

Subject: FW: <External Message> OMB Control No. 2502-0587 - HUD Assignment, Assumption and Amendment of HAP
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I have forwarded your comments to the office that will assist your further. Thanks

From: Meyers, Margaret (MSHDA) <MeyersM@michigan.gov>

Sent: Tuesday, January 31, 2023 11:09 AM

To: Pollard, Colette <Colette.Pollard@hud.gov>

Cc: Meyers, Margaret (MSHDA) <MeyersM@michigan.gov>

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Hello, I am the assigned legal counsel to our PBCA program and have a few suggested comments on the form of Assignment, Assumption and Amendment of HAP.

1. The first comments relate to the relationship between the Original HAP Contract and the Renewal Contract. Because the Renewal Contract renews the unmodified provisions of the Original HAP Contract, and they are not incorporated into the Renewal Contract, the Original HAP Contract continues in effect. It would make the most sense if the form of Renewal Contract actually incorporated the unmodified provisions; but since it does not, the following revisions to the proposed form are suggested.

Section I.B. should be revised as follows:

B. If the Original HAP Contract previously expired, it was renewed under a contract ("Renewal Contract") or under successive Renewal Contracts, as authorized under the Multifamily Assisted Housing Reform and Affordability Act of 1997, 42 U.S.C. § 1437f note, and the Renewal Contract currently in effect, TOGETHER WITH THE ORIGINAL HAP CONTRACT AS RENEWED BY THE RENEWAL CONTRACT, ARE ~~is~~ being assigned, assumed, and amended.

Section I.E. should be revised as follows:

E. The term "HAP Contract" means the Original HAP Contract ~~(if no Renewal Contract) or the~~ AND ANY Renewal Contract currently in effect, as applicable. The term "Contract Administrator" means the current contract administrator (HUD, or a PHA, as applicable), as identified on page 1.

2. With respect to Section I.C., shouldn't the Renewal Contract also be attached? This is the currently active contract with rents, term, assisted units, etc. Our contractor also notes that the original contracts aren't always available; would an alternate section be acceptable, or should the recital be deleted?
3. The signature blocks for the seller and buyer should include more open space for a more complex ownership structure. We are seeing that most owners are now squeezing in several lines for their general partner or managing member and the entities within those that are authorized to sign. **Better yet, make this a section that can be edited by the buyer and seller.** A typical ownership signature block will look like this:

HOUSING PROJECT OWNER LIMITED PARTNERSHIP

By: Housing Project GP LLC

Its: General Partner

By: Housing Project Manager, Inc.

Its: Manager

By: _____
(signature of authorized representative)

John Smith, its President
(name and official title of signatory)

4. I recommend strongly that this document have three separate signature pages, so that the Contract Administrator and HUD are on separate pages, as this will make signing much simpler and the document cleaner. Also, I think that instead of DEPARTMENT OF HOIUSING AND URBAN DEVELOPMENT it should read U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

Thank you for consideration of my comments.

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