

Guidelines for Post Settlement Monitoring

Housing Development Grant Projects

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Grantee	Reviewer	Date of Review
Project Name	Project Number	

I. Guidance on HDG Occupancy and Rent Requirements

HDG occupancy requirements are identified in Section 850.151 of the HDG regulations, Section 5.03 of the Grant Agreement, and in the Tenant Eligibility Rent Mechanism signed by the project owner as part of the Owner/Grantee Agreement. Note that some of the occupancy restrictions that apply to Public Housing and other subsidized housing programs do not apply to the HDG program. An HDG project owner, for example, may permit occupancy by families that are larger or smaller than would be permitted by other programs for specific bedroom sizes. The monitor should, however, warn the grantee of any violation, e.g., if the units were designated for families and consistently serve the elderly.

HDG lower-income rent calculations are, in most cases, entirely different from those of other subsidy programs under the United States Housing Act. While the other programs calculate a tenant's rent based on 30 percent of its income, as adjusted for allowances based on the tenant's circumstances (e.g., family size, child care allowances), the HDG Program formula assigns a fixed rent to all lower-income units with the same number of bedrooms for all projects in a county or metropolitan area. The HDG fixed rent is calculated at 30 percent of the adjusted income of a family at the Section 8 very low-income limits (i.e. 50 percent of the area median). Income adjustments are fixed by bedroom count based on the size and other circumstances of a prototypical lower-income household in a unit of the same bedroom size.

The HDG formula rents are calculated using Exhibit M-5 of the Application Packet which is completed at application submission and incorporated, as may be revised, in the Grant Agreement (This form is included as Appendix 3 of this document). Rents are only increased based on adjustments to HUD's determination of the very low-income limit (usually 50 percent of median income) for an area.

The tenant rent contribution may be supplemented by Federal rent subsidies (i.e., Section 8 or vouchers) only up to the amount of the HDG formula rent. However, State or local governments may provide higher subsidies. On the other hand, tenants are determined eligible to occupy the HDG units based on their unadjusted annual income. Tenants with incomes less than or equal to 80 percent of the Section 8 published income limits are eligible to occupy HDG units. Appendix 3 has been included to assist you in verifying eligibility when reviewing the owner's records. A review of the Rent and Tenant Eligibility Mechanism attached to the Owner/Grantee Agreement prior to the on-site visit is recommended.

24 CFR 850.151(f) requires that if a tenant is determined to be over income at the time of recertification, the owner must notify the tenant that it must move when the current lease expires or six months after the date of notification, whichever is later. Alternatively, the owner may continue the lease to that tenant and designate another unit with the same bedroom count for a lower-income family.

In some instances, to satisfy relocation requirements or to enhance the initial application's competitiveness, the owner has committed to provide units to very low-income families who pay the lower of HDG Program formula rents or rents calculated in accordance with 24 CFR 813.107(a). Where this commitment has been made to meet the HDG relocation requirements of 850.35(a), the restriction on tenant contribution applies only to those tenants initially occupying the units. In all other cases, every subsequent tenant must be very low-income upon occupancy as well. The difference between the HDG Program formula rent and 30 percent of a very low-income tenant's adjusted income will generally be subsidized by project revenues, or an escrow account from owner's funds or grantee contributions as prescribed in the Grant and/or Settlement Agreements.

II. Tenant Rent Mechanism

1. Has the grantee maintained a process for monitoring the HDG rent and occupancy restrictions that:

a. Reviews and approves increases in rents for the lower-income units on at least an annual basis?

Yes ☐ No ☐

If yes, are such computations correctly calculated? (Use Appendix 3.)

Yes ☐ No ☐

b. Reviews for changes in the Personal Benefit Expenses (PBE) when reviewing requests for rent increases and uses the criteria established in the Tenant Rent Mechanism attached to the Owner/Grantee Agreement?

Yes ☐ No ☐

c. Enforces the owner's commitment to maintain market rate rents within the guidelines in the grant agreement?

Yes ☐ No ☐

If not applicable, mark NA.

NA ☐

d. Defines the income adjustments for the very low-income tenants who are required to pay no more than 30 percent of income for rent and ensures that the adjustments are consistent with 24 CFR 813.102? (Reference the Grant Agreement to determine if this requirement is applicable to any tenants. Generally, this requirement is applicable only where there is temporary relocation of very low-income tenants to meet relocation obligations of 24 CFR 850.35(d).)

Yes ☐ No ☐

If not applicable, mark NA.

NA ☐

e. Ensures that the grantee/owner has appropriately disposed of situations where a tenant in a lower-income unit was over income at time of recertification (24 CFR 850.151(f))?

Yes ☐ No ☐

If not applicable, mark NA.

NA ☐

If yes, check one of the following:

(i) The grantee/owner converted a vacant market rate unit with an equal number of bedrooms to a lower-income unit, and gave appropriate notice to the over-income tenant of a rent increase?

Yes ☐ No ☐

or

(ii) The grantee/owner notified the tenant that the household must move within the appropriate time period?
If no, describe any deficiencies found:

Yes ☐ No ☐

III. Administration of Project Operating Accounts

1. Does the Grant/Settlement Agreement require an operating subsidy (including any escrows to subsidize very low-income tenants) funded by:

a. HDG Project Investment Account (PIA)?

Yes ☐ No ☐

b. Owner, grantee or other source?

Yes ☐ No ☐

If the answers to both a. and b. are no, go to Part IV.

2. Does the balance in the account appear sufficient to meet the purposes of the Grant/Settlement Agreement?

Yes ☐ No ☐

3. If there is an HDG-funded PIA:

Review the guidance provided in the 1987 HDG Application Packet (page 51) and answer the following:

a. Have the frequency and amounts of disbursements been made in accordance with the Investment Plan on file with HUD?
(A current plan was to be filed as a precondition to cost settlement, if not, request one from the owner/grantee.)

Yes ☐ No ☐

b. Has the grantee required from the owner sufficient financial records to determine that the full amount of the PIA disbursements are warranted?

Yes ☐ No ☐

c. How has the grantee treated excess PIA disbursements?

Explain:

IV. Other Administrative Concerns

1. Has there been a change in project ownership?

If yes, does this change involve a change in the controlling ownership from minority or female to non-minority or male?

If not applicable, mark NA.

(By virtue of the competitive advantage in the selection process, minority or women controlling ownership is required for seven years from the date of initial rent-up.)

Yes ☐ No ☐

NA ☐

2. In accordance with the Settlement Agreement, have all owner obligations to provide equity through payments against initial operating deficits, or to the grantee, been met?

Yes ☐ No ☐

If no, describe the status. If not applicable, mark NA.

NA ☐

3. If the HDG was a loan to the owner,

a. have repayments begun?

Yes ☐ No ☐

b. have repayments been in accordance with the Grant Agreement?

Yes ☐ No ☐

If no, explain:

4. Has the grantee used its program income, including excess PIA disbursements, in accordance with Chapter 1, Paragraph 1-4(b) items (3) and (4) of this Handbook?

Yes ☐ No ☐

If not applicable, mark NA.

NA ☐

Comments:

5. Has the grantee otherwise defaulted under the terms of the Grant and Settlement Agreements, as defined in Chapter 1, Paragraph 1-4(b) items (1), (2) and (5) through (9) of this Handbook? Yes ☐ No ☐

If yes, comment here:

6. Is the grantee acting to ensure that rental of vacant units and treatment of existing tenants is consistent with all applicable Federal anti-discrimination requirements? Yes ☐ No ☐

Explain a no answer and/or refer to a separate report conducted by FHEO or grantee staff:

7. If there is a delegation or agency agreement empowering another party to perform HDG grantee functions, is the agreement being properly implemented in accordance with Grant and Settlement Agreement? (The grantee remains ultimately responsible for all HDG activities.) Yes ☐ No ☐

If no, explain:

8. Does the annual (single) audit of the grantee indicate that the grantee's financial management system and, if the HDG Program is covered, administration of the HDG Program, are in accordance with HUD requirements? Yes ☐ No ☐

If no, explain:

9. Has the grantee maintained all records pertinent to the HDG program for three years after submission of the last Grantee Progress Report? Yes ☐ No ☐

10. Has the grantee consistently maintained annual records of project occupancy and preserved each record for at least three years? Yes ☐ No ☐

V. Visit to the Project Site

1. Review a sample of the owner's tenant files for the lower-income units to determine that:
- a. appropriate rents are being charged? (Use Appendix 3 to make this determination) Yes ☐ No ☐
 - b. tenant incomes are appropriately verified annually? Yes ☐ No ☐
 - c. lower-income tenants occupy the appropriate number of units by bedroom sizes as approved? (Use Appendix 4 to make this determination) Yes ☐ No ☐

2. If Exhibits B and/or C of the Grant Agreement do not contain a requirement to serve very low-income households, check this box and go to question 3 below. ☐

- a. Very low-income households who reside in the project as a result of the HDG one-for-one replacement requirements, 24CFR 850.35(d), pay rent in accordance with:
- (i) 24CFR 850.151(e), if the household replaces a household which was permanently displaced as a result of the construction or rehabilitation under HDG. Yes ☐ No ☐
 - (ii) 24CFR 813.107(a) or the HDG formula rent, 24CFR 850.151(e), whichever is less, until such time as they voluntarily move, if the household was temporarily displaced as a result of construction or rehabilitation under HDG. Yes ☐ No ☐

(iii) Are the very low-income tenants who reside in the Project as a result of the HDG relocation requirements paying appropriate rents?

Yes ☐

No ☐

If no, advise the grantee on the proper rent structure.

Comments:

b. In the Grant Agreement, some owners committed to set aside a number of units for households who are determined to be very low-income at the time of occupancy. This commitment applies to any new household who occupies the unit during the Project Term. Such households are to pay rents in accordance with 24 CFR 813.107(a) or the HDG formula rent, whichever is less.

Do the tenants who reside in the specified (in the Grant Agreement) number of units meet the restriction and pay the appropriate rent?

Yes ☐

No ☐

If no, advise the grantee of the proper rent structure.

Comments:

c. Has the owner correctly determined adjustments to the very low-income tenant incomes before computing rent in accordance with 24 CFR 813.102?

Yes ☐

No ☐

3. Where HDG tenants hold Section 8 Certificates, does the PHA reimburse only the difference between the HDG formula rent and 30 percent of tenant income? If not applicable, mark NA.

Yes ☐

No ☐

NA ☐

Number of Tenants: _____

Where HDG tenants hold Housing Vouchers, is the contract rent the HDG formula rent? (The tenant may not benefit from the shopping incentive.) If not applicable, mark NA.

Yes ☐

No ☐

NA ☐

Number of tenants: _____

If necessary, contact the local PHA to correct this process and describe the results of the contact here:

4. Based on the review of the owner's records, does it appear that the owner has committed a substantive violation as defined in Chapter 1, Paragraph 1-4(a) of this Handbook that has not been addressed by this guide?

Yes ☐

No ☐

If yes, comment here: