

§ 983.302

and the annual redetermination of rent at the annual anniversary of the HAP contract are determined by the independent entity approved by HUD in accordance with § 983.59. The PHA must use the rent to owner established by the independent entity.

§ 983.302 Redetermination of rent to owner.

(a) The PHA must redetermine the rent to owner:

(1) Upon the owner's request; or

(2) When there is a five percent or greater decrease in the published FMR in accordance with § 983.301.

(b) *Rent increase.* (1) The PHA may not make any rent increase other than an increase in the rent to owner as determined pursuant to § 983.301. (Provisions for special adjustments of contract rent pursuant to 42 U.S.C. 1437f(b)(2)(B) do not apply to the voucher program.)

(2) The owner must request an increase in the rent to owner at the annual anniversary of the HAP contract by written notice to the PHA. The length of the required notice period of the owner request for a rent increase at the annual anniversary may be established by the PHA. The request must be submitted in the form and manner required by the PHA.

(3) The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with all requirements of the HAP contract, including compliance with the HQS. The owner may not receive any retroactive increase of rent for any period of non-compliance.

(c) *Rent decrease.* If there is a decrease in the rent to owner, as established in accordance with § 983.301, the rent to owner must be decreased, regardless of whether the owner requested a rent adjustment.

(d) *Notice of rent redetermination.* Rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent (as determined in accordance with §§ 983.301 and 983.302). The PHA notice of the rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract.

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(e) *Contract year and annual anniversary of the HAP contract.* (1) The contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

(2) The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. The adjusted rent to owner amount applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

(3) See § 983.206(c) for information on the annual anniversary of the HAP contract for contract units completed in stages.

§ 983.303 Reasonable rent.

(a) *Comparability requirement.* At all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent as determined by the PHA.

(b) *Redetermination.* The PHA must redetermine the reasonable rent:

(1) Whenever there is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR in effect one year before the contract anniversary;

(2) Whenever the PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;

(3) Whenever the HAP contract is amended to substitute a different contract unit in the same building; and

(4) Whenever there is any other change that may substantially affect the reasonable rent.

(c) *How to determine reasonable rent.*

(1) The reasonable rent of a contract unit must be determined by comparison to rent for other comparable unassisted units.

(2) In determining the reasonable rent, the PHA must consider factors that affect market rent, such as:

(i) The location, quality, size, unit type, and age of the contract unit; and