

HUD Regulatory Issues Affecting Project-Based Section 8 Housing

North Tampa Housing Development Corporation

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Session Instructor

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Agenda

- Funding Only Requests
- Auto OCAF
- Policy Change Regarding Budget Submissions
- LIHTC Compliance Costs
- Utility Analysis Policy
- Draft Section 8 Policy Guidebook Proposed Changes
- Revised Draft of HUD Form 9834



Funding Only Requests

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Funding Only Requests

HUD has recently provided a clarification of the statute which affects the practice of offering a “Funding Only” rent adjustment option. The exact guidance of MAHRA is:

Sec. 524 of MAHRA language in 8(c)(1)

“c) Rent Adjustments After Renewal of Contract.--

(1) Required.--After the initial renewal of a contract for assistance under section 8 of the United States

Housing Act of 1937 pursuant to subsection (a), (b)(1), or (e)(2), the Secretary **shall annually adjust the rents using an operating cost adjustment factor established by the Secretary (which shall not result in a negative adjustment)** or, upon the request of the owner and subject to approval of the Secretary, on a budget basis.”



Funding Only Requests

- Effective immediately Owners can no longer request a “funding only” rent increase and will be required to either accept the OCAF rent increase or submit a budget based rent increase which supports a 0 percent increase.
- This guidance does not necessarily apply to preservation contracts as those rent increase methods are governed by the Contract Language.

Auto-OCAF

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Auto-OCAF

- On May 26, 2011, Florida began the pilot stages of the Auto-OCAF process.
- Eliminates the requirement for the Owner to calculate the OCAF rent increase and submit an OCAF Worksheet and a cover letter to NTHDC during amend rents years to obtain an OCAF rent increase.
- If project is eligible, NTHDC will process a-OCAF 150 days in advance of the anniversary date.

Auto-OCAF

- O/A's will be required to verify the Debt Service and the Non-Section 8 Rent potential.
- O/A's will also need to complete Part G of the Rent schedule, execute, and return to NTHDC within 10 (ten) days.
- If the O/A elects to have rents increased by a budget, then the owner must decline the OCAF and submit the budget package to NTHDC.

Auto-OCAF

- For properties with Utility Allowances, NTHDC will not be able to complete the rent adjustment process until a full utility analysis has been submitted.
- Having the Utility Analysis before the rent increase process begins will help streamline the process and eliminate the need to process duplicate rent schedules.

Policy Change Regarding Budget Submissions

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Budget Based Rent Adjustments

- NTHDC has recently been informed by HUD Florida of a modification in policy regarding budget-based rent adjustments. As of June 1, 2011, NTHDC will now require Owner/Agents to supply supporting documentation for any and all budget line items increasing by **5% or \$500.**



How Does this Impact the O/A?

- Prior to this shift in policy, NTHDC only required supporting documentation for line items increasing by more than 5% **and** \$500. As a result of this modification in policy, Owner/Agents may be required to supply more supporting documentation than in previous year's budget submissions.



What Constitutes Supporting Documentation?

- Supporting documentation varies according to the line item in question. For line items such as Contracts (#6520), NTHDC requires copies of the contracts along with the supporting billing invoices.
- Other line items such as Supplies (# 6515), Office Expenses (# 6311), Audit Expenses (# 6350), Conventions and Meetings (# 6203), Advertising and Marketing (# 6210), Legal Expenses (# 6340), and Bookkeeping/Accounting Fees (# 6351) may only require a statement from the Owner/Agent.



What Constitutes Supporting Documentation?

- This statement should include a reason for the increase and a detailed outline of the expenses included in the line item account.
- For increases in Utilities, (#6420, #6450, #6451, #6452, and #6453) NTHDC will require bills or invoices and/or a statement from the utility provider detailing the expenditure increase and the reason for it.



LIHTC Compliance Costs

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LIHTC Compliance Costs

- Owner's preparing a budget-based request in connection with certain MAHRA renewal options and rent adjustments who also have low income tax credits **“may include in their budget the cost of annual compliance reports (a.k.a state allocating agency's compliance and asset monitoring fees) that must be submitted to the tax credit allocation entity.”**.

Utility Analysis Policy

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Utility Analysis Policy

- On June 20, 2011, HUD issued a memo clarifying the Utility Allowance regulations. In this memo, HUD stated that owner/agents must submit a Utility Analysis annually accompanying their rent increase request. The Utility Analysis requirement is now considered part of a complete rent adjustment package.

Utility Analysis Policy

- Additionally, **all** decreases (regardless of the \$ amount or %) in the Utility Allowances must be approved by HUD. If you have processed a utility analysis where you have determined that a decrease is necessary, NTHDC will forward the information to the assigned HUD Project Manager for review and approval.

Utility Analysis Policy

- Another very important change to the UA policy has also been implemented. In the past, NTHDC has given the O/A the option to increase (or decrease) their UA when the change was less than 10%, **this will no longer be the case.** The O/A must implement any change to the Utility Allowance regardless of the amount of the change.

Draft Section 8 Renewal Policy Guidebook Proposed Changes

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Proposed Changes

- On July 22, 2010, HUD issued an advanced notice regarding proposed changes to the Section 8 Renewal Policy Guidebook.
- The renewal process will be drastically changed if the draft changes are approved.

Budget Calculations

- The budget will no longer include a 2 percent contingency reserve for projects owned by nonprofits and those projects once owned by nonprofits but which have been sold to limited dividend partnerships.
- For-profit and nonprofit owned projects with 100% Section 8 may include a vacancy loss rate of 3% in the budget.

Budget Calculations

- For nonprofit owners, a 6% return on initial equity investment will be included in the budget calculations.
- Budgets will reflect the project's current debt service. (except 202 refi's with a Debt Service Savings Agreement)

DUNS Requirements

- All project owners must register and obtain a Data Universal Numbering System (DUNS) number.
- This number must be affixed to all contracts, payment vouchers, and contract renewal request forms.

Rent Adjustment Timelines

- If a rent adjustment package is submitted late, the owner will not be penalized on their rent effective date.

Option Four- Renewal of Projects Exempt from or not Eligible for Debt Restructuring

- Projects may renew under option 4 if they are financed under the risk-sharing loan program, Section 542(b) and (c) of the Housing and Community Development Act of 1992.
- Projects renewed under Option 4 who are requesting a budget based rent adjustment must submit an RCS.
- Allow owner to terminate their contract early in order to participate in Capital Repairs Program

Draft Revised HUD Form 9834

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Draft Revised HUD Form 9834

- On June 10, 2011, HUD issued a draft revision to HUD Form 9834.
- Comments are due to HUD by August 9, 2011
- Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1-800-877-8339).
- <http://www.federalregister.gov/articles/2011/06/10/2011-14470/notice-of-proposed-information-collection-comment-request-form-hud-9834-management-review-for#p-4>

Draft Revised HUD Form 9834

- Form includes:
 - The use of Numerical Scoring
 - Added an entire new section listing specific EIV reports that must be reviewed during the desk review.
 - New Question regarding whether state lifetime sex offender registration question is included on the application
 - New Question: does application include a list of states where the applicant household has resided?

Draft Revised HUD Form 9834

- New Question: form HUD 92006—Supplement to Application for Federally Assisted Housing” attached to the application package?
- New section added to capture compliance with EIV Systems access and security.
- New section added to assess O/A compliance in using EIV data and reports.
- New section: addresses TRACS security, ROB certifications and annual “Security Training Certificate”

Draft Revised HUD Form 9834

- New Question: related to VAWA documentation being kept in a separate file other than the tenant file.
- New items—now must list specific errors on the form for: 9887/9887A; Lead Paint disclosure; Resident Rights; EIV and You; Fact Sheet and Race and Ethnicity
- New Question regarding EIV income reports used for 3rd party verification of employment and income and how O/A resolves and documents

Draft Revised HUD Form 9834

- New Question: Do MI files indicate that the O/A utilizes the EIV Existing Tenant Search for all household members and apps?
- New Question: asks for acknowledgement in the file that docs were provided to tenant: 9887/9887A; LBP, Resident Rights, EIV and You, Fact sheet.
- New Questions: Asks if O/A resolved EIV multiple subsidy issues; and verification of discrepant personal identifiers and subsidy as indicated by EIV reports

Draft Revised HUD Form 9834

- New Question: Asks if each state where household reported residency has been checked for lifetime sex offender registration OR if background checks are done by using a database that check s against ALL state registries.
- New questions regarding O/A documentation of EIV follow up on discrepancies/repayment agreements/New hire reports.

Questions???

