April 8, 2016

Office of Multifamily Housing  
Asset Management and Portfolio Oversight  
Department of Housing and Urban Development  
451 7th Street SW  
Washington, DC 20410–0500

**Via email to** [**Section8renewalguide@hud.gov**](mailto:Section8renewalguide@hud.gov)cc: Priya Jayachandran; Nancie-Ann Bodell; Kate Nzive; Stan Houle

**RE:** Chapter 9 of the Section 8 Renewal Policy Guide, proposed changes as posted February 23, 2016 to the Section 8 Drafting Table at <http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/MFH_policy_drafts/sec8guide>

Following are the comments of LeadingAge to the draft of Chapter 9 of the Section 8 Renewal Policy Guide as posted on February 23, 2016 to the Section 8 Drafting Table at <http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/MFH_policy_drafts/sec8guide> for stakeholder review and feedback.

The mission of LeadingAge is to expand the world of possibilities for aging. Our membership has a service footprint of 4.5 million and includes a community of 6,000 members representing the entire field of aging services, including not-for-profit organizations, state partners, and hundreds of businesses, consumer groups, foundations, and research partners. LeadingAge is a tax-exempt charitable organization focused on education, advocacy, and applied research. LeadingAge (then AAHSA) was a key participant in the extensive and collaborative process used to develop the initial rent comparability guidance.

We appreciate the effort of the department to update its guidance and to reorganize elements within it, consistent with its efforts to improve business processes and consistency in the field. This is the first substantial update of the rent comparability policy guidance in almost 17 years.

Despite departmental characterization of the document as “*substantially reorganized, but contain[ing] few changes in departmental policy*”, we have found many substantive changes which raise concerns. As a major driver for early policies addressing the recognition of the value of supportive services in senior housing (whether or not the resident paid for them), many of our comments below will focus on that area.

Additionally, we urge HUD to engage openly and intentionally with a broad base of stakeholders to reassess this chapter in its currently proposed version. Transparency and thorough dialogue are necessary to ensure that the final product be a credible and reliable document.

**Background on the History of the Rent Comparability Study**

In the first years after enactment of MAHRAA, the Rent Comparability Study (RCS) was used primarily for determining which properties would be eligible to mark their rents up to market (and by how much), and which would have to go through a financial restructuring in order to bring their rents down to market. It was a re-baselining of rents used to ensure that the government was not paying excessive amounts of subsidy to properties with surplus reserves or overly inflated rents. The role of the RCS has expanded greatly over the years, and has become an almost universal method for establishing caps for all rent adjustments, without rebalancing its use in consideration of subsequent policy changes that have been implemented to reduce project reserves, repurpose residual receipts and other efforts to reduce federal outlays.

It should further be noted that the rent comparability study was specifically exempted under MAHRAA from application to Section 202 senior housing (and other properties, identified elsewhere in the guide under Option 4). Yet HUD continues to force its use in all cases concerning budget-based rent adjustments, despite our insufficiently answered inquiries seeking justification, and regardless of our detailed challenges to and clearly articulated arguments against authority to sustain such practices.

**Proposed Changes Characterized as “Minimal, Focusing Primarily on Process”**

The Department has proposed to revise Chapter 9 of the Section 8 Renewal Policy Guide that describes the process for creating and reviewing a rent comparability study.   On the Drafting Table site, HUD indicated that revisions in Chapter 9 include:

* Enhancing the format and layout to include:  a roadmap that appraisers can use, reorganized appendices, separate concepts from the technical details and established an introduction for each section,
* Strengthen standards and criteria and procedures that include:  stronger narrative requirements, clearer definition of “nominal”, an updated RCS sample, and communication protocols,
* Established tools and techniques that include:  a mandatory market rent threshold (140% benchmark), revised checklists for reviewers, minimum qualifications for non-appraiser reviewers, triggers for a second review.

In the RHIIP Listserv announcements, HUD described the new draft as having been “*substantially reorganized, but contain[ing] few changes in departmental policy.  Revisions include: organizing the material for each stakeholder group, requiring stronger narratives, updating the Sample RCS, and revised reviewer checklists*.”

**Reasons for Our Concerns**

Despite HUD’s characterizations to the contrary, we have found the proposed changes to include significant expansion of policy, assertions of new benchmarks and thresholds, expanded authority for review by non-appraiser certified staff, and elimination of right to appeal such key components as the selection of comparable properties used in HUD commissioned studies. All of this taken together seems designed to constrain the ability of properties to be truly evaluated against the market. Our continued dismay that HUD policy denies congressional intent to exclude Option 4 properties from comparability, notwithstanding, these changes seem to further subvert the intent of congress that the rest of the multifamily assisted housing portfolio be both evaluated and supported fairly, consistent with true market forces.

Our detailed comments and recommendations can be found in the grid attached, but some examples of these concerns include the insertion of thresholds or benchmarks for adjustments (usually set at $10, for such items as inclusion of certain appliances (air conditioning, microwaves or dishwashers), balconies, patios, etc.) and an apparent cap of “no more than $30 total for the 4 line items which comprise non-shelter services” (including adjustment thresholds of $10 for existence of service coordination, business centers and neighborhood networks), and the erroneous assertion that "it is unusual for a project to offer more than two or three distinct categories of non-shelter services."

Not all changes are necessarily objectionable, but may still need work. For example, addition of "Acceptable (A)" as new rating for condition/street appeal sounds good and reasonable. However, the additional statement "no other classifications are acceptable" (beyond Excellent, Good, Average, Fair, or Poor) suggests that there have previously been problems with the rating scale. While attempts to ensure consistency in identical dollar amount of adjustment factors applied to comparables may be well-intentioned, appraisers may not agree that the variable between one "excellent" property and another will always have the same dollar value. This, too, should be thoroughly vetted with professional appraisers, before adoption.

**The Unfortunate, Almost Ironic, Timing of Limiting Valuation of Services**

It is especially unfortunate that proposals to cap valuation adjustments for non-shelter services are being made now, in light of the recently issued HUD notice of funding availability designed to promote and measure the value of enhanced service coordination and insertion of a part-time wellness nurse in up to 40 communities in up to 12 states across the country. It is also ironic. LeadingAge, a major proponent of policies and practices designed to help seniors to successfully age in community in their HUD-subsidized affordable senior housing residences, has been working collaboratively with the department to promote applications to participate in the research demonstration. HUD should reevaluate the mixed messaging created by such assertions and remove all reference to threshold caps that could otherwise establish arbitrary limits on an appraiser's valuation of such services.

As reflected in our comments, there a number of supportive services programs (to include nutrition support; health and wellness activities like intentional incorporation of wellness nurse, education, screening, primary care, mental health care, medication management, telehealth, etc.; and homemaker assistance and personal support that goes beyond housekeeping and laundry, but could include other things like shopping. . .often through partnerships with organizations that place staff onsite, often supported by fundraising, grants and/or nominal resident participation fees which do not begin to touch on the cost, let alone the value, of the service) blossoming across the country in low-income senior housing which can have significant impacts on the residents - not just in terms of improved quality of life, but also with the potential to have measurable impacts on demand for other federal, state, and local government services, as has already been seen in recent research (in part funded by HUD) demonstrating the value of service coordination and other efforts which prevent unnecessary use of emergency room and hospital services and delay or prevent transfers to higher levels of care.

In closing, we respectfully urge HUD to convene a small stakeholder group to ensure that future changes are developed in collaboration with willing participants to include housing providers, HUD program staff, real estate professionals and appraisers, as all have significant interest in assuring that the final product be a credible and reliable document, upon which so much is at stake.

Thank you for the opportunity to comment. Please contact me at [cbloom@leadingage.org](mailto:cbloom@leadingage.org) or 202 508-9483 with any questions.

Sincerely,

Colleen Bloom  
Director, Housing Operations

**Reformatted Email and Line-by-Line Commentary:**

Thank you for posting the proposed changed document to the Drafting Table for comment.

We appreciate the effort of the department to update its guidance and to reorganize elements within it, consistent with its efforts to improve business processes and consistency in the field.  And to solicit feedback in writing to the proposal.

However, for the various reasons we address in our attached letter and the specific line-item comments, we urge HUD to engage openly and intentionally with a broad base of stakeholders to reassess this chapter in its currently proposed version prior to making further changes or scheduling for implementation.

**Section 9-9C: Page 10 Line 369**Glad to see "must identify all amenities *and services"(*emphasis ours) in lead paragraph (as opposed to former "project characteristics")

**Section 9-9c2: Page 11 Line 375**Correct typo: Reference at end of paragraph incorrectly cites Appendix 9-1-2, page 11 - should be page 15 - 16.   
  
We appreciate the instruction emphasizing the appraiser pay attention to the differences that tenants would value as opposed to previous lanugage focusing on (and perhaps confusing the issue for the appraiser) provider and payor for the services. NOTE HOWEVER, when it comes to valuing the differences, instructions in referenced Appendix 9-1-2 incorrectly portray potential scope, number and type of services - and introduce a cap that we strongly disagree with and will address in that section comment.

**Section 9-9c3: Page 11 Line 386**Expand list of potential services; clarify that this is *not an all-inclusive list.*This section instructs appraiser to consider availability of a specific, defined list of of non-shelter services - i.e., emergency call systems, transportation, soecial or educational activities, service coordination, meal, laundry or housekeeping. These reflect standard elements of senior housing from the minimum construction standards (call systems) and core Congregate Housing Services Program (CHSP) range of services. However, as compiled and assessed in various recent studies of senior housing plus services, this list may be too limiting and does not appear to allow for identification/recognition of the "other supports and services" which are referenced in Notices h 99-12 and H 98-12 - nor incorporate/address the range of key requirements as incorporated into existing Assisted Living Conversion Program (ALCP) activities or the current HUD supportive services demonstration NOFA - that may be of "value" in the market. Therefore, we recommend broadening the language to allow for the identification of such additional supports and services as may be available at or through arrangements made by the property including, but not limited to:  
• Social and recreational activities  
• Transportation  
• Meals and nutrition support (as some properties have relationships with foodbanks or other programs that bring groceries to the property)  
• Health and wellness (which could encompass several activities: including a wellness nurse, health related classes and education, screening, primary care, mental health care, medication management, telehealth, coordinated care management (like SASH), etc.)   
• Homemaker assistance and personal support (which include housekeeping and laundry, but also include other things like shopping or other support as organized through partnerships with organizations that place staff onsite)  
• Aging Services Technologies (which could encompass on-site health monitoring kiosks, or partnerships providing passive sensor and activity monitoring with technology providers and/or local universities, and advanced types of emergency call systems which go beyond original fixed location pull-cords, etc.)

**Section 9-10 B1: Page 13 Line 485**We appreciate inclusion of new language concerning minimum qualifications of non-state-certified ("non-appraiser") substantive reviewers to include successful completion of training within 12 mos of performing first substantive review. This is a significant improvement over past guidance, which required only to have “read and understood” the chapter.

**Section 9-11 A3: Page 17 Line 653**We are glad to see the imperative "must" in the instructions to determine if project provides non- shelter services, as we agree there is value in availability and coordination, regardless of provider or payor. However, statements about services "included in rent" vs "covered by an additional fee" may need further clarification.   
  
It is unclear whether "included in rent" means "no fee" services (like access to a budget-funded service coordinator) or if it could encompass universal access to on-site supports and services (health kiosks, 3rd party grant funded wellness nurses, use of portable personal safety monitoring systems, etc) that require no direct per-person or per-usage payment of the resident; and if "covered by an additional fee" refers strictly to services approved add-on fees/collections (like for parking, mandatory meals or collections for renter insurance), or if it is meant to identify more generally whether there are out-of-pocket fees paid by residents on a recurring or per-use basis to the service provider, who may (or more likely may not) be the housing provider. Are you trying to get at voluntary additional cost paid by the resident, beyond rent, for the service as/when accessed? Then, as noted, still knowing there are programs and services available may have value, regardless of participation and/or out-of-pocket cost - as cost is likely to be less to the individual because of their participation in a cost-efficient community setting as opposed to private-pay in disconnected settings. Yet the value of knowing services are available when/if/as needed should not be overlooked.

**Section 9-11 A3b: Page 17 Line 659**The list of services provided here is limited, and needs to either be expanded (as noted above and consistent with our recommendations for 9-9 C3), or amended by adding a general "or other services" at the end of the short list. We recommend further discussion with stakeholders.

**Section 9-14 C: Page 24 Line 933**Reverse the policy position/statement "There are no negotiations allowed nor is there an appeal process for differences between the two RCSs".   
  
HUD policy in the paragraphs above (still in 9-14 C) creates an acceptable variance (of anything less than, and only up to 105% of the HUD study) for owner provided RCSs, but establishes/allows (by omission) an unlimited variance for HUD commissioned RCS. There should be some general agreement in owner-provided and HUD commissioned RCS facts/figures, or else a negotiation should ensue to assure that properties are not unreasonably crippled by establishing a rent threshold too low as the result of unjustifiable selection of comparables, amount of adjustments of derivation of concluded rents. Explanation, justification and mediation (if necessary) should be accepted parts of the process, in both directions.

**Section 9-15 A2b and B1: Page 27 Line 1028**We appreciate inclusion of new language concerning minimum qualifications of non-state-certified ("non-appraiser") substantive reviewers to include successful completion of training within 12 mos of performing first substantive review. This is a significant improvement over past language for staff having "read and understood" Chapter 9. 19-15 B1 instructions for assessments of of skills/training are also appreciated as significant responsibility and authority lies with the substantive reviewer. Additional subsequent professional training on a regular/recurring basis (i.e., every two years?) and/or standards for frequency and quality assessments of substantive review submissions would further enhance this section. We recommend a discussion with stakeholders to explore further.

**Section 9-16 A: Page 28 Line 1066**Inclusion of standardized checklists for use by HUD and CA staff a signficant improvement over old 9-17A permissions to allow field and Contract Adminisrators to develop their own worksheets for review of completeness. This should help improve consistency in processing and understanding of what constitutes a "complete package."

**Section 9-16 B3b: Page 29 Line 1106**Correct typo: "$20 red" increase should be $20 rent increase

**Appendix 9-1-2: Page 4 Line 34**Change directive on blank vs. "zero" entries where no adjustment is made.   
Because owners must certify to the completeness of the RCS prior to submission, blank lines could be the result of omission as well as commission. A "zero" entry would ensure consistent understanding that, while distinctive characteristics may be noted between subject and comparable, the appraiser has clearly determined that there is no value to be placed on the difference.

**Appendix 9-1-2: Page 5 Line 10**Adopt expanded language "supporting market-based evidence regarding the value of these services" for use elsewhere in document when discussing non-shelter services (including at Appendix 9-1-2 lines 28 - 32, etc)

**Appendix 9-1-2: Page 10 Line 17**Adopt and apply this language "adjustment may be warranted based on market preferences" and "RCS appraiser must explain the basis for any adjustment exceeding $10" for non-shelter services. Here, these provision are applied to differences in structure/stories, and do not include any caps. Such provisions are also applied to balconies/patios (on page 12/line 32); for AC (page 12/line 40) ; implied for microwave/dishwasher (page 13/line 9 "typically");

**Appendix 9-1-2: Page 10 Line 28**The new language (lines 27 - 33) providing guidance on type and appropriate adjustment amount (here, for age of building and/or time since renovation) needs to be reviewed closely, as the basis for the assertion is not given and it is not clear that the Appraisal Institute or other such professional appraiser certification and training bodies have seen or accepted such directives.

**Appendix 9-1-2: Page 10 Line 35**Addition of "Acceptable (A)" as new rating for condition/street appeal is good. The additional statement "no other classifications are acceptable" (beyond Excellent, Good, Average, Fair, or Poor) suggests that there have previously been problems with the rating scale. Attempts to ensure consistency in identical dollar amount of adjustment factors applied to comparables, however (at lines 10 - 12, p. 11) may be well-intentioned, but market justification may not agree that the variable between one "excellent" property and another will always have the same dollar value. This, too, should be thoroughly vetted with professional appraisers, before adoption - or removed altogether and substituted with more supportable guidance "adjustment may be warranted based on market preferences" and "RCS appraiser must explain the basis for any adjustment" not in agreement with other similar condition/appeal adjustments. (see above #13)

**Appendix 9-1-2: Page 11 Line 17**Addition of "Acceptable (A)" as new rating for neighborhood characteristic is good. The additional statement "no other classifications are acceptable" (beyond Excellent, Good, Average, Fair, or Poor) suggests that there have previously been problems with the rating scale. Attempts to ensure consistency in identical dollar amount of adjustment factors applied to comparables, however (at lines 27 - 33, page 11) may be well-intentioned, but market justification may not agree that the variable between one "fair" property and another will always have the same dollar value. This, too, should be thoroughly vetted with professional appraisers, before adoption. Or removed altogether and substituted with more supportable guidance "adjustment may be warranted based on market preferences" and "RCS appraiser must explain the basis for any adjustment" not in agreement with other neighborhood adjustments. (see above comment #12)

**Appendix 9-1-2: Page 13 Line 20**Is this an acceptable standard, to condition valuation based on the marketing staff of the comparable, not the appraiser? New statements concerning only adjusting for type of floor covering (line 19), window coverings (line 20), or other special features (line 22) "if there is evidence, *based on the experience of property managers and leasing agents" -* suggests at a minimum a new level of work for appraiser - to ascertain atypical level of detail from comparable site staff. Additionally, seems a rather unusual directive to defer to comparable staff over appraiser knowledge/experience. Recommendation: Convene stakeholder workgroup to evaluate further, including Appraisal Institute or other appraisal professional standards groups.

**Appendix 9-1-2: Page 15 Line 11**Appreciate expansion of recognized security features of "secured site access, and exterior/corridor lighting"

**Appendix 9-1-2: Page 15 Line 22**Reevaluate and modify the "important note" concerning lines 28 – 32 which currently contains 3 numbered statements eliciting a range of feedback responses.   
We agree with and appreciate the statement at Item 1 (regarding valuing availability of services even if there is a charge).   
  
However, item 2 offers no support for the statement asserting that there should generally be a lesser value placed on service offered to residents at a charge, as the note fails to consider/address/recognize that nominal charges are increasingly used to assure mindful engagement and/or actual follow-through of a participant, without being reflective of either the value in the market or the actual cost of the delivery of the service (i.e., having some "skin in the game").   
  
And item 3 efforts to cap total net adjustments by a specific dollar figure ($30 cumulatively) are highly objectionable as HUD is attempting to limit or cap potential market fluxuations (here and later on page 6 where adjustments for individual services are capped at $10 each) and, further, makes the erroneous assertion that "it is unusual for a project to offer more than two or three distinct categories of non-shelter services."   
 Recent studies show that a wide range of non-shelter services and supports are increasingly being provided to residents through on-site and/or coordinated efforts with state and/or local services providers, and even as part of targeted health care demonstration programs. The value to the residents of these efforts (to say nothing of the value to the property, community, city and/or state - or the potential savings to Medicare and/or Medicaid, which is increasingly being studied and researched) should not be artificially minimized or constrained, nor should the range of opportunities and their potential market value to current and potential residents be in any way limited by the specific categories proposed in line 31).   
 Therefore, we recommend broadening the language in Line 31 to allow for the unlimited identification of and adjustments ("as supported by market-based evidence regarding the value of these services") for such additional supports and services as may be available at, or as the result of arrangements made by, the property including, but not limited to:  
• Social and recreational activities  
• Transportation  
• Meals and nutrition support (as some properties have relationships with foodbanks or other programs that bring groceries to the property)  
• Health and wellness (which could encompass several activities: including a wellness nurse, health related classes and education, screening, primary care, mental health care, medication management, telehealth, coordinated care management (like SASH), etc.)   
• Homemaker assistance and personal support (which include housekeeping and laundry, but also include other things like shopping or other support as organized through partnerships with organizations that place staff onsite)  
• Security and monitoring (which could encompass on-site physical security personnel, or partnerships providing passive sensor and activity monitoring with technology providers and/or local universities, etc.)

**Appendix 9-1-2: Page 15 Line 35**

Remove proscribed fixed dollar value adjustment and NOTE-referenced total net adjustment for business center/neighborhood network.   
  
Comparability studies should accept evidence of market value, without artificial or perceived constraint Inserting a specific value or suggested cap in this manner may result in the application of an effective cap or perceptions that the static figure should be applied in perpetuity, making this guidance subject to more frequent need for review/update.

**Appendix 9-1-2: Page 16 Line 1**Remove proscribed fixed dollar value adjustment and NOTE-referenced total net adjustment for service coordination.   
  
Comparability studies should accept evidence of market value, without artificial or perceived constraint. Inserting a specific value or suggested cap in this manner may result in the application of an effective cap or perceptions that the static figure should be applied in perpetuity, making this guidance subject to more frequent need for review/update.

**Appendix 9-1-2: Page 16 Line 7**Remove proscribed fixed dollar value adjustment and NOTE-referenced total net adjustment for non-shelter services.   
  
Comparability studies should accept evidence of market value, without artificial or perceived constraint. Inserting a specific value or suggested cap in this manner may result in the application of an effective cap or perceptions that the static figure should be applied in perpetuity, making this guidance subject to more frequent need for review/update.

**Appendix 9-1-2: Page 16 Line 15**Remove proscribed fixed dollar value adjustment and NOTE-referenced total net adjustment for blank/other types of social support programs .   
  
Comparability studies should accept evidence of market value, without artificial or perceived constraint. Inserting a specific value or suggested cap in this manner may result in the application of an effective cap or perceptions that the static figure should be applied in perpetuity, making this guidance subject to more frequent need for review/update.

**Appendix 9-5-4: Page 43 Line 4**Remove erroneous statement "it is rare for a project to offer more than two or three distinct categories of non-shelter services". And discuss with stakeholders and appraisal professionals establishment of an appropriate amount that should realistically trigger a second review.