACT ADMINISTRATOR.

The appeal must be in writing and postmarked within 30 days of the date of the rent adjustment decision letter. The appeal package must contain 1) a letter explaining why the owner disagrees with the new rents, 2) the rents being sought in the appeal, and 3) all documents contained in the initial submission.

6-6. FINAL APPEAL. If the owner does not agree with the decision of the Field Office staff, the owner may submit a final appeal to the Director, Multifamily Division. The owner may, but is not required to, implement the HUD-approved rent adjustments while the final appeal is being processed. When a decision on the appeal is made, the owner must make the rents resulting from the appeal effective as of the dates specified in the original decision letter.

- A. The final appeal must be in writing and postmarked within 30 days of the date of the letter issuing the results of the initial appeal decision letter. The project owner must submit to the Director, Multifamily Division, the following data:
 - 1. A copy of the original decision letter, accompanied by any supporting documentation sent with the original request for a rent increase, including a budget, utility information or other documents appropriate to the specific type of project.
 - 2. All data submitted with the initial appeal.

3. Copies of all correspondence with the contract administrator on the initial appeal.
 4. A cover letter explaining why the owner disagrees with the decision of the initial appeal. A copy of this letter must be sent to the contract administrator.
- B. The Regional Office of Housing should process the appeal within 30 to 45 days. The project owner may, but is not required to, implement the approved rent adjustments while the final appeal is being processed.
1. When a decision on the appeal is made, the owner must make the rents resulting from the appeal effective as of the dates specified in the original decision letter.
 2. The owner may request a meeting with the Regional Director of Housing, but such a meeting must be requested and completed during the 30 to 45 day final appeal period.
- C. FURTHER APPEAL. All decisions rendered by the Regional Director of Housing will be final and will not be subject to further appeal above that level.

Section 3. Insurance

6-7. INTRODUCTION. In many instances, insurance rates are cyclical and eventually return to a more acceptable rate. Therefore, Section 8 project owners must be notified, and agree in writing prior to HUD's approval of the special adjustment, that in instances where special additional adjustment increases are/were approved to compensate for abnormally high insurance rates, the contract administrator will adjust the contract rents before applying the annual factor if the project no longer needs the special increases to pay the insurance premiums. Project owners must begin to determine cost and availability of insurance at least 6 months prior to policy expiration. If insurance premiums are increased on very short notice, the contract administrator may release funds from the Residual Receipts Funds or the Reserve for Replacement Fund to cover the

monthly premium increase until a rental increase can be processed and approved. Prior to approval of special adjustment rent increases for hazard and liability insurance premiums, the project owner shall certify 1) as to whether an identity-of-interest exists or does not exist between the owner or management agent and the insurance supplier, 2) if so, that the owner shopped for bids to obtain the most cost

effective insurance coverage, and/or 3) that the project owner has shopped for better prices for equivalent insurance coverage.

6-8. PROCEDURES FOR DETERMINING SPECIAL ADDITIONAL ADJUSTMENT RENT INCREASE FOR INSURANCE COSTS IN SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION PROJECTS. The contract administrator may approve special additional adjustments for non-profit, limited-distribution, and profit motivated projects based on need, and on a case-by-case basis. For profit motivated projects, determine the amount of the allowable distribution (6% or 10% of the original investment), as if the project had been a limited-distribution project at the time of final endorsement. To determine the amount of the special adjustment for an increase in insurance premium costs, make the following computations:

A. DETERMINE THE AMOUNT OF INCREASE IN PREMIUMS:

1. new premium _____
2. subtract current annual premium _____
3. increase in annual premium = _____

B. DETERMINE THE DIFFERENCE BETWEEN SURPLUS CASH (from Form HUD 93486, Computation of Surplus Cash, Distributions and Residual Receipts, in the last annual financial statement or the semi-annual computations, if available) and allowable distribution; or by using a cash flow budget projection to determine the difference between net cash throw-off and allowable distribution as follows:

1. surplus cash (net cash throw-off) _____
2. owner's initial equity investment _____
3. allowable distribution (multiply
6%, or 10% times initial equity
investment, see table below) _____
4. subtract 3. from 1. = surplus cash
in excess of allowable distribution
(or excess cash throw-off (+ or -) _____

3/92

6-4

4350.5

C. DETERMINE THE SPECIAL ADJUSTMENT AMOUNT AS FOLLOWS:

1. if the amount in 6-8.B.4. is negative or 0, use the amount in 6-8.A.3.
2. if the amount in 6-8.B.4. is positive, but less than the amount in 6-8.A.3., subtract the amount in 6-8.B.4. from the amount in 6-8.A.3. Use this amount for the special adjustment increase.
3. if the amount in 6-8.B.4. is greater than or equal

to the amount in 6-8.A.3., no special adjustment will be allowed.

TABLE OF ALLOWABLE DISTRIBUTIONS FOR SPECIAL ADJUSTMENTS

Type of Project	Percentage
Non-Profit	0%
Elderly project subject to the revised Section 8 regulations	6%
Family projects subject to the revised Section 8 regulations	10%
Profit-motivated projects	* 6% elderly * 10% family

* PROFIT-MOTIVATED PROJECTS ARE LIMITED TO 6% OR 10% FOR THE PURPOSE OF COMPUTING THE SPECIAL ADJUSTMENT. THIS PROCEDURE IN NO WAY LIMITS THE SEMI-ANNUAL OR ANNUAL DISTRIBUTION OF ALL SURPLUS CASH AND DOES NOT PROHIBIT ACCRUAL OF EARNED BUT UNPAID DISTRIBUTIONS.