

PART 401— MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK-TO-MARKET)

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Subpart A—General Provisions; Eligibility

§ 401.1 What is the purpose of part 401?

This part contains the regulations implementing the authority in the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) for the Mark-to-Market Program. Section 511(b) of MAHRA details the purposes, and section 512(2) details the scope, of the Program.

§ 401.2 What special definitions apply to this part?

(a) *MAHRA* means the Multifamily Assisted Housing Reform and Affordability Act of 1997, title V of Pub. L. 105-65, 42 U.S.C. 1437f note.

(b) *Statutory terms.* Terms defined in section 512 of MAHRA are used in this part in accordance with their statutory meaning. These terms are: comparable properties, expiring contract, expiration date, fair market rent, mortgage restructuring and rental assistance sufficiency plan, nonprofit organization, qualified mortgagee, portfolio restructuring agreement, participating administrative entity, project-based assistance, renewal, State, tenant-based assistance, and unit of general local government.

(c) *Other terms.* As used in this part, the term—

Affiliate means an “affiliate of the owner” or an “affiliate of the purchaser”, as such terms are defined in section 516(a) of MAHRA.

Applicable Federal rate has the meaning given in section 1274(d) of the Internal Revenue Code of 1986, 26 U.S.C. 1274(d).

Community-based nonprofit organization means a nonprofit organization that maintains at least one-third of its governing board’s membership for low-income tenants from the local community, or for elected representatives of community organizations that represent low-income tenants.

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Comparable market rents has the meaning given in § 401.410(b).

Disabled family has the meaning given in § 5.403(b) of this title.

Elderly family has the meaning given in § 5.403(b) of this title.

Eligible project means a project that:

(1) Has a mortgage insured or held by HUD;

(2) Receives project-based assistance expiring on or after October 1, 1998;

(3) Has current gross potential rent for the project-based assisted units that exceeds the gross potential rent for the project based assisted units using comparable market rents;

(4) Has a first mortgage that has not previously been restructured under this part or under a Reengineering demonstration program;

(5) Is not described in section 514(h) of MAHRA; and

(6) Otherwise meets the definition of “eligible multifamily housing project” in section 512(2) of MAHRA.

HUD means the Director of OMHAR or a HUD official authorized to act in lieu of the Director, when used in reference to provisions of MAHRA that give responsibilities to the Director, and otherwise has the meaning given in § 5.100 of this title.

NHA means the National Housing Act, 12 U.S.C. 1702 *et seq.*

OMHAR means the Office of Multifamily Housing Assistance Restructuring.

Owner means the owner of a project and any purchaser of the project.

PAE means a participating administrative entity as defined in section 512(10) of MAHRA, or HUD when appropriate in accordance with section 513(b)(4) of MAHRA.

PCA means a physical condition assessment of a project prepared by a PAE under § 401.451.

PRA means a portfolio restructuring agreement as defined in section 512(9) of MAHRA.

Priority purchaser means a purchaser of a project, meeting qualifications established by HUD, that is:

(1) A tenant organization;

(2) A tenant-endorsed community-based nonprofit organization or public agency; or