

**§ 401.652**

decision to terminate, modify, or affirm the original decision. HUD will act, as necessary, to implement the decision, for example, by offering a revised Restructuring Commitment to the owner.

(c) *Who is responsible for reviewing appeals?* HUD will designate an official to review any appeal, conduct the conference, and issue the written decision. The official designated must be one who was neither directly involved in, nor reports to another directly involved in, making the decision being appealed.

[65 FR 15485, Mar. 22, 2000, as amended at 72 FR 66040, Nov. 26, 2007]

**§ 401.652 No judicial review.**

The reviewing official’s decision under § 401.651 is a final determination for purposes of section 516(c) of MAHRA and is not subject to judicial review.

**PART 402—SECTION 8 PROJECT-BASED CONTRACT RENEWAL UNDER SECTION 524 OF MAHRA**

Sec.

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- 402.6 What actions must an owner take to request section 8 contract renewal under this part?
- 402.7 Refusal to consider an owner’s request for a Section 8 contract renewal because of actions or omissions of owner or affiliate.
- 402.8 Tenant protections if a contract is not renewed.
- 402.9 Waivers and delegations of waiver authority.

AUTHORITY: 42 U.S.C. 1437(c)(8), 1437f note, and 3535(d).

SOURCE: 63 FR 48953, Sept. 11, 1998, unless otherwise noted.

**§ 402.1 What is the purpose of part 402?**

This part sets out the terms and conditions under which HUD will renew project-based assistance contracts

under the authority provided in section 524 of MAHRA.

[71 FR 2121, Jan. 12, 2006]

**§ 402.2 Definitions.**

(a) *Terms defined in part 401.* In this part, the following terms have the meanings given in § 401.2 of this chapter: affiliate, disabled family, elderly family, eligible project, HUD, MAHRA, owner, PAE, Restructuring Plan, and section 8.

(b) *Terms defined in MAHRA.* In this part, the following terms have the meanings given in section 512 of MAHRA: expiration date, fair market rent, renewal, and tenant-based assistance.

(c) *Other defined terms.* In this part, the term—

*Comparable market rents* means rents determined in accordance with section 524(a)(5) of MAHRA and HUD’s instructions.

*Large family* means a family of five or more persons.

*OCAF* means an operating cost adjustment factor established by HUD, which may not be negative, that is applied to the existing contract rent (less the portion of that rent paid for debt service).

*Portfolio Reengineering demonstration authority* means the authority specified in section 524(e)(2)(B) of MAHRA.

*Project-based assistance* means the types of assistance listed in section 512(2)(B) of MAHRA, or a project-based assistance contract under the Section 8 program renewed under section 524 of MAHRA.

*Project eligible for exception rents* means a project described in section 524(b) of MAHRA.

*SRO contract* and *SRO project* mean, respectively, a project-based assistance contract for single-room occupancy dwellings under section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), and a project with units covered by such a contract.

[71 FR 2121, Jan. 12, 2006]

**§ 402.3 Contract provisions.**

The renewal HAP contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other