

Section 8 Contract Renewal with a Reduction of Section 8 Rents without Debt Restructuring (“Lites”)

Executive Summary

SECTION 10-1

In accordance with Housing Notice H 99-36 or subsequent guidance, owners may elect to renew Section 8 HAP Contracts at market rents without debt restructuring. These transactions are called “Lites”. This chapter discusses the processing and underwriting of these transactions - both those that can be approved as Lites and those that prove ineligible as Lites. The procedures would also be generally applicable to Full Debt Restructuring transactions that have been reclassified as Lites because their rents are above-market but Full Debt Restructuring is not needed.

Comparison to Full Debt Restructuring.

SECTION 10-2

In comparison to Full transactions, a Lite requires:

1. No debt reduction; no 2nd or 3rd mortgage; no FHA claim payment. There **may be** refinancing of the existing debt to reduce debt service through lower interest rates and/or longer amortization.
2. A Market Rent Study rather than a Limited Scope Appraisal.
3. No Rehabilitation Escrow. Critical (health and safety) repair needs must be completed immediately and immediate (first year) repair needs must be completed, or adequate funds must be present in the Replacement Reserve Account, as preconditions for the PAE’s recommendation in favor of Section 8 HAP Contract renewal.
4. No kick-off meeting with the owner.

5. No Required Tenant Meeting. (See Section 10-6 B.) Tenant comments are solicited in writing in lieu of tenant meetings.
6. No requirement to execute a Mark-to-Market Use Agreement.
7. A single PAE invoice per transaction (not including reimbursables).
8. No Closing File.
9. Abbreviated Lite underwriting model used to determine debt service coverage ratio.

Owner's Request for a Lite

SECTION 10-3

Owners who wish to renew Section 8 HAP Contracts at market rents without debt restructuring must select that option in accordance with Housing Notice H 99-36 (or PIH 99-22 in the case of Moderate Rehabilitation properties) or subsequent guidance. The owner should submit the following attachments to the Multifamily Hub or Program Center no later than 120 days prior to contract expiration:

1. a comparable market rent study;
2. the most recent required fiscal year audited financial statements for the project; and,
3. an owner's evaluation of physical condition.
4. a statement from the owner that in lieu of submitting its own evaluation of physical condition, the owner will sign a Form 4.7, Owner's Adoption of the PAE's PCA/Findings, after reviewing the PAE's PCA and discussing with the PAE.

Thereafter, the owner must also submit such other documents as the PAE or HUD may require.

Initial Processing; Section 8 HAP Contract Renewal; Contract Administration

SECTION 10-4

- A. Assignment to OAHP.** The Multifamily Hub or Program Center will receive the owner's request for a Lite. The Multifamily Hub or Program Center will log in the request, update the REMS system for the type of renewal requested and forward the asset to OAHP for assignment to a PAE.
- B. Section 8 HAP Contract Renewal.** When the owner submits his or her election under H 99-36, the owner will be provided a Section 8

HAP Contract for six months at the current rents. The Contract expires at the earlier of six months or at the end of the first full month after notification to the owner of the determination of comparable market rents.

- C. **Section 8 Moderate Rehabilitation.** If the owner of an eligible Moderate Rehabilitation property requests a Section 8 HAP Contract renewal under the M2M program, the Director of the Public Housing Hub or Program Center will forward the request to the Multifamily Hub or Program Center Director for processing and referral to OAHP. As noted in Notice PIH 99-22, the contract administration responsibilities remain with the PHA during the processing.
- D. **Combining Contracts.** A project with multiple Section 8 contracts, or stages, which is requesting a Section 8 HAP Contract renewal without debt restructuring under the Mark-to-Market program may request to combine them into a single contract. Contracts executed before January 1, 1981 may not be combined with contracts executed after that point. Projects with multiple contracts should come in for processing 120 days before the expiration of the *first* contract.

Lite Processing Options

SECTION 10-5

- A. **General: Tiers 1 and 2.** All transactions submitted as Lites will initially be reviewed for financial, physical, and managerial soundness under the basic underwriting standards described below as Tier 1. If the transaction cannot be approved as a Tier 1, the PAE will consider whether the transaction could be approved under the standards for Tier 2. If the PAE determines that the project may be approvable as a Lite Tier 2, it must submit Form 2.16 to the appropriate OAHP Preservation Office briefly justifying its conclusion.
- B. **Transactions Found Ineligible as Lites.** Some transactions will be found ineligible as Lites, and the PAE will recommend conversion to Full Debt Restructuring. Where the PAE determines that the transaction does not meet the requirements of section 10-6 or 10-7, as applicable, the PAE will advise the owner that the transaction is ineligible as a Lite. The PAE will use Form 10.6 (a) with a copy of the election form, asking the owner to change his or her election under H 99-36 and providing 20 business days to appeal the determination that the property cannot be approved as a Lite. This notification should be sent as soon as the determination is made and the owner should be encouraged to change his election to a Full

restructure as soon as possible. The PAE should remind the owner that the property is eligible for only one 12-month extension at the current HAP rents.

Upon request, the PAE will supply the owner with the information it has used to reach its conclusions (the PCA and Market Study, the draft income and expense spreadsheet, and the PAE's justification for its selection of market rents). These materials should be provided by overnight mail.

1. Where the owner elects to change his or her election to Full Debt Restructuring, the Project Manager will provide a Section 8 HAP Contract of sufficient duration to provide a total processing time of 12 months (the time allowed for Full Debt Restructuring transactions).
2. If the owner appeals the determination that the transaction is unapprovable as a Lite, OAHP will review the appeal and respond to the owner within 30 calendar days.
3. If the appeal is rejected, OAHP will notify the owner using Form 10.7(b), Notification of Failure of Appeal. In this case, the owner will have an additional five business days to revise his or her election under H 99-36.
4. If OAHP's response to the appeal is positive, OAHP will draft a response to the owner, with a copy to the PAE, advising them of the determination and the basis for it and how processing should proceed.
5. If the owner refuses Full Debt Restructuring, or fails to respond to the PAE's letter within 20 business days, or fails to respond within 10 business days to OAHP's letter turning down the appeal, the PAE will complete processing of the transaction at the current Lite tier. Then,
6. OAHP will review the PAE's recommendation, obtain any necessary corrections, accept or adjust the market rents, and draft a new Section 8 HAP Contract.
7. OAHP will provide a Form 10.3(c), Ineligible Lite/ Conversion to Full Refused, to the PAE with the approved market rents and the Section 8 HAP Watch List Contract. OAHP will send a copy of this letter to the HUD Project Manager and Section 8 Contract Administrator. The Multifamily Hub or Program Center will determine whether to continue project-based assistance at the OAHP-approved market rents or whether to issue tenant-based vouchers to residents. If project-based assistance is used, the HUD Project Manager will execute the amended Section 8 HAP Watch List Contract that maintains

the owner's eligibility in OAHP in case the owner at a later date decides to change his election to Full Debt Restructuring. The amended contract stipulates that the project will be placed on the "watch list" for Multifamily Housing to monitor.

8. The PAE will provide Form 10.8, Notice to Owner/Conversion Refused, to the owner and provide a copy, using cover letter Form 10.4(b), to the HUD Project Manager and Section 8 Contract Administrator. The letter to HUD should include the PAE's narrative, financial analyses, and PCA to assist HUD in determining whether the HAP Contract should or should not be renewed.

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- C. **Not Approvable.** In some cases, the PAE may determine that the transaction is basically ineligible for the Mark-to-Market program or cannot achieve managerial, physical and financial soundness under any approach. In cases where the project is ineligible due to market rents that are above current HAP contract rents, the PAE must ensure that the market rents are well supported, and establish whether the property is likely to have sufficient cash flow to support its expenses and meet its debt service obligations in the absence of a restructure. In cases where the project does not appear viable under any approach, the PAE will contact the OAHP Preservation Office to discuss the appropriate approach.
- D. **Completion of Work.** The PAE must complete Lite processing by completing the Credit File in accordance with Form 10.9. (However, the invoice for payment may be submitted upon OAHP's approval of a Tier 1 or 2 Lite work product described in Form 10.1.) In addition, upon completion of processing, the PAE should supply the HUD Project Manager with a copy of the PCA and the PAE's final determination of needs and deposits over the term.

Lite Tier 1: Review and Underwriting

SECTION 10-6

- A. **Procedures for Review of a Lite Tier 1 Transaction; Underwriting Standards for Tier 1 Transactions.** All transactions submitted as Lites will be reviewed for financial, physical, and managerial soundness. If a transaction is determined (a) physically sound, (b) managerially sound, and (c) financially sound by achieving a 1.20 DSCR of existing debt service using market rents and the limited underwriting described below, the PAE will recommend Section 8 HAP Contract renewal at market rents. The PAE will follow the procedures described below and provide the appropriate support for their conclusions in Form 10.1.

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B. Notification of Tenants. The PAE must notify, or ensure that the owner notifies, all parties described in Section 3-8.C. that the owner has applied for a Section 8 HAP Contract renewal without mortgage debt restructuring (See Form 10.10). The notice must be provided, in writing, to the tenant of each unit in the project and to any organizations representing project tenants and to any other interested parties. The notice must state that the following information will be made available for inspection:

1. the owner's evaluation of physical condition (if any) and
2. the owner's comparable market rent analysis (with addresses identifying data on comparable market rents redacted).

The notice must be posted in the manner provided in Chapter 3, Section 3-8. Tenants and other interested parties may submit comments to the PAE within 30 days of receipt of this notice and the PAE must document and consider these comments. At the option of the PAE, surveys or sampling phone calls may be used to elicit additional tenant input.

C. Determine Managerial Soundness. The PAE will consult with HUB or Program Center staff, consider tenant comments, and determine the acceptability of project management, generally as described in Chapter 4, Section 4-8. If the project fails to demonstrate **managerial soundness**, the owner can propose an acceptable new manager and still be processed at Tier 1 or Tier 2, if otherwise appropriate.

D. Determine Physical Soundness.

1. The PAE must obtain a PCA (including the environmental checklist) and determine the property's current condition and its Reserve needs for the forthcoming 20 years. The PAE's analysis of adequate reserves will cover the lesser of 20 years or the remaining term on the existing insured loan. However, the PCA is always prepared for a 20-year period.
2. The PAE will review the PCA submitted by the physical inspector. The PAE will identify material errors, inconsistencies, or other deficiencies, obtain revisions if necessary and make any needed changes in the projected reserve needs or elsewhere. The PAE must describe any change and provide a clear and specific justification for each. The PAE will also confirm that any tenant and local community group comments on condition have been considered.
3. The property will meet the Physical Soundness criterion if:
 - a) The PAE determines that the property is currently in acceptable condition and can remain so for the remaining

term of the mortgage. The PAE should consider any REAC inspection findings in developing this conclusion. (If the REAC score is lower than 60, the PAE should consult with the appropriate HUD Hub or Program Center)

- b) Any Uniform Physical Condition Standards (UPCS) violations or other health and safety items have been cured prior to issuance of any PAE recommendation in favor of Section 8 HAP Contract renewal. The PAE need not reinspect the property but should obtain a statement or invoice from the owner indicating that the work is complete. Upon request of the PAE, the processing “clock” may be stopped if the PAE’s work is complete and the owner has not yet completed the correction of the work item.
4. If the project fails to demonstrate **physical soundness** and all other criteria are met, the PAE should recommend an appropriate approach. One approach that may be appropriate for some transactions is consideration of the property as a Full Debt Restructuring, which would provide funds for rehabilitation. Other alternatives, which would require special procedures and review by the OAHF Preservation Office, are special deposits from the owner to the Reserves for Replacements, or the establishment of a special repair escrow. (Where notable additional work by the PAE is required, the PAE should consider submitting a Form 2.16, requesting the transaction be converted to Tier 2.)

E. **Determine Market Rents.** The PAE should contract with a State-certified “General” Real Estate Appraiser to perform an independent market study as described in Appendix H. (If the PAE can show that the transaction will likely be ineligible as a Lite, the PAE may order a Limited Scope appraisal instead.) In addition to developing an independent market study, the PAE’s appraiser should also review the comparable market rents provided in any owner’s Rent Comparability Study and visit each comparable property selected by the owner’s appraiser. If the PAE’s appraiser disagrees with the selection of comparables and/or the comparability adjustments made by the owner’s appraiser, the report should document why the comparable/adjustment is inappropriate. Rents will be determined based on the “as-is” condition of the property. (Waivers will be considered for projects where financial commitments exist for improvements that would impact the rents.)

The PAE will review the comparable market rent data provided by the appraiser. The PAE should visit the site, all of the comparables submitted by its own appraiser, and the comparables of the owner’s appraiser if conveniently located or if necessary to resolve disputes.

The PAE should make any appropriate adjustments and briefly explain the basis for any such adjustments to arrive at the market rents that the property would command on the open market. The PAE should also provide brief support for its final rent determination, indicating which comparables were most heavily relied upon (averaging the rents of the adjusted comparables is generally not appropriate). PAEs must make this determination as carefully as if debt restructuring were involved.

F. **Determine Other Income, Vacancy, and Expense Estimates.** In calculating the adjusted NOI:

1. The PAE will use the commercial income, other income (excluding interest income), vacancy and collection losses, and operating expenses from the most recent annual audited financial statements, **if typical**. Typical means representative of stabilized, ongoing operations of the property. The PAE will determine whether there is reason to conclude that the current year's financial statements are typical using the property information submitted and the PAE's own knowledge and analysis, including consultation with Multifamily Hub or Program Center staff (where appropriate). If vacancy and collection losses or expenses are not thought to be typical and additional work is necessary to determine appropriate estimates, the PAE should consider submission of a Form 2.16 requesting that the transaction be converted to Tier 2. For example, (a) if it is learned that the vacancy in the property is steadily increasing, possibly due to reductions in the elderly population in the area, or (b) if commercial income in the past has stemmed from an entity that is no longer renting the space or the space is occupied by an identity of interest entity, it would be appropriate to request conversion to Tier 2 in order to complete a more thorough underwriting.
2. In cases where a typical amount would require a higher vacancy and collection loss factor, a higher operating expense, a lower commercial income, or a lower other income figure **that can be readily determined**, the PAE may explain the specific revision and use the resulting typical figure. (For example, if other income on the most recent statement includes a \$10,000 rebate of prior years' overpayments for Workers' Compensation, that rebate should be excluded in determining typical other income.) If needed, the PAE should obtain two additional prior years' audited statements from the applicable HUD field office or from the owner.

3. Stabilized operating expenses should be trended to bring the estimate up to the time of underwriting. Income may not be trended.
4. The PAE will determine the annual deposit to the Reserve for Replacements *that would be needed* to meet the project's needs over the term of the loan as identified in the PCA (without ever causing the Reserve balance to fall below the amount of one year's deposits the property was making prior to the Mark-to-Market Program). In making the calculation below, the PAE will use that assumed annual deposit. (The actual deposits to the Reserves need *not* be increased, even if the needs are greater than can be covered by the current Reserve balance and current ongoing Reserve deposits, so long as the property meets the debt service requirements specified in paragraph G below.)

In the rare case where a reduction to the annual deposit to the Reserve for Replacements is contemplated in the underwriting, the PAE should assure that the Project Manager is specifically advised of this circumstance as he/she may wish to reduce the deposit. The PAE should not delay completion of their processing awaiting HUD's action.

G. Calculate Adjusted NOI; Determine Financial Soundness.

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The PAE will use the Lite Underwriting Model, available on the HUD website, to calculate Adjusted NOI and determine financial soundness. The PAE will input the determined Market Rents, an appropriate vacancy factor (not less than 5%), Commercial and Other Income (excluding interest income), typical Operating Expenses, and the Annual Reserve deposits needed to cover future capital needs, and the model will calculate Adjusted Net Operating Income and Debt Service Coverage Ratio.

The Lite Underwriting Model will use the following methodology to calculate ANOI:

Take	Gross Potential Market Rents (as determined by the PAE)
Minus	5% vacancy and collection loss factor (or greater, if typical)
Plus	Typical Commercial and Other Income (after deducting vacancy and bad debt and excluding interest income)
Minus	Operating Expenses (typical, trended if appropriate)
Minus	Annual Reserve (assumed) deposits sufficient to cover future capital needs
Equals	Adjusted Net Operating Income, for Tier 1

If the Adjusted NOI divided by the debt service (Principal, Interest and MIP) for the existing FHA-insured loan produces a DSCR of 1.20 or greater, the property meets the **Financial Soundness** criterion. Whenever the PAE determines that the property is not likely to be successful as a Lite, the PAE should notify the owner immediately and encourage the owner to change his election to a Full restructure. The owner should be made aware as early as possible that the property is eligible for only one 12-month extension at the current HAP rents.

Lite Tier 2: Review and Underwriting

SECTION 10-7

A. Procedures for Review of a Lite Tier 2 Transaction; Underwriting Standards for Tier 2 Transactions. If a transaction is not approvable under Lite Tier 1, the PAE may recommend to OAHP that a transaction be processed as a Lite Tier 2, if

1. the PAE concludes that it is likely that the expenses or debt service may be able to be reduced sufficiently to achieve financial soundness without restructuring of the debt. If financial soundness can only be achieved through refinancing of existing debt, a substantial reduction in expenses, pay-down of the existing mortgage, or a deposit by the owner to the Reserve for Replacements, the owner must provide a written statement of intent agreeing to the refinancing, reduction, pay down, or deposit before renewal of the new Section 8 HAP Contract.
2. significant additional work must be done to approve a transaction as a Tier 1 Lite. In these cases, the OAHP Preservation Office will determine, when approving the Form 2.16, what parts of this Tier 2 section apply, if any.

In either case, the PAE will complete the process described in this Section and provide the appropriate support for its conclusions in the Form 10.1.

B. Notification of Tenants. The Notification of Tenants requirements of Section 10-6 B are also applicable to Tier 2 transactions.

C. Approvable Lite Tier 2 Projects. A project is approvable under Tier 2 if it is determined to be physically and managerially sound, and is determined to be financially sound under either of the following standards. Either the property

1. achieves a 1.20 DSCR (using current debt service or a reduced debt service achieved through refinancing of the existing debt with no partial payment of claim) using market rents and the more extensive underwriting described below or
2. is a stronger property (as defined in paragraph F, below) that achieves a 1.10 DSCR (using current debt service or a reduced debt service achieved through refinancing of the existing debt with no partial payment of claim) using market rents and the more extensive underwriting described below.

D. Lite Tier 2 Underwriting Standards.

To determine if the project meets Tier 2 criteria, the PAE will do the following:

1. Determine Managerial Soundness. The PAE will do the same review and use the same criteria as Tier 1.
2. Determine Physical Soundness. The PAE will do the same review using the same criteria as Tier 1, *except that, in the case of a Section 223(a)(7) refinancing*, ongoing deposits to the Reserve for Replacements will be changed, at the refinancing, to the amount assumed in the NOI Calculation in paragraph E, below.
3. Determine Market Rents. The PAE will do the same review and use the same criteria as in Tier 1.
4. Determine Other Income, Vacancy, Expense, and Reserve Estimates.
 - a) The PAE will *fully underwrite* any commercial and/or other income and the vacancy and collection loss for these categories. “Fully underwrite” includes review of the most recent three years of operating statements, analysis of the vacancy trends in the property and market, and analysis of the sources of commercial and other income and the likelihood of the continuance of such income. Where there is notable commercial income, full underwriting would include review of commercial lease provisions and assessment of the likelihood of continuance of this income. The PAE should use no less than a 10% physical vacancy factor and a 5% economic vacancy factor for commercial income.
 - b) The PAE will also *fully underwrite* expenses and discuss the conclusion with the owner. “Fully underwrite” includes review of the most recent three years of operating statements and line by line analysis of significant expense categories and expense trends. Justifications for expense items may commonly be very brief but should be more expansive where historic expenses in that line item have been erratic or contrary to expectation. To the extent possible, expenses should be compared to any other sources of expense information and/or verified with outside sources. If the property has been poorly maintained or poorly managed, the PAE should assure that the expenses estimated for maintenance and management are adequate to provide for good maintenance and management.
 - c) If the owner agrees that the property can be operated using the expenses determined in the underwriting, the PAE may proceed. If not, the property will be underwritten at a higher level of operating expenses with which the owner does agree.

- d) The PAE will use the same assumed annual deposit to the Reserves for Replacement as in Tier 1 Section 10-6 F.4 above.

E. Calculation of the Adjusted NOI for Tier 2 Transactions.

The PAE will use the Lite Underwriting Model, available on the HUD website, to calculate Adjusted NOI and determine financial soundness. The PAE will input the determined Market Rents, an appropriate vacancy factor (not less than 5%), Commercial and Other Income (excluding interest income), typical Operating Expenses, and the Annual Reserve deposits needed to cover future capital needs, and the model will calculate Adjusted Net Operating Income and Debt Service Coverage Ratio.

The Lite Underwriting Model will use the following methodology to calculate ANOI:

Take	Gross Potential Market Rents (as determined by the PAE)
Minus	5% vacancy and collection loss factor (or greater, if typical)
Plus	Typical Commercial and Other Income (after deducting vacancy and bad debt and excluding interest income)
Minus	Operating Expenses (typical, trended if appropriate)
Minus	Annual Reserve (assumed) deposits sufficient to cover future capital needs
Equals	Adjusted Net Operating Income, for Tier 1

If the Adjusted NOI divided by the debt service (Principal, Interest and MIP) for the existing FHA-insured loan produces a DSCR of 1.20 or greater, the property meets the **Financial Soundness** criterion.

F. Lite Tier 2: Options For Meeting Financial Soundness Test. If the property does not produce a 1.20 DSCR, the PAE can consider the following four options.

1. *Recommend Approval at Reduced DSCR for Strong Properties:* If the DSCR is **1.10 or greater**, and an adequate case can be made that the property is a strong candidate for long-term successful operations with this reduced DSCR, the PAE may

recommend approval. The PAE's supporting documentation should include consideration of any information provided by REAC and the Hub or Program Center, including prior management reviews. A "strong" property should meet the criteria below. Consideration should also be given to properties that have operated successfully at less than 1.20 DSCR for some time.

- a) The property is located in a strong market with little likelihood of a reduction in demand resulting from decreases in the eligible population due to a general population decline, job losses, weaknesses in the predominating industry, increases in the housing stock, or similar conditions.
 - b) The property is in good condition, as evidenced by the REAC score, PCA, and PAE inspection and the current owners maintain it in acceptable condition.
 - c) The property has had a comparatively stable rent, vacancy, and expense history over the past three years and there is no reason to believe that this would change in the future as a result of anticipated utility increases, the end of tax abatements, or similar foreseeable factors.
 - d) Considering tenant comments, prior management reviews and the PAE's review, the property has sound management with an acceptable history.
 - e) Based on the PAE's inspection, the PCA, market study and tenant comments, the property has no features such as extremely small units, poor location, or other factors that would render it non-competitive in a market situation.
2. *Recommend Approval if the Property **Could** Produce an Acceptable Debt Service Coverage Ratio (DSCR) with Refinancing of Existing Debt:* If the property **could** produce a DSCR of 1.20 or greater, or a DSCR of 1.10 or greater for a strong property, with a refinancing of the existing debt using generally available rates and terms and FHA mortgage insurance (or risk-sharing), the PAE may recommend approval provided that the owner's commitment to refinance is satisfactory to the Multifamily Hub or Program Center. Where the property could be viable with a 223(a)(7) refinance, PAEs should refer owners to the local Multifamily Hub or Program Center responsible for processing applications for firm commitment. PAEs are encouraged to assist the local HUD office and lender upon request by providing any relevant data (see also 10-8 A(7).)

3. *Recommend Approval, if Owner Provides Evidence of Financing Commitments Not Involving FHA Mortgage Insurance or Risk-sharing:* If the owner provides evidence of a commitment to refinance the existing FHA-insured loan without using full FHA mortgage insurance or FHA risk-sharing and the PAE, OAHP, and the Multifamily Hub or Program Center find the commitment satisfactory, the PAE may recommend approval. (See also 10-8 A(7).)
4. *Recommend Approval, if Deviations are De Minimis:* If the amount of dollars or percentage points by which the property fails to meet the DSCR criteria is de minimis, recommend approval. Such cases should be discussed with the OAHP Preservation Office before submission.

Approval of Lites

SECTION 10-8

- A. **Approval as a Lite.** If the PAE determines that the transaction can be approved as a Lite, Tier 1, the following procedures apply.
 1. The PAE will complete the electronic submission shown in Form 10.2, Electronic Submission of PAE's Lite Conclusions.
 2. The PAE will submit the narrative and conclusion described in Form 10.1, OAHP Reduction in Rent and Section 8 HAP Contract Renewal Justification and cover page, to OAHP, with a print out of the electronic submission (Form 10.2). This submission should address the issues covered in the Sections that are cited in the Form 10.1. If the owner has not submitted an owner's PCA, then a signed Form 4.7, Owner's Adoption of the PAE's PCA/Findings must be included in the submission.
 3. OAHP will review the PAE's recommendation, obtain any necessary corrections, accept or adjust the market rents, and draft a new Section 8 HAP Contract using the appropriate form. OAHP will estimate the Budget Authority and insert this amount in the new contract as the maximum amount of housing assistance authorized for that contract.
 4. OAHP will send the PAE Form 10.3(a), Market Rent Determination, and attach the new Section 8 HAP Contract for execution by the owner.
 5. OAHP will also send a copy of the 10.3(a) and the Section 8 HAP Contract to the Project Manager and the Hub or Program Center Director.

6. The PAE will send the Section 8 HAP Contract to the owner using Form 10.4(a), Notification to Owner of Market Rent Determination. The owner must execute the contract by the due date established in the letter (10 days from issuance) and provide the executed contract to the Project Manager. Owners must also provide a new rent schedule reflecting the approved rents and gross rent change certifications for tenants to the Project Manager. Gross rent changes do NOT require recertification of tenant income or expenses and do not affect annual recertification schedules (see Handbook 4350.3, Chapter 3 and Appendix 11). If the Section 8 HAP contract is not executed by the due date, HUD will be unable to honor the owner's vouchers under the higher rents and will have no choice but to assume that the owner intends to opt out of the Program.
 - a. This notice includes guidance to the owner on appeals. Execution of the contract does not interfere with the owner's ability to appeal.
 - b. The PAE will use the Form 10.4(b) cover letter, Notification to Project Manager of Market Rent Determination, to provide a copy to the Project Manager of the Notification to the Owner, so that the existing HAP Contract can be terminated and the fund reservation process for the new HAP Contract can begin. The PAE should provide an additional copy, including the cover letter, to the Section 8 Contract Administrator and the OAHP Preservation Office.
 - c. The PAE will assure that the M2M MIS system data is complete. This includes entering the date the Section 8 HAP Contract was sent to the owner and the date the PAE received a copy of the Section 8 HAP Contract signed by the owner.
7. In the event that a Tier 2 Lite is approved subject to refinancing in accordance with section 10-7 F(2) and F(3) above, the owner will be given 60 days after approval to obtain a Firm Commitment for financing. If the owner has failed to obtain a Firm Commitment at the end of 60 days, the PAE will process the transaction as an Ineligible Lite, as described above in section 10-5 B.
8. Upon request, the PAE will supply the owner with the information it has used to reach its conclusion (the PCA and Market Study, the draft income and expense spreadsheet, and the PAE's justification for its selection of market rents). These materials should be provided by overnight mail.

9. The Project Manager will: (a) terminate the existing Section 8 HAP Contract as of the expiration date listed in the Notification to Owner as described in Form 10.4(b) and (b) prepare to complete the fund reservation and execution process for the new Section 8 HAP Contract when received from the owner. The Project Manager will also update the REMS system when processing is completed. **These Section 8 HAP Contract execution procedures should proceed regardless of any appeals process.**
10. The **owner should execute** the Section 8 HAP Contract, prepare a new rent schedule reflecting the approved rents and gross rent changes for tenants in the project and provide this to the Project Manager with a copy to the PAE.
11. If the **owner fails to execute** the contract, future owner vouchers for Section 8 funding under the existing contract will not be paid. OAHP will inform the Project Manager that a copy of the new Section 8 HAP Contract has not been received by the PAE by the due date and to assume that the owner intends to opt out. If tenant-based assistance to the tenants is required, the Project Manager will provide the owner with a short-term renewal in order to comply with the one year notice requirements to tenants and/or to provide sufficient time to process tenant vouchers.
12. If there is an **appeal** (See Section 10-9), OAHP will discuss the appeal with the PAE and reach a final determination. If the appeal:
 - a) **results in an increase** in the market rents, OAHP will provide a revised Form 10.3(a) and a revised Section 8 HAP Contract to the PAE (with a copy to the Project Manager and the Section 8 Contract Administrator). The PAE will send Form 10.5, Notification to the Owner of Results of Appeal of Market Rent Determination, with the revised Section 8 HAP Contract indicating that rents have been increased and the appeals process is complete. The PAE should provide a copy of the notice, using the Form 10.4(b) cover letter, Notification to Project Manager of Market Rent Determination, to the Project Manager, with a copy to the Section 8 Contract Administrator and the OAHP Preservation Office.
 - b) **does not result in an increase** in the determination of market rents, OAHP will notify the owner, using Form 10.7(a), Notification to Owner of Failure of Appeal, with a copy to the Project Manager, Section 8 Contract

Administrator, and the PAE, that the review is finished and the appeals process is complete.

Appeal Process for Lites

SECTION 10-9

The owner has **one** opportunity to appeal the OAHP decision related to the determination of market rents or, if applicable, the determination that the transaction is ineligible as a Lite. The PAE will notify the owner of its appeal rights as part of the form notification letters.

The owner will have 20 days from the date of the notification to appeal to the OAHP Preservation Office, addressing all points of disagreement. The OAHP Preservation Office will review the appeal, discuss it with the PAE, make a final determination and respond within 30 calendar days of receipt of the owner's appeal with a copy of its determination to the Project Manager, Section 8 Contract Administrator and the PAE.

List of Business and Legal Forms

SECTION 10-11

No.	Title
10.1	OAHP Reduction of Rent and Section 8 HAP Contract Renewal Justification and Cover Page
10.2	Electronic Submission of PAE's Lite Conclusions
10.3(a)	Market Rent Determination; Transmittal of Section 8 HAP Contract
10.3(b)	Agreement with PAE's Determination of Ineligible Rents; Market Rent Determination
10.3(c)	Ineligible Lite/Conversion to Full Refused; Market Rent Determination; Transmittal of Section 8 HAP Contract
10.4(a)	Notification to Owner of Market Rent Determination; Transmittal of Section 8 HAP Contract
10.4(b)	Notification to Project Manager of Market Rent Determination; Transmittal of Section 8 HAP Contract
10.4(c)	Notification to Project Manager of Ineligibility for M2M/Market Rent Determination
10.5	Notification to Owner of Results of Appeal of Market Rent Determination; Transmittal of <i>Increased</i> Market Rents and Revised Section 8 HAP Contract
10.6(a)	Notification to Owner of Ineligibility as a Lite; Transmittal of Form for Re-Election under Housing Notice H 99-36
10.7(a)	Notification to Owner of Failure of Appeal
10.7(b)	Notification to Owner of Failure of Appeal; Transmittal of Form for Re-election under Housing Notice H 99-36
10.8	Notice to Owner / Conversion Refused; Determination of Market Rents
10.9	Lite Credit File Checklist
10.10	Notice of Rent Reduction Without Debt Restructuring