



OFFICE OF HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

MEMORANDUM FOR: All Multifamily Regional Center Directors  
All Multifamily Asset Management Directors

FROM: Tobias Halliday, Director, Office of Asset Management and  
Portfolio Oversight, HTG

SUBJECT: Policy Modification for Requesting Waivers for  
HUD-Commissioned Rent Comparability Studies

This memorandum modifies the Office of Asset Management and Portfolio Oversight's (OAMPO) policy on approving waivers for HUD-commissioned third-party Rent Comparability Studies (RCS). This memorandum supersedes the memoranda of the same subject issued on May 29, 2018 and September 14, 2018.

**1. Summary of Third-Party RCS Requirements:**

Section 9-14.C of the Section 8 Renewal Guide states in part the following:

“If the [owner’s] RCS based median rent for the Subject Project’s assisted units exceeds 140 percent of the Median Gross Rent for the project’s zip code, then a HUD-commissioned RCS would be required. In such a scenario, HUD will hire an independent third-party appraiser through its Contracting Officer to prepare another RCS for the Subject Project. For RCS submitted that include “as-is” and “post-rehab” market rent estimates, if either the “as-is” estimate or the “post-repair” estimate exceeds the threshold, then a HUD study would be required.”

Owner RCS Submission and Review Procedures are as follows:

Step One: An Owner will procure and submit an RCS pursuant to guidance in Sections 9-7 through 9-13 of the Section 8 Renewal Guide.

Step Two: The Contract Administrator or HUD (when HUD is the Contract Administrator) staff performs an initial screening of the RCS for completeness and timeliness pursuant to Section 9-16.A of the Section 8 Renewal Guide.

Step Three: A Contract Administrator qualified appraiser (or a HUD Multifamily appraiser or appropriate HUD staff, when HUD is the Contract Administrator), completes a Substantive Review of the owner’s RCS pursuant to Sections 9-15-18 of the Section 8 Renewal Guide. This step includes notifying the owner of the Substantive Review results, a consultation between the Contract Administrator or HUD appraiser and the owner’s appraiser (if needed), and any appeal of the study results by the owner.

Step Four: If when following Step Three, the median rent of the owner’s RCS results in a median rent that exceeds 140 percent of the Median Gross Rent for the project’s zip code, the HUD Regional or Satellite staff must then procure a third-party RCS.

Step Five: HUD Regional or Satellite staff will review and approve the completed Third-Party RCS using the “Initial Checklist” as directed in Section 9-14.C of the Section 8 Renewal Guide. Additional information on the process is described in the Guide.

## **2. Eligibility for Waiver of the Requirement for a Third-Party RCS:**

Multifamily Headquarters will consider a waiver of the requirement to obtain a Third-Party RCS only if both the below conditions are met and upon the recommendation of the Regional Director:

- a. Inability to conduct the Third-Party RCS in a timely manner. Regional Center/Satellite Offices must adequately demonstrate insufficient time and/or funding in a request for a waiver of this requirement.
  - There is a time sensitive need to finalize the rents. A compelling time-sensitive situation will most often involve the need to complete a scheduled loan closing, comply with Low-Income Housing Tax Credit deadlines, or other critical preservation-related deadlines. The owner’s RCS must have been submitted at least 60 days prior to the request for a waiver to be considered on this basis; and/or
  - There are insufficient contracting funds available.

AND

- b. The owner’s RCS has a median bedroom size rent amount that is less than 120 percent of the project’s Small Area Fair Market Rent (SAFMR) amount for that same median bedroom size unit in metro areas or less than 120 percent of the FMR for the county or town where the project is located for areas without a SAFMR.

## **3. Waiver request procedures:**

Under the conditions described under (2) above or (4(b)) below, the Regional Director may request a waiver of the requirement for a third-party RCS. The waiver request must include the date of the substantive review of the owner’s RCS and the recommended median rent amount from that review.

Third-party RCS waiver requests are to be submitted using the revised Excel file “5.27.20 3rd Party RCS Waiver Request Form.xlsx” located in the Multifamily SharePoint Policy Library. The completed Excel file is the only document required for submission and should be emailed to [FAM\\_Mail@hud.gov](mailto:FAM_Mail@hud.gov). Waiver requests must be submitted by the Regional Director—neither the owner/agent nor the Contract Administrator has authority to submit or process any component of a Third-Party RCS waiver request.

The waiver request should be completed by referring to the Excel file “Rent Amounts 3rd Party RCS Waiver Requests.xlsx” located in the Multifamily SharePoint Policy Library. This file

contains the following data in separate worksheets:

1. Instructions and examples for determining 120 percent of SAFMR or FMR;
2. The 140 percent of median gross rent by zip code;
3. SAFMR for metro area zip codes; and
4. The state and county FMR for non-metro areas. If the project's zip code is not on the SAFMR worksheet, the project is in a non-metro area and the project's state and county should be used to determine the non-metro FMR.

Regional Asset Management staff must use this information to establish the level of 120 percent of SAFMR (or non-metro FMR). Waiver requests are authorized only if the owner's median rent is at or below 120 percent of SAFMR (or non-metro FMR).

#### **4. Provisions for Third-Party RCS Review During the 2020 Coronavirus Pandemic:**

Because of travel and unit access limitations created by the Coronavirus Pandemic, the following additional waiver conditions apply until withdrawn by the Director of the Office of Asset Management and Portfolio Oversight.

- a. Upon written notification by HUD's contracted RCS appraiser that a third-party RCS cannot be performed because of restricted access to the property or to occupied units, the Regional Director may authorize, on a case-by-case basis, use of one or more of the following options to assist in the completion of the RCS:
  - If the appraiser has access to the Project, conduct inspections of vacant units, but only if the appraiser is able to certify that the units inspected are representative of all the units and includes a written certification in the appraisal stating so. The appraiser must provide a detailed review of the units inspected and how they differ from others considered for the valuation.
  - Use video recordings of virtual unit inspections under the direction of the appraiser;
  - Use construction drawings and other available documentation to supplement their physical inspections.
  - Use information from CoStar or other reporting services to supplement their physical inspections.
  - Include and note any recent previous inspections.
  - Contract with a local, qualified appraiser to perform the site inspection in his/her stead, with the name and qualifications of the appraiser conducting the site visit and a description of the limitations of their inspection, if any, to be included in the RCS report.
- b. If the flexibilities above are not sufficient to prepare a third-party RCS, the Regional Director may request a Headquarters waiver of the third-party RCS requirement as described in (3) above.

If you have any questions, please contact [Carissa Janis](#) at (202) 402-2487.