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CHAPTER 10. MODERATE REHABILITATION RENTS

10-1. FAIR MARKET RENTS (FMRs). The FMRs for the Moderate Rehabilitation Program shall be 120 percent of the schedule of FMRs for the Existing Housing Program published for effect in the Federal Register. The Moderate Rehabilitation FMRs shall be computed by multiplying 1.2 times the published Existing Housing FMRs. Recently Completed Housing FMRs (see Section 882.120 of the Regulations in Appendix 12) shall not apply to units under the Moderate Rehabilitation Program.

10-2. INITIAL GROSS RENTS EXCEEDING THE MODERATE REHABILITATION FMRs BY 10 PERCENT (132 PERCENT OF THE EXISTING HOUSING FMRs).

a. Moderate Rehabilitation FMRs may be exceeded by up to 10 percent for units which, by virtue of size, certain amenities or location, are determined to warrant a rent higher than the FMR, in accordance with paragraphs b and c of this section.

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b. Without prior Field Office approval, a Public Housing Agency (PHA) may approve initial gross rents which exceed the Moderate Rehabilitation FMRs by up to 10 percent under certain circumstances. The PHA must make a written determination on a case-by-case basis that the higher rent is necessary for one of the following reasons:

- (1) To house a family needing four or more bedrooms, or
- (2) To provide the physical modifications to a unit and/or structure which are necessary to meet the needs of a handicapped or disabled family.

c. The Field Office may authorize a PHA to approve initial gross rents which are up to 10 percent higher than the applicable Moderate Rehabilitation FMRs for all units of a given size or type in specified areas where HUD has determined that median rents for standard units of that size or type in the specified area are from 10 to 20 percent higher than the Existing Housing FMR.

- (1) In the Moderate Rehabilitation Program application or after application approval, a PHA may request Field Office approval of higher initial gross rents in specified areas. The request may be submitted for an entire locality, municipality or county within a Fair Market Rent area or for a specific neighborhood(s). Any such request must be supported by the PHA's statement describing and documenting the special circumstances in the area warranting higher rents. A request for exception rents for the Moderate Rehabilitation Program must be based

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on the rent levels that have been established for the Existing Housing Program or the rent levels that would be appropriate for the Existing Housing Program in those areas where there is no Existing Housing Program in operation. The Moderate Rehabilitation exception rent may not exceed 110 percent of the dollar amount of the exception rent established for, or appropriate for, the Existing Housing Program.

(a) If the Field Office has approved exception rents 10 to 20 percent above the Existing Housing FMRs for the Existing Housing Program and the PHA will be using Moderate Rehabilitation for the same unit sizes and types and for exactly the same area(s) for which the Existing Housing exception rents have been approved, the PHA should submit a statement to this effect with its request for Moderate Rehabilitation exception rents. No documentation other than this statement is needed to support the PHA's request provided that the PHA is not targetting the Moderate Rehabilitation units to a neighborhood within a larger area for which exception rents have been approved.

(b) If the PHA is targetting Moderate Rehabilitation units to a neighborhood within a larger area where Existing Housing exception rents have been approved (in which case the exception rents may not be appropriate for the specific neighborhood) or if the Field Office has not approved exception rents for Existing Housing units, the PHA must submit the documentation required in Chapter 7 and Appendix 10 of this Handbook. The documentation should demonstrate that the median rents for standard units of the size and type in the area specified in the request are from 10 to 20 percent higher than the Existing Housing FMRs. The documentation should include information on median gross rents for standard, nonluxury units suitable for leasing under the Existing Housing Program in the locality, municipality, county, or neighborhood in which units will be rehabilitated.

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(2) The Field Office Economic Market Analysis Division (EMAD) shall review each PHA request for approval of

initial gross rents above the applicable Moderate Rehabilitation FMRs for units of a given size or type in specified areas. The review shall take into consideration the median gross rents of available

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standard units in the applicable locality, municipality, county, or neighborhood which are suitable for leasing under the Existing Housing Program.

(a) If approval has been given to the PHA for maximum gross rents which exceed the Existing Housing FMRs by 10 to 20 percent in the PHA's Existing Housing Program in the entire locality, municipality, or county, no further review is necessary if the PHA's sole Moderate Rehabilitation objective is spatial deconcentration. The Field Office may, thus, approve Moderate Rehabilitation gross rents at 10 percent above the dollar amount of the exception rents authorized for the Existing Housing Program in that area unless EMAD determines that market conditions have recently changed and the Existing Housing exception rents are no longer warranted.

Example. A PHA has approved exception rents of \$288 (15 percent above the published FMR of \$250) for 3-bedroom units throughout the county in the Existing Housing Program. This PHA has selected spatial deconcentration as its sole objective and has requested that the Field Office approve Moderate Rehabilitation exception rents for 3-bedroom units. (The applicable Moderate Rehabilitation FMR is \$300, 120% of \$250.) The Field Office may approve exception rents of \$317 (110% of the \$288 Existing Housing exception rent) for all 3-bedroom units in the PHA's Moderate Rehabilitation Program.

(b) If approval has been given to the PHA for maximum gross rents which exceed the Existing Housing FMRs by 10 to 20 percent in the PHA's Existing Housing Program in a specific neighborhood(s), no further review is necessary if the PHA is targeting to that neighborhood(s) or if the PHA is proposing to select units in that neighborhood(s) as part of

its plan to achieve spatial deconcentration.
The Field Office may, thus, approve exception rents in the Moderate Rehabilitation Program which are 10 percent higher than those approved for the Existing Housing Program in that neighborhood(s) unless EMAD determines that market conditions have recently changed and the Existing Housing exception rents are no longer warranted.

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Example. A PHA has approved exception rents for all unit sizes and types leased under the Existing Housing Program in the Woodbridge neighborhood.

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The PHA's sole objective is spatial deconcentration. The Field Office may approve Moderate Rehabilitation exception rents for all units rehabilitated in the Woodbridge neighborhood; these exception rents would not be applicable to Moderate Rehabilitation units the PHA selects in other neighborhoods.

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(c) If approval of exception rents in the appropriate area has not been given for the Existing Housing Program, EMAD must review the documentation submitted by the PHA, consulting, as necessary, with other Field Office staff who have knowledge of the rental markets in the affected market or submarket areas. This review will be based on the appropriateness of exception rents for Existing Housing units and should be based on the review criteria in Chapter 7 of this Handbook. The approved Moderate Rehabilitation exception rents may not exceed 110% of the gross rents appropriate for Existing Housing units in the area(s) in which the Moderate Rehabilitation Program will be implemented.

(d) Upon completion of the review, EMAD shall prepare an appropriate letter to the PHA for the signature of the Area Manager, indicating the Field Office's determination with respect to the request and the reasons for any denial. If the PHA's request is part of the PHA's application for a Moderate

Rehabilitation Program, the EMAD's determination may be made in its application review and returned to the Multifamily Housing Representative (MHR) who will notify the PHA. A copy of the letter to the PHA shall be sent to the MHR, Housing Management Officer (HMO), Regional Economist, and Assistant Secretary for Policy Development and Research (PD&R), Attn: EMAD.

10-3.RELATIONSHIP OF FIELD OFFICE APPROVALS OF EXCEPTION GROSS RENTS FOR UNITS OF A GIVEN SIZE OR TYPE IN SPECIFIED AREAS TO NEWLY ESTABLISHED FMRs.

a.Initial gross rents for Moderate Rehabilitation units of a given size or type in specified areas approved by the Field Office pursuant to Section 882.409(b)(1) become the maximum gross rents that a PHA can approve for that unit size in that area until another increase is approved by the Field Office or until the Moderate Rehabilitation FMRs (120 percent of the published Existing Housing FMRs) are increased beyond the exception rents. If 120 percent of the published Existing

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Housing FMRs does not reach the maximum gross rents for Moderate Rehabilitation units approved by the Field Office, the PHA retains authority to approve initial gross rents for particular Moderate Rehabilitation units in specified areas up to the previously approved dollar amount of the maximum gross rents.

Example. A PHA receives authorization from the Field Office to approve a maximum gross rent of \$330 for all 3-bedroom units (10 percent above the Moderate Rehabilitation FMR of \$300). A revised FMR of \$320 for 3-bedroom units is then published for that area. The PHA still retains its authority to approve rents up to \$330. However, the PHA does not have the authority to approve initial gross rents over \$330 unless: (1) the PHA determines that the higher gross rent is necessary to provide the physical modifications to a unit to meet the needs of the handicapped or disabled (Section 882.409(b)) and can therefore approve gross rents on a unit-by-unit basis up to \$352 (10 percent above the new Moderate Rehabilitation FMR); or (2) the Field Office approves a subsequent PHA request for approval of maximum gross rents for 3 bedroom units above the FMR of \$320 up to a maximum of \$352.

b.When a revised Moderate Rehabilitation FMR schedule is established by the publication of a revised Existing Housing

FMR schedule, Field Offices should notify PHAs of the effect on prior Field Office approvals of maximum gross rents exceeding the Moderate Rehabilitation FMRs. EMAD should prepare a letter for the signature of the Area Manager to the PHA providing this information.

10-4. INITIAL GROSS RENTS EXCEEDING THE MODERATE REHABILITATION FMRs BY UP TO 20 PERCENT (144 PERCENT OF THE EXISTING HOUSING FMRs) AFTER REHABILITATION HAS BEGUN (SECTION 882.409(d) OF THE REGULATIONS).

a. The Moderate Rehabilitation FMRs in effect at the time of HAP Agreement execution may be exceeded by up to 20 percent only when, during rehabilitation, additional necessary work items are discovered which:

(1) Could not reasonably have been anticipated or are necessitated by a change in local codes or ordinances, and

(2) Were not listed in the work write-up prepared or approved by the PHA, and

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(3) Will require additional expenditures which would make the rehabilitation infeasible at the contract rents established in the Agreement.

b. The Moderate Rehabilitation FMRs or HUD-approved exception rents may not be exceeded after the HAP Agreement is executed for any reasons other than those in the above paragraph a. Under certain circumstances, the PHA may approve adjusted initial gross rents up to the Moderate Rehabilitation FMR or exception rent in effect at the time of HAP Agreement because of changes in the cost of relocation find rehabilitation not covered in the above paragraph a and in the term or interest rate of the rehabilitation loan. (Section 882.409(d) specifies the PHA approval criteria.) All increases must be necessary, reasonable, and justifiable.

c. The Field Office may authorize a PHA to approve revised initial gross rents which are up to 20 percent higher than the applicable FMRs in effect at the time of HAP Agreement execution when a PHA submits proper justification for the increase. The justification must demonstrate that the increase is necessary, reasonable, and meets the three requirements listed in the above paragraph a.

(1) The PHA must submit the following documentation to the

Field Office, Attention: Multifamily Housing Programs Branch, with a request for approval of initial gross rents in excess of the FMR before executing a revised Agreement:

(a)The originally approved work write-up and cost estimate, an approved change order or amended work write-up specifying the additional work items and cost, and a justification that the work meets the criteria listed above in 10-4a(1) through (3).

(b)The calculations used to establish the contract rents specified in the Agreement and the revised contract rents requested.

(2)The Multifamily Housing Representative (MHR) shall coordinate the review of each PHA request for approval of revised initial gross rents after rehabilitation has begun. The MHR shall review the request to determine that it includes the information and documents specified in paragraph 10-4c(1) above and that it generally meets the requirements for approvability specified by the Moderate Rehabilitation Regulations and paragraph 10-4a. The MHR will then forward the request to Cost and Architecture and Engineering (A&E) Branches for review.

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(a)The Cost Branch will review the reasonableness of the costs of the additional work items.

(b)A&E will review the proposed additional work items to determine whether or not they were in the originally-approved work write-up and whether or not the additional work is necessary and could not have been reasonably anticipated or is due to a change to local codes.

(c)Because delay during rehabilitation will further increase costs, all reviews should be completed within 5 working days of receipt of the request. Upon completion of the staff reviews, the MHR shall review the rent calculation for the proposed revised contract rent to determine if it has been done correctly and shall prepare an appropriate letter to the PHA for the Area Manager's signature, indicating the Field Office's determination with respect to the request and the reasons for any denial.

10-5. RELATIONSHIP OF MODERATE REHABILITATION FMRs TO ANNUAL AND SPECIAL ADJUSTMENTS.

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a. Annual Adjustments.

(1)Section 8 Annual Adjustment Factors are determined by HUD and published in the Federal Register at least annually by Notice with interim revisions made as conditions warrant. There is: (1) a basic factor for use where the contract rent covers all utilities or the most expensive utility (basic schedule), and (2) a separate factor for use where the contract rent does not cover either all utilities or the most expensive utility. Chapter 7 contains more information on the establishment and revision of the Annual Adjustment Factor.

(2)The PHA shall calculate the adjustment using the same method for all eligible units under HAP Contract whether the gross rents for these units at the time of Lease approval were approved at, below, or in excess of the published FMRs.

(3)Owners participating in the Moderate Rehabilitation Program may request the PHA's approval of revised

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contract rents effective on or after each anniversary date of the HAP Contract, pursuant to Section 882.411 of the Regulations. The Annual Adjustment Factor is applied to the base rent (i.e., the contract rent less the monthly amortization cost of the rehabilitation loan), rather than the entire contract rent, since the monthly rehabilitation debt service costs will not change. The base rent which is adjusted, however, does include all previous annual and special adjustments.

(a)The PHA may approve an adjusted contract rent to be effective the first day of the month following the owner's request or the anniversary date of the HAP Contract, whichever is later, provided that the unit is in decent, safe, and sanitary condition and the owner is in compliance with the terms of the lease and the HAP Contract. Adjustments of the contract rent must be made by a written agreement signed by the owner and the PHA and will be included as an amendment to the HAP

Contract.

(b)The PHA shall calculate the adjustment by applying the applicable Section 8 Annual Adjustment Factor most recently published by HUD in the Federal Register at 24 CFR Part 888 to either:

1The base rent, which is the current contract rent minus the monthly amortization amount for the rehabilitation (the base rent is adjusted each year to include all previous annual and special adjustments), or

2The contract rent established pursuant to Section 882.410 of the Regulations at the end of the term of the rehabilitation loan, where the initial contract rent was established upon total rehabilitation costs of less than \$15,000 and a loan term of less than 15 years.

(c)The adjustment calculated will established the maximum allowable increase, without regard to the Moderate Rehabilitation FMR limitation. However, the adjustment must not result in a contract rent which is higher than the rent being charged for comparable unassisted units, except to the extent *

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differences existed with respect to the initial contract rents. (This exception does not apply to units where the contract rents have been adjusted at the end of the rehabilitation loan term, pursuant to Section 882.410 of the Regulations.) Also, in no case may the adjusted contract rent be less than the contract rent on the effective date of the HAP Contract, except when contract rents have been adjusted at the end of the rehabilitation loan term pursuant to Section 882.410 of the Regulations. (See paragraph 10-5a(3)(b)2 above.) The following example illustrates how rents would be adjusted for the first two years of the HAP Contract:

$$\begin{array}{rcccl} \text{Base} & & & & \text{Rehab} \\ \text{Rent} & + & \text{Monthly Debt} & = & \text{Contract} \\ & & \text{Service} & & \text{Rent} \end{array}$$

At HAP Contract Execution	\$150	\$50	\$200
After First Annual Adjustment of 6% (\$150 x 1.06)	\$159	\$50	\$209
After Second Annual Adjustment of 7% (\$159 x 1.07)	\$170	\$50	\$220

b. Special Adjustments to Contract Rents. (See Section 882.411 of the Regulations.) If an owner of a unit under HAP Contract clearly demonstrates that increases in actual and necessary expenses of owning and maintaining the unit have resulted from substantial general increases in real property taxes, utility rates, or assessments and utilities not covered by regulated rates and have not been adequately compensated for by annual adjustments, the owner may submit a request for a special adjustment to the PHA. If the PHA agrees that the owner's request is warranted, the PHA will forward the request to the HUD Field Office for approval.

(1) The PHA shall submit its recommendation to approve the owner's request to the Field Office, Attention: Assisted Housing Management Branch. The recommendation

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must include a PHA determination of whether approval of the owner's request will result in material differences between the contract rents and rents charged for comparable unassisted units and the other information required in Chapter 7 of this Handbook. For HAP Contracts covering more than 20 units, the owner must submit audited financial information prepared by either a Certified Public Accountant or an independent public accountant licensed on or before December 31, 1970, to support the request.

(2) In accordance with the instructions in Chapter 7 for reviewing special adjustments, the Assisted Housing Management Branch (AHMB) will coordinate the review of the owner's request and prepare an appropriate letter to the PHA, with a copy to the owner, for the signature of the Deputy Director for Housing Management. Although there is no Moderate Rehabilitation FMR

limitation applicable to special adjustments, the Field Office must not approve a revised contract rent which is higher than the rent being charged for comparable unassisted units, except to the extent differences existed with respect to the initial contract rents. (This FMR limitation exception does not apply to units where the contract rents have been adjusted at the end of the rehabilitation loan term, pursuant to Section 882.410 of the Regulations.) Also, in no case may the adjusted contract rent be less than the contract rent on the effective date of the HAP Contract, except when contract rents have been adjusted at the end of the rehabilitation loan term (see paragraph 10-5a(3)(b)2 above).

(3) Adjustments of contract rents based on HUD-approved special adjustments must be made by written agreement between the PHA and the owner, and will be included as an amendment to the HAP Contract. Adjusted contract rents must be made effective the first day of the month following implementation of the increase in real property taxes, utility rates, assessments, or utilities not covered by regulated rates, or the first day of the month after the owner's request, whichever is later.

10-6. REGIONAL OFFICE MONITORING OF FIELD OFFICE ACTIONS.

a. The Regional Economist shall review each Field Office approval action pursuant to Section 882.409(b)(1) of the

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Regulations, including the PHA documentation and the EMAD justification, to ascertain that the action was in conformance with the policies and procedures set forth above, and that the action was adequately documented and fully justified.

b. Any discrepancies observed in the application of the policies and procedures related to the approval of these exception rents shall be brought to the attention of the Field Office without delay in order to reduce the possibility of recurrence.

c. If, in the course of reviewing Field Office actions pursuant to Section 882.409(b)(1), the Regional Economist concludes

that the approval of exception rents was not adequately documented or justified with regard to the established policies or procedures, the Regional Economist may recommend to the Regional Administrator that the Field Office be notified that further approvals require Regional Office concurrence. A copy of the notification memorandum shall be sent to the Assistant Secretary for PD&R, Attn: EMAD. If a Field Office's approval authority is restricted in this manner, each subsequent Field Office approval action pursuant to Section 882.409(b)(1) shall be forwarded to the Regional Office for the required concurrence until such time as the Regional Administrator reestablishes unrestricted approval authority.

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