



Understanding HAP Contract Renewals, Opt Outs, and Terminations

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Types of HUD “Multifamily” Housing Programs

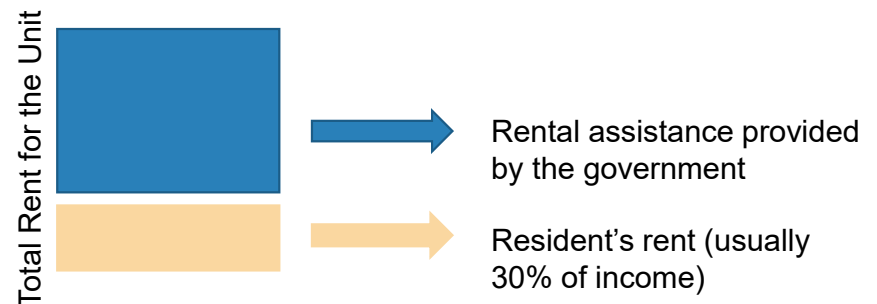
Mortgage Programs

- *Loans and mortgage insurance* (with low interest rates) from HUD to private owners *to build and manage affordable housing*
 - Loans include rent and use restrictions for a certain number of years (~40-50 years)
 - Ex: Section 236 program, Section 202 program



Rental Assistance Contracts

- *Contract* between HUD/public housing authority and private owner to provide *rental assistance* for low-income residents
 - Rental assistance supplements what the resident pays for rent
 - Ex: Project-based rental assistance, project-based vouchers, Moderate Rehabilitation program, Rent Supplement program, Rental Assistance Payment program



HAP Contract Renewals

Why is HAP contract renewal important?

- HAP contracts = usually 20-year term
 - Most owners are not required to renew HAP contract at the end of its term
 - Owner decision to renew or “opt out” of the HAP contract depends on variety of economic (rent levels) and non-economic (administrative burdens) factors
- HAP contract is critical to maintain resident rents and preserve affordable homes



Contract Renewal Options

- Renew HAP contract for 1-20 years (at current rent)
- HUD “Mark Up to Market” program (5-20 years)
- HUD “Mark to Market” program
- Rental Assistance Demonstration (RAD) Component 2 (for Mod Rehab, Rent Supp, RAP, Section 202 PRAC properties only)



Refinancing Options

- Many properties have growing repair needs, but few federal programs address them
- Options (capital and rental assistance) include:
 - Low Income Housing Tax Credits
 - Mark Up to Market
 - Rental Assistance Demonstration (RAD)
 - Project-Based Vouchers
 - Section 223(f) and Section 221(d)(4) mortgage insurance programs
 - State/local funds



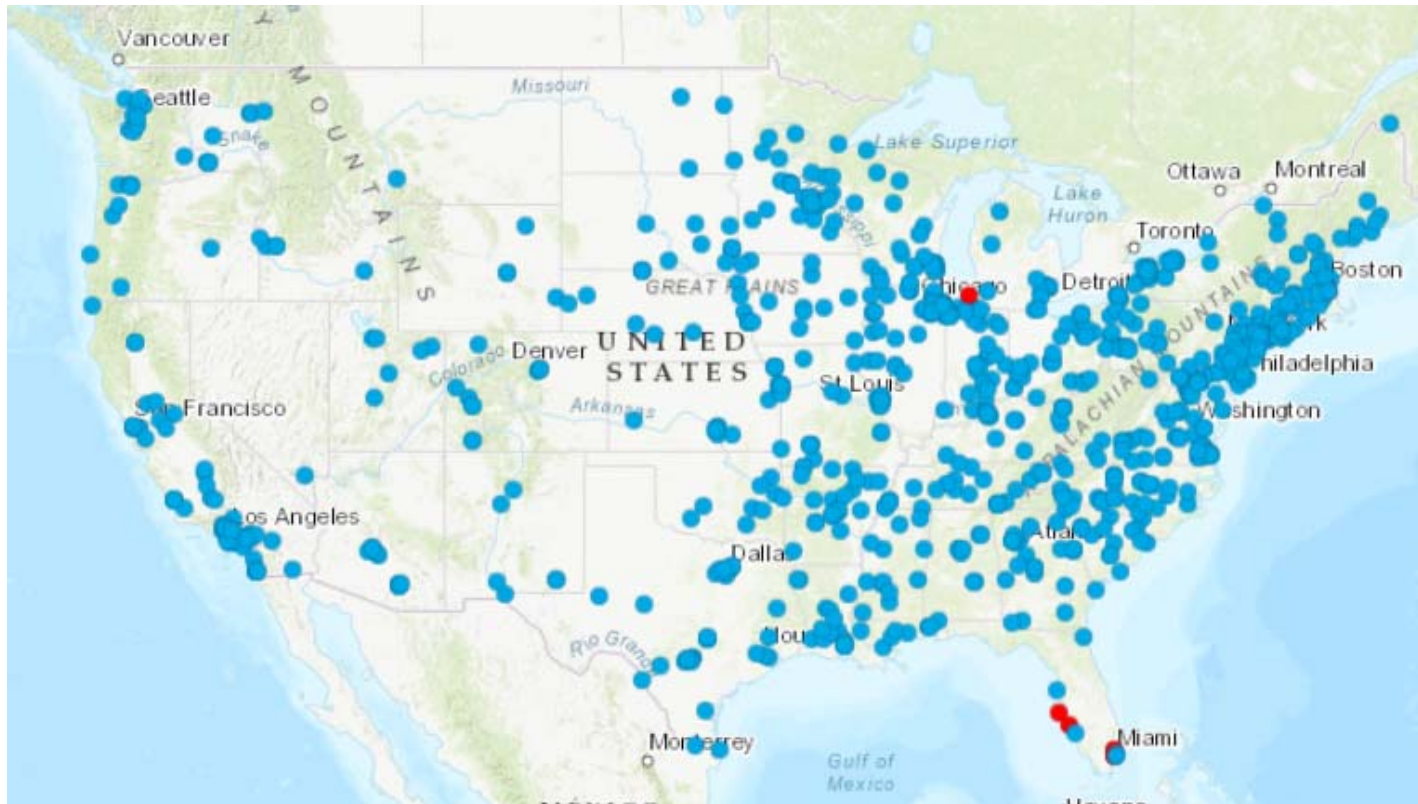
HAP Contract Opt Outs

HAP Contract “Opt Out”

Contract “opt out” is when the owner decides *not to renew* the rental assistance contract when it *expires*



Potential Contract Opt Outs Within Next 5 Years



[National Housing Preservation Database](#)

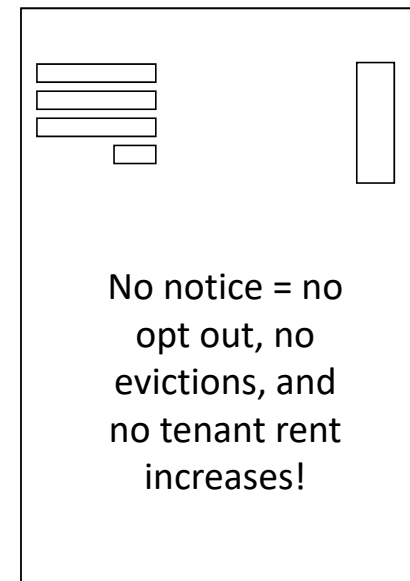
Challenging HAP Contract Opt Outs

1. Is the property in a **gentrifying area** or “hot market”?
2. **Who is the owner** and do they receive other funding? Is the owner interested in **renewing the contract**?
3. **What do the tenants want**?
4. Are there **immediate issues** that need to be addressed?
5. Has the **owner** provided the proper 12-month and 4-month **notices**?
6. Is the owner willing to renew the contract if they receive **additional funding** from HUD? Does the property need **funding to be repaired**?
7. If the property is a Mod Rehab, Rent Supp, RAP, or Section 202 PRAC property, is the owner interested in **RAD**?
8. Is there **another owner** that is willing to **purchase** the property?
9. Will the owner agree to a **Section 8(bb) transfer**?



Notice Requirements

- Federal law requires that owners give a **1-year** written notice to *tenants and HUD* that the HAP contract is expiring
 - This notice **must** (see [HUD Section 8 Renewal Policy Guide](#)):
 - Clearly state the owner's intentions (to renew or not renew)
 - Be served directly to each unit in the property or mailed to each head of household
 - Be translated
- Owner must confirm with HUD their final decision **4 months before** the HAP Contract expires (renew or opt out)



Opt Out = Enhanced Vouchers for Tenants

- If the contract is not renewed, federal law requires **Enhanced Vouchers** to be provided to tenants
- Enhanced Vouchers = Housing Choice Vouchers + additional tenant protections:
 - **Tenant right to remain**
 - EV tenant has the *right to remain* in their home, and the owner *must* accept the EV, as long as the property remains rental housing and has a reasonable rent
 - **Higher payment standard**
 - EV pays the difference between the tenant's rent and the *market* rent charged by the owner, even if that new rent is greater than the PHA's voucher payment standard
- If tenant moves, Enhanced Voucher becomes regular Housing Choice Voucher

HAP Contract Terminations

HAP Contract Termination

Contract termination is when HUD *terminates* the rental assistance contract with the owner because the *owner has violated the contract*



Responding to HAP Contract Termination

1. **Why** is HUD proposing to terminate the HAP Contract?
2. Has HUD tried **other methods** to resolve the issues besides terminating the contract?
3. Will the owner **sell the property to a responsible owner** for preservation?
4. Will the owner agree to a **Section 8(bb) transfer**?



Contract Termination = Housing Choice Vouchers

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- If the contract is terminated, the residents are entitled to receive *tenant-based Housing Choice Vouchers*
 - No EV right to remain
 - No EV higher payment standard
 - Use depends on landlord's willingness to accept the voucher



HAP Contract Renewals, Opt Outs, and Terminations in Practice

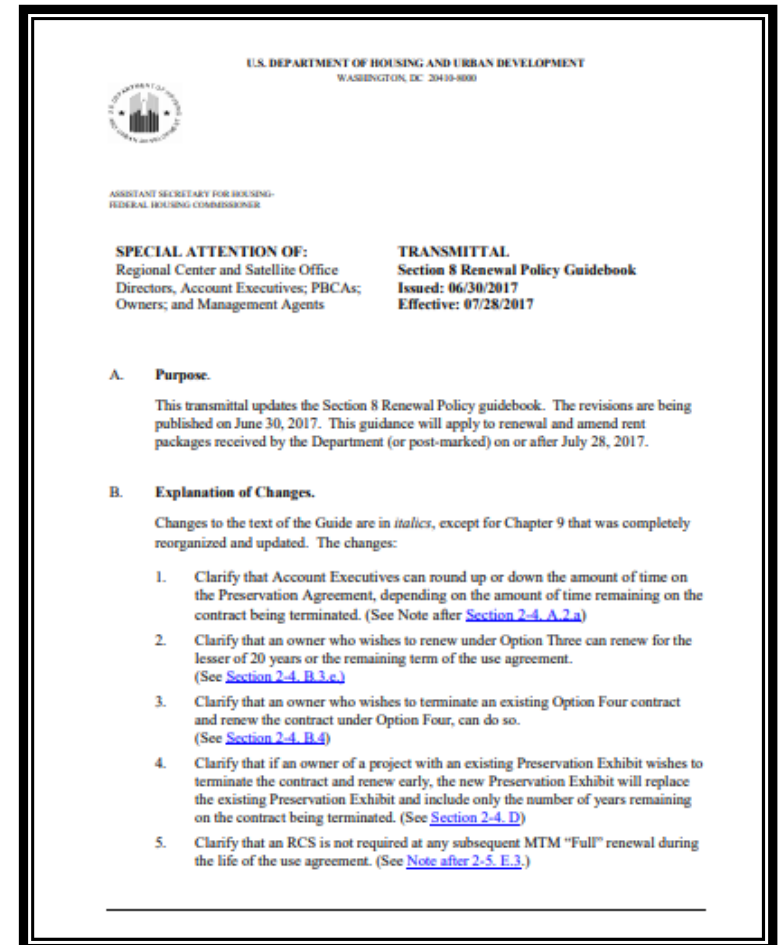
Emily Coffey, Sargent Shriver National Center on Poverty Law

Natalie Minev, Legal Aid Foundation of Los Angeles

Additional Resources and Legal Authorities

Important HAP Contract Resources

- [Section 8 Renewal Policy Guidebook](#)
- [HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs](#)
- [National Housing Preservation Database](#)



Questions?



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