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Introduction

Guidebook for Section 8 Contract Administration Initiative

This guidebook outlines a uniform process for Contract Administrators (CAs) to administer and oversee certain project-based subsidy contracts, under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f). Guidebook users may include CAs, Office of Multifamily Housing and other United States Department of Housing and Urban Development (HUD) staff, property owners, management agents, and property residents.

This guidebook does not address contract administration of Section 8 properties assisted under the Moderate Rehabilitation program, or any Section 8 certificate or voucher programs.

This guidebook is issued in response to HUD's award of contracts under the 1999 Request for Proposals for Contract Administrators for Project-Based Section 8 Housing Assistance Payments (HAP) Contracts. Following contract awards, HUD will enter into Annual Contributions Contracts (ACCs) with the CAs. ~~Where a conflict exists between this guidebook and the ACCs, the ACCs will take precedence.~~

HUD may revise this guidebook as necessary, announcing any revisions to affected individuals and organizations by posting changes on the HUD website at www.hud.gov or any other method identified by HUD.

Introduction

In May 1999, HUD published a Request for Proposals (RFP) for Contract Administrators for Project-Based Section 8 Housing Assistance (HAP) contracts. The RFP covered approximately 16,000 project-based assistance contracts administered by HUD. Another 4,200 contracts are currently administered by Public Housing Agencies (PHAs) that will continue to administer these contracts under the existing terms of the ACCs. When these 4,200 contracts expire, HUD anticipates transferring these to the CAs selected under the RFP.

In soliciting contract administration services, HUD sought to achieve:

- correct calculation and payment of Section 8 rental subsidies;
- consistent administration of project-based Section 8 HAP contracts;
- enforcement of owner obligations to provide decent housing for eligible families.

HUD also targeted several administrative objectives:

- execute ACCs only with entities that have the qualifications, resources, and expertise necessary to oversee and manage affordable housing administration;
- get the best value for dollars spent on CA services;
- encourage joint ventures and/or partnerships for contract administration to incorporate best practices from both public and private sectors.

Applicability

CAs will monitor owners whose properties are subsidized under the following programs, in accordance with Title 24 Code of Federal Regulations:

- Part 880, Section 8 Housing Assistance Payments Program for New Construction;
- Part 881, Section 8 Housing Assistance Payments Program for Substantial Rehabilitation;
- Part 883, Section 8 Housing Assistance Payments Program for State Housing Agencies;
- Part 884, Section 8 Housing for Section 515 Rural Rental Housing Projects;
- Part 885, Subpart B, Loans for Housing for the Elderly and Handicapped;
- Part 886 Section 8 Housing Assistance Payments Program for Special Allocations (Loan Management and Property Disposition Set Asides).

Overview of CA Responsibilities

CAs must administer Section 8 HAP contracts in accordance with the ACC, federal law, HUD regulations, and related directives. Specific core tasks the CAs will perform include:

1. Conduct management and occupancy reviews;
2. Adjust contract rents;
3. Process HAP contract terminations or expirations;
4. Pay monthly vouchers from Section 8 owners;
5. Respond to health and safety issues ;
6. Submit Section 8 budgets, requisitions, revisions, and year-end statements;
7. Submit audits of the CA's financial condition;
8. Renew HAP Contracts;
9. Report on CA operating plans and progress;
10. Follow-up and monitor results of physical inspections of Section 8 properties.

Guidebook Contents

The guidebook is comprised of chapters on each core task and a chapter on reporting responsibilities. Each chapter features an executive summary; an overview of the CA's responsibilities, including data system requirements; a description of how HUD will monitor the CAs; a list of relevant business and legal forms; a flow chart, and a task matrix.

Detailed processing instructions are outlined in other written directives for most core tasks. This guidebook provides an overview of these tasks and cites appropriate references for more detailed information for tasks newly required under the RFP.

The guidebook appendix includes: Memoranda of Understanding and Protocols between the CAs and various HUD offices, and a glossary of terms.

Chapter Descriptions

Chapter 1: Contract Renewals

This chapter outlines different contract renewal procedures the CA will follow, including: initial contract renewals; subsequent contract renewals; combining contracts and stages; Mark-to-Market; Mark-Up-to-Market; and exception projects.

Chapter 2: Other Contract Actions: Opt-Outs and Terminations

This chapter outlines how the CA will process contract terminations if an owner defaults under a HAP contract or if an owner elects to opt-out of a HAP contract. The chapter addresses the conversion of project-based subsidy to tenant-based subsidy.

Chapter 3: Rental Adjustments

This chapter outlines the CA's responsibilities for performing rental adjustments using several methods: annual adjustment factors; operating cost adjustment factors; budget-based adjustments; and special adjustments. Appeal procedures are also outlined herein.

Chapter 4: Submission of Section 8 Budgets, Requisitions, Revisions and Year-End Settlements

This chapter outlines how the CA will complete the Estimate of Required Annual Contributions, Requisitions, and Year-End Statements. Submission deadlines are also addressed.

Chapter 5: Monthly Vouchers and Special Claims

This chapter outlines how the CAs will process regular monthly HAP vouchers and special claims submitted by owners to ensure that accurate and timely payments are made.

Chapter 6: Management & Occupancy Reviews

This chapter outlines how and when the CAs will conduct management and occupancy reviews for each property. It also addresses Fair Housing and Equal Opportunity compliance reviews.

Chapter 7: Physical Inspection Monitoring

This chapter outlines the CA's responsibilities for monitoring corrective actions required of owners following inspections performed by the Real Estate Assessment Center (REAC).

Chapter 8: Health & Safety Issues and Resident/Community Inquiries

This chapter outlines timeframes for responding to health and safety issues and responding to resident or community inquiries. The CA's monitoring of required actions by owners is also addressed.

Chapter 9: Contract Administrator's Audit

This chapter outlines the CA's requirements for maintaining complete and accurate financial records, and for submitting an annual financial audit in accordance with Office of Management and Budget (OMB) Circular A-133.

Chapter 10: Tenant Income Verification

This chapter outlines the CA's responsibilities for monitoring owner follow-up on REAC's Tenant Income Verification discrepancies.

Chapter 11: Monitoring and Oversight

This chapter outlines the monitoring procedures and tools that HUD will use to oversee the CA's performance.

Addenda

The following documents are included in the addenda:

- A. Glossary of Terms and Acronyms
- B. Protocols

Chapter 1

Contract Renewals

Section 1-1

Executive Summary

This chapter outlines owner submission and CA processing requirements for contract renewals during Fiscal Year (FY) 2000. Specific references are made to instructions in Notice H 99-36, Project-Based Section 8 Contracts Expiring in Fiscal Year 2000.

Notice H 99-36 outlines six options available to owners based on eligibility at contract expiration:

- Option 1) Request renewal under the Mark-up-to-Market procedure
- Option 2) Request renewal of other initial and subsequent contracts with current rents at or below comparable market rents
- Option 3) Request renewal of contract or referral to OHMAR for mortgage restructuring and or rent reduction(Mark-to-Market or OHMAR-Lite)
- Option 4) Request Renewal of contracts for Projects exempted by OHMAR
- Option 5) Request Renewal of Portfolio Reengineering Demonstration or Preservation Projects
- Option 6) Notification of Intention to Opt Out of Section 8 contracts (addressed in Chapter 2)

The primary difference between the original options and the FY 2000 options is the inclusion of specified renewals for Preservation Projects and Portfolio Reengineering Demonstration Projects.

CAs must familiarize themselves with Notice H 99-36, in its entirety because some owners may be eligible to request a renewal under more than one option. Differences in how initial versus subsequent renewals are processed also require an understanding of the various options owners may select.

While this chapter refers to the types of rental adjustments used at different stages, guidance for processing the rent increases is found in Chapter 3 of this guidebook.

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- 1-7 Option 1: Mark up to Market Procedure
- 1-8 Option 2: Renewal with Rents at or Below Comparable Market Rents
- 1-9 Option 3: Referral to OMHAR for Restructuring
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- 1-11 Option 5: Renewal for Portfolio Reengineering or Preservation Contracts
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Section 1-3

Initial Contract Renewals

Effective Fiscal Year 1997, Congress made major changes to the Section 8 project-based renewal process. HUD offered owners four renewal options:

- Option 1) Request a contract renewal without restructuring
- Option 2) Request a restructuring of the mortgage and contract renewal
- Option 3) Opt out of the Section 8 program
- Option 4) Mark-Up-to-Market

Depending on the owner's selected option, the contract was renewed under either Section 524(a)(1) or Section 524(a)(2) of Multifamily Assisted Reform and Affordability Act (MAHRA) at "initial renewal."

Under Notice H 99-36, initial renewal is the first renewal of a project contract that is processed under MAHRA and may apply to all options. For all properties, the short-term renewal is considered the contract's "initial" renewal. (Note: Initial and subsequent renewals have separate processing instructions.)

At least 120 days before contract expiration, the owner must submit Attachment 4, a rent comparability study (RCS) and the applicable Option Renewal Worksheet of Notice H 99-36, notifying the CA of the selected renewal option. The owner indicates in Attachment 4 if requesting an "initial" renewal. Further information on how to process the owner's request can be found in Notice H 99-36; which outlines the owner's requirements for initial renewal separately for each option.

The CA enters receipt of Attachment 4 and the owner's selected option into REMS when available on the subsidy renewal screen. If the CA identifies

deficiencies in the owner's submission, the CA must request additional information from the owner. The CA updates REMS to reflect action taken.

Once the owner's submission is complete, the CA must process the request within 30 days of receipt. The CA calculates revised rents using an Operating Cost Adjustment Factor (OCAF) or budget-based analysis, as applicable. Throughout HAPC renewals, when a Budget Based rental adjustment exceeds a five percent (5%) threshold over the prior HUD approved rents, the CA must review and forward to the Hub/Program Center for review and approval.

Upon CA or HUD approval, as applicable, the CA sends the owner a letter and issues appropriate contract renewal (per instructions in Notice H 99-36) for the owner's signature, and updates REMS accordingly.

The owner returns the signed contract and rent schedule to the CA. Upon receiving the owner's signed contract, the CA executes the contract and distributes copies to all appropriate parties. The CA updates REMS.

Section 1-4

Subsequent Contract Renewals

A "subsequent renewal" is the renewal of an expiring Section 524 contract at the end of its term. A contract that received its initial renewal in FY 1999 under Section 524(a)(1) or 524 (a)(2) of MAHRA will receive its subsequent renewal in FY 2000 under the procedures outlined in Notice H 99-36.

Subsequent renewals are associated with the following three contract renewal options outlined in Notice 99-36:

- Option 2: Contracts with current rents at or below comparable market rents
- Option 4: Exception projects
- Option 5: Portfolio reengineering or preservation contract

Subsequent renewals are **not** applicable for:

- Option 1: Mark-Up-to-Market
- Option 3: Referral to OMHAR for restructuring (Mark-to-Market)
- Option 6: Opt-out

At least 120 days before the contract expires, the owner must submit the Attachment 4, a RCS if applicable, and the Option Renewal Worksheet to notify the CA of the selected renewal option. The owner indicates on Attachment 4 whether an "initial" or "subsequent" renewal is being requested. Information on how to process the owner's request can be found Notice H 99-36; which outlines the owner's requirements for subsequent renewal separately for each option.

The CA inputs into REMS the receipt date of the owner's Attachment 4 and selected option on the subsidy renewal screen.

When the CA identifies deficiencies in the owner's submission, the CA must contact the owner to request additional information. The CA updates REMS to reflect action taken.

Once the owner's submission is complete, the CA must process the request within 30 days of receipt. The CA calculates revised rents using OCAF or budget-based analysis, as applicable. Throughout the HAPC renewal process, when a Budget Based rental adjustment exceeds a five percent (5%) threshold over the prior HUD approved rents, the CA must review and forward to the HUD Hub/Program Center for review and approval

Upon CA approval or HUD, as applicable, the CA sends the owner a letter and issues appropriate contract renewal (per instructions in Notice 99-36) for the owner's signature, and updates REMS accordingly. The owner may appeal the rent as outlined in HUD Handbook 4350.1, Chapter 7. The CA updates REMS to reflect all action taken.

In response to the CA's letter, the owner remits a signed contract and rent schedule to CA. The CA executes the contract and distributes copies to all appropriate parties, and updates REMS.

Section 1-5

Combining Contracts/Stages

Owners may combine multiple contracts on a single property but may not combine multiple contracts across multiple properties. The owner may only combine contracts expiring in the same fiscal year. Section VI of Notice H 99-36 provides additional guidance on combining contracts.

At least 120 days before the contract expires, the owner submits Attachment 4 of Notice H 99-36 and the applicable Option Renewal Worksheet. Attachment 4 is marked to indicate whether the owner wishes to combine multiple Section 8 contracts.

The CA enters in REMS receipt date of Attachment 4 and the owner's selected option. The CA must verify that the owner's contracts are eligible under the guidelines for combining contracts; if not, the CA must notify the owner in writing.

Ninety days before the contract expires, the CA issues a short-term renewal at current contract rents or terminates the contract with the latest expiration date in order to align the contract expiration dates. The CA must also prepare a contract

renewal document for all units covered under the original contracts.. HUD issues approval of the rents to the CA.

The CA inputs in REMS the applicable renewal rent, prepares the combined contract, and sends to the owner for signature. The CA executes the owner's signed contract and forwards copies to the appropriate parties. The CA also enters the approved rent levels into REMS..

Section 1-6

Rent Comparability Study (RCS)

[Processing instructions for completing the RCS are expected to change in the near future, but until published, the instructions in Attachment 6 of Notice H 99-36 are to be followed.]

[When determining whether the expiring Section 8 contract rents are at or below comparable market rents, the RCS results are considered in the aggregate. The total income generated by all market rents in the expiring Section 8 contracts/stages are compared to the total income generated by the current Section 8 rents in the expiring Section 8 contracts/stages.]

An RCS is required when an owner elects to renew for the first time under either Option 1 or Option 2. The RCS is valid for five years, after which a new RCS must be submitted. HUD may request one updated RCS during the five-year period. This study compares the subject property with other comparable, non-subsidized properties in the market in order to determine the market rent levels for the subject property.

The RCS must:

- be submitted at least 120 days before contract expiration;
- be completed within 90 days of submission to the CA;
- include all Section 8 unit types in the property.

If the RCS concludes the project's rents are below market, but the CA does not agree, the Hub or Program Center Director will decide whether to accept or reject the RCS. If the RCS is rejected the owner may appeal the decision under the appeal procedures contained in Section XX of Notice H 99-36.

If the owner renewed the contract in Fiscal Year 1999 under Section 524(a)(1) of MAHRA for a one-year term, and in Fiscal Year 2000 wishes to renew for a five-year term, the owner may either: a) renew the contract for four years, using the RCS submitted at initial renewal; or b) submit a new RCS and renew the contract for a five-year term.

CA Processing

For subsequent renewals the CA will adjust the RCS annually by the OCAF. The initial RCS may also be used as the comparability standard for current or future budget-based rent increase requests.

The CA may request one updated RCS during the five-year lifecycle. If the new RCS indicates that project rents exceed market rents, the CA may adjust the rents to the comparable market rents; if project rents are below comparable market rents, the CA may increase project rents, consistent with outstanding instructions for Mark-up-to-Market (Option 1).

The CA must maintain detailed records in REMS for properties that have completed an RCS, including the date of initial Section 8 contract renewal, which starts the five-year clock.

Section 1-7

Option 1: Mark-Up-to-Market

The Mark-Up-to-Market option provides owners with an incentive to renew Section 8 contracts when a properties' Section 8 rents are lower than comparable market rents. Rents may be renewed at the lesser of comparable market rents or 150% of the Fair Market Rents (FMRs). The owner can use an existing RCS, adjusted by the OCAF, to establish initial eligibility.

All owners who renew under this option must accept a five-year Section 8 contract, subject to annual appropriations. In years two through five of the contract period rents are adjusted by an OCAF.

Processing instructions for this option can be found in Attachments 4B and 4C of Notice H 99-36.

Owner Eligibility Requirements

An owner must have:

- a property that scored 60 or higher on the last Real Estate Assessment Center (REAC) inspection, with all exigent health and safety conditions corrected;
- an ownership structure that is for-profit or limited distribution (non-profit owners may be eligible if they meet the criteria in Section IX, Paragraph B of Notice H 99-36);
- comparable market rents that are at or above 110% of the FMRs;
- a property without low and moderate-income use restrictions, i.e., flexible subsidy assistance or low income housing tax credits.

Waivers

The CA may recommend that the Hub or Program Center waive restrictions to allow participation by normally ineligible owners, or to allow an increase in rents higher than 150% of the property's FMRs. The property must meet the eligibility criteria established in Section IX, Paragraph C of Notice H 99-36. The Hub or Program Center will forward waiver requests to Multifamily Headquarters which will issue the final decision.

Section 1-8

Option 2: Renewal with Rents at or Below Comparable Market Rents

Option 2 is for owners that request renewal of Section 8 contracts with current rents are at or below comparable market rents, but for which the owners are not applying for Mark-Up-to-Market. Owners are not required to enter into a five-year contract.

Initial Renewals

The owner must submit Attachment 4 of Notice H 99-36, an RCS prepared in accordance with Attachment 6, and, if applicable, a budget-based rent increase with Attachment 8. Initial rents may be adjusted by the OCAF in place of a budget-based increase. The initial renewal rents may not exceed comparable market rents.

Subsequent Renewals

For subsequent renewals the contracts may be adjusted by an OCAF or by a budget-based increase, as long as the new rents are below the OCAF-adjusted RCS. The Subsequent Renewal Request Attachment 4 must be submitted annually.

Section 1-9

Option 3: Referral to OMHAR for Restructuring

Where current Section 8 rents exceed comparable market rents and the property does not qualify as an "exception" property, as detailed in the following section, the CA refers a request to the Office of Multifamily Housing Assistance Restructuring (OMHAR), through the Hub/Program Center. This process occurs regardless of the renewal option selected by the owner. Owners may request a renewal with either a reduction in the rents and restructuring of the mortgage, or

with only a reduction in the rents. Section XI of Notice H 99-36 provides more information on referrals to OMHAR.

Under this option an above-market property may follow one of two paths:

- A. contract renewal without restructuring, with rents marked down to market ("OMHAR-Lite"); or
- B. mortgage or rent restructuring and contract renewal with rents marked down to market.

Section 1-10

Option 4: Renewal for Projects Exempt from OMHAR

Projects exempt from referral to OMHAR, although the current rents may exceed market, are known as “exception” projects and are renewable under Section 524(b). These projects are also eligible to renew under Options 1 or 2 of the Notice. Projects that qualify as exception projects are listed in Section XII of Notice H 99-36.

Initial Renewal

The owner must submit Attachment 4, Owner’s Option Checklist and OCAF Worksheet - Initial Renewal, a budget worksheet, and rent schedule with Attachment 8 of Notice H 99-36. For FHA-insured or HUD-held projects, an RCS showing that the project’s current rents are at or below comparable market rents must also be submitted. Rents at initial renewal are the lesser of the current rents adjusted by an OCAF or a budget-based rent submitted with the request for renewal.

Subsequent Renewal

The owner must submit Attachment 4 and request either an OCAF-adjusted rent increase or a budget-based rent increase. The CA must not allow owners who renew under this option to include new debt that keeps or increases project rents above market.

Section 1-11

Option 5: Renewal for Portfolio Reengineering or Preservation Contracts

Complete instructions for renewing these contracts are found in Attachment 4 of Notice H 99-36.

Portfolio Reengineering Demonstration Contracts

Properties with mortgages that were restructured and rents were reduced through the Portfolio Reengineering Demonstration program are not forwarded to OMHAR. To verify eligibility of these properties and their contract terms, the CA must check the REMS Subsidy Screen and/or the property file documents. An OCAF adjustment is applied for four years after the contract was signed; at the end of the fifth year, the owner must follow the procedures outlined in Option 2 of Notice H 99-36. This includes submitting an RCS.

If the mortgage was not restructured and the project’s rents were not reduced to market, the owner must submit a rationale for why debt restructuring is

appropriate. The CA must submit the rationale and renewal request to the Hub or Program Center, for referral to Multifamily Headquarters.

Preservation Contracts

Preservation contracts were executed in conjunction with a long-term use agreement approved under a Plan of Action (POA). During Fiscal Year 1999, preservation properties were limited to renewals under Section 524(a)(1). These renewals only allowed OCAF rent increases. Owners renewing during this period did not receive the full benefits provided for in previously approved POAs. During Fiscal Year 2000, some preservation contracts will be renewed under the terms of the property's POA. The CA verifies eligibility using the REMS Subsidy Screen and the property file documents.

If a contract was renewed under terms differing from those in the POA, the CA must calculate what the rent would have been had the contract been approved under the original terms. This rent level will determine the renewal rent for Fiscal Year 2000. There is no reimbursement for income lost because of past renewals.

Section 1-12

Monitoring

This section outlines how HUD will oversee the CA performance. HUD's monitoring and evaluation program is comprised of four main elements:

- Remote Monitoring
- Day-to-Day Oversight
- Compliance Reviews
- Target Reviews

Remote Monitoring occurs in two phases and is the primary method by which the CAs will be monitored and evaluated.

HUD will closely monitor the CAs performance through use of monitoring tools. This includes a review of the CA's submission of a monthly Invoice and supporting documentation (outlined in Chapter 11, Section 11-5), automated reports from HUD systems, and a review of the CAs' submission of monthly, quarterly, and annual reports (outlined in Chapter 11, Section 11-6).

A. Remote Monitoring

After receiving monthly invoices from the CA, the Contract Administration Oversight Monitor (CAOM) will use existing systems and internal logs to verify that contracts have been renewed in a timely manner and in accordance with HUD guidelines.

REMS will be reviewed to verify that:

- contracts are combined in accordance with HUD regulations;
- contracts are renewed at correct rent levels;
- the CA has updated REMS until OMHAR has completed its processing of the owner's request;
- the CA has initiated a contract renewal and ordered a rent comparability study.

B. Day-to-Day Interaction

Transitional Phase

The Project Manager (PM) will provide the CA with day-to-day support and will perform reviews in order to provide knowledge about this process, as necessary. The CAOM will request copies of the Attachment 4 and the contract renewal documents from the CA. This random sample of contract renewals during the transitional phase will include a review 10 percent of contract renewals conducted each month by the PM. The PM will also assist with Mark-to-Market referrals, reviewing copies of submitted RCS forms to ensure reasonableness and reviewing final rents determined by the CA. The PM will also compare final rent levels with the RCS to ensure accuracy.

Full Implementation Phase

The PM will provide ongoing support to CAs. CAs may contact the PM for assistance with contract renewals and contract related issues as needed.

Where the CA is also a Participating Administrative Entity (PAE), the CA will submit to the PM a copy of the owner's request. The PM will conduct an independent review of the owner's request to make sure the referral is appropriate before it is submitted to OMHAR.

C. Compliance Review

A Review Team which may be comprised of the CAOM, the PM, and the (Supervisory Project Manager) SPM, will review a sample of property files to:

- identify development needs related the Mark-to-Market referral process for those properties with problems reported by OMHAR during the previous year;

- identify CA development needs related to performance in the Mark-Up-to-Market referral process and ensure accurate processing of these requests;
- ensure that renewals were processed correctly;
- confirm that the CA handled all owner appeals in accordance with HUD regulations;
- ensure REMS reporting is accurate;
- ensure CA fee payments reflect actual performance and timing.

The Review Team will review property files and the contract renewal process to identify CA development needs. These files will include those where problems have been identified during the year.

D. Targeted Review

In the course of monitoring and evaluating a CA, if HUD determines that the CA requires more oversight and guidance, a targeted review may be scheduled. A targeted review, similar in format to the compliance review, covers CA operations, including property files, processes, and protocols. The intent of a targeted review is to work cooperatively with the CA to resolve any areas of concern. As the targeted review is all encompassing, an annual compliance review is unnecessary if a targeted review is completed within a twelve-month period.

The Review Team will contact the CA to schedule an appointment when the need for a targeted review is identified.

References

Notice H 99-36, FY2000 Housing Notice
HUD Handbook 4350.1, REV-1, Multifamily Asset Management and Project Servicing
Section 524 of MAHRA
Form HUD 92458, Rent Schedule

Chapter 2

Other Contract Actions: Opt-Outs and Terminations

Section 2-1

Executive Summary

This chapter provides an overview of the actions CAs will take when an owner elects to opt out of a Section 8 Housing Assistance Payments (HAP) Contract or when a contract is terminated by HUD for non-compliance. Any conversions to tenant-based subsidy must be performed in a timely manner to ensure that residents are protected and to limit the need for short-term renewals.

Current guidance on processing opt-outs and terminations is outlined in Notice H 99-36, Project-Based Section 8 Contracts Expiring in Fiscal Year 2000.

Section 2-2

Chapter Overview

- 2-3 Opt-Outs
- 2-4 Terminations
- 2-5 Residual Receipts
- 2-6 Monitoring

Section 2-3

Opt-Outs

Section 8 opt-outs occur when owners elect not to renew expiring contracts. The process of acquiring tenant based funding and voucher processing is complicated by the relatively short amount of time available to complete the process before families could be potentially adversely affected by the Housing conversion action. The most important step in the entire process is initiating the procedure as early as possible. In general, the funding process must begin at least 120 days prior to the target date of the Housing conversion action. Equally critical to the process is the communication between HUD's Offices of Housing, Public Housing, as well as the owner, the PHA, and the residents.

Specific instructions for processing opt-outs, voucher and funding procedures are found in Notice H 99-36, Option 6, and Notice PIH 2000-9 (Directive 00-9) which provides the detailed process for administering the voucher process that results from "Housing Conversion Actions."

The CA must become fully familiar with the procedures outlined in these two Notices and any subsequent or related directives to assure that proper procedures are initiated and followed when tenant voucher conversions are required.

Owner Requirements

An owner electing to opt-out of a Section 8 contract must:

- notify the residents and the CA at least one year in advance of the contract's expiration;
- notify the CA of intent to opt-out of the contract at least 120 days before contract expiration;
- comply with any required notifications to state or local governments;
- be eligible to opt-out of the contract (some Section 8 contracts executed in conjunction with the Portfolio Reengineering Demonstration or the Preservation programs prohibit opt-outs).

The owner must provide the Attachment 4 cover sheet and the Worksheet for Option 6 from Notice H 99-36, to the CA at least 120 days prior to contract expiration, to allow sufficient time to obtain vouchers for the residents.

If the owner fails to provide the one-year written notice to HUD and residents, there are three options:

- A. The owner may permit the residents to remain in their units without increasing the resident's portion of the rent for one year after the owner gives the required notification, **or**
- B. The owner may agree to a short-term renewal for the time necessary to fulfill notification requirements, **or**
- C. The owner may agree to renew the project-based contract for up to one year.

CA Processing

Upon notification of the owner's intent to opt-out of the contract, the CA must first respond to the owner and explain alternatives, including Mark-up-to-Market. The CA will notify the owner of any required corrections to the notification letter or the need for a short-term renewal. The one-year notification period begins when the owner has provided the residents and the CA with the corrected letter. The CA

will also notify HUD of the owner's intent by close of the next business day and log the action into REMS.

When the owner's notice is approved, the CA will notify HUD and provide the resident data within three business days of receipt from the owner. The Hub or Program Center will notify Multifamily Headquarters and coordinate with the Office of Public Housing (PIH) to obtain funding for vouchers. PIH will select the housing authority that will administer the vouchers.

The CA will process any required short-term renewals and will update REMS as applicable throughout the process.

Section 2-4

Terminations

CA's Recommendation

Before recommending any contract terminations, the CA will document the owner's non-compliance. This could result from outstanding findings on REAC physical inspections, management and occupancy reviews, voucher reviews, failure to take action on health and safety issues related to resident/ community concerns, or other areas of non-compliance. Section XX of Notice H 99-36 provides examples of material adverse actions that may lead to contract termination.

Some contract terminations may result from an owner's failure to maintain the property. The CA reviews Section XIX of Notice H 99-36, which details the steps that are to be taken in recommending contract termination.

If the Hub/PC determines that the contract should not be renewed, the CA continues to actively oversee the property until vouchers are issued; issuing vouchers should take less than 180 days. If fewer than 180 days remain on the contract, the CA must enter into a HAP contract with the owner not to exceed 180 days. If the decision to terminate is made when the contract is about to expire and the owner appeals the decision, the CA will renew the contract for one year with the new HAP Addendum (Attachment 17 of Notice H 99-36) which allows for termination prior to the end of the one-year period, pending appeal.

The Hub or PC will notify Multifamily Headquarters, the Financial Management Center (or other designated HUD accounting office) and the Fort Worth Accounting Center of the termination.

CA and HUD Processing

Ninety days before contract termination, the CA will forward resident data to the Hub or PC within three days of receipt from the owner. The CA will also issue a short-term renewal, if needed and follows the steps of updating REMS, executing contracts, and distributing copies to appropriate parties. The Hub or PC will notify PIH to request tenant based subsidy and select a public housing authority to administer the vouchers.

Owner's Appeal

The termination appeal process is outlined in Section XX of Notice H 99-36. Upon receiving the CA's notification of HUD's refusal to renew the contract, the owner has 30 calendar days to provide written objections or cure the problems identified. If the owner does not submit written objections or cure the problems,

the decision becomes final and is not subject to judicial review. If necessary to protect the residents, the CA must execute a short-term HAP contract with the owner while the appeal process is completed. If the owner submits written documentation or cures the problems after the 30-day period, the CA will review the owner's actions and/or documentation and issue a final decision.

After being notified of the final decision, the owner can submit a written appeal to HUD and request a meeting, if applicable. The Hub or PC Director, or designee, will meet with the owner within 10 days and/or the owner may provide additional information for consideration. A mutually agreeable deadline to submit additional documentation may be established. The Hub or PC will notify the owner of the decision to modify or affirm the original decision. REMS will be updated accordingly. The Hub or PC will also notify Multifamily Headquarters of the final decision to terminate.

Section 2-5

Residual Receipts

Residual Receipts are owner assets held by a designated depository, but under HUD's control. Residual Receipts are surplus cash for non-profit projects or cash remaining after all eligible accrued distributions have been taken for limited dividend projects. Certain Section 8 regulations provide for returning unused Residual Receipt funds to HUD upon contract termination or opt-out. These contracts and the effective dates are:

New Construction	November 5, 1979
Substantial Rehabilitation	February 28, 1980
State Agency	February 28, 1980

Information about the disposition of these Residual Receipt funds is outlined in Section XVIII in Notice H 99-36 and additional information on Residual Receipts disposition is outlined in Chapter 25 of HUD Handbook 4350.1, REV-1..

The CA must notify the local HUD office when a contract opt-out or termination is final and must provide related documentation. The CA will update REMS, as applicable. The Hub/PC will notify the Financial Management Center (or other designated HUD office) and the Fort Worth Accounting Center. The field office will also provide instructions to the depository regarding reimbursement of funds to HUD.

Section 2-6

Monitoring

This section outlines how HUD will oversee the CA performance. HUD's monitoring and evaluation program is comprised of four main elements:

- Remote Monitoring
- Day-to-Day Oversight
- Compliance Reviews
- Target Reviews

Remote Monitoring occurs in two phases and is the primary method by which the CAs will be monitored and evaluated.

HUD will closely monitor the CAs performance through use of monitoring tools, which includes a review of the CA's submission of a monthly Invoice and supporting documentation (outlined in Chapter 11, Section 11-5), automated reports from HUD systems, and a review of the CAs' submission of monthly, quarterly, and annual reports (outlined in Chapter 11, Section 11-6).

A. Remote Monitoring

Upon receipt of the CA's monthly invoices, the CAOM will use existing systems and internal logs to verify that appropriate notification was provided to HUD in a timely manner. Opt-out notification must be received by HUD within 24 hours of owner notice to the CA. Notification of recommendation of contract termination must be received by HUD by the close of the next business day.

The CAOM will use existing systems and internal logs to further verify that the CA has obtained resident information from owners and that the CA has submitted resident data to HUD within three days of receipt from the owner.

The monthly report will be reviewed for evidence that the CA has coordinated efforts with the jurisdictional HUD office to identify a local PHA to administer tenant-based assistance, as needed and that the CA has helped relocate tenants.

B. Day-to-Day Interaction

Transitional Phase

The PM will provide the CA with day-to-day support and will review the first contact termination and contract opt-out. This review is intended to share knowledge with the CA about contract termination and opt-out processes.

Full Implementation Phase

The PM will provide ongoing support to CAs at any point in time and the CA may contact the PM for assistance with owner opt-outs and terminations.

C. Compliance Review

A Review Team which may be comprised of the CAOM, the HUD PM, and the SPM, will review a sample of property files to:

- identify reported problems in the last year to help identify CA development needs related to the opt-out and termination processes and to confirm that the CA complied with HUD guidelines and regulations;
- review CA documentation for opt-outs to ensure the CA has ensured owner compliance with HUD guidelines and regulations;
- confirm that the CA worked directly with the PHA and residents to facilitate the transition from property-based Section 8 to tenant-based rental assistance;
- confirm that the CA handled all owner appeals in accordance with HUD guidelines and regulations;
- ensure REMS reporting was accurate;
- ensure that CA fees paid reflect actual performance and timing.

D. Targeted Review

In the course of monitoring and evaluating a CA, if HUD decides the CA requires more oversight and guidance, a targeted review may be scheduled. A targeted review, similar in format to the compliance review, covers CA operations, including property files, processes, and protocols. The intent of a targeted review is to work cooperatively with the CA to resolve any areas of concern. As the targeted review is all encompassing, an annual compliance review is unnecessary if a targeted review is completed within a twelve-month period.

The Review Team will contact the CA to schedule an appointment when the need for a targeted review is identified

References

Notice H 99-36, F Y2000 Housing Notice
Public Housing Notice PIH 2000-9
HUD Handbook 4350.1,REV-1, Multifamily Asset Management and
Project Servicing

Rental Adjustments

Section 3-1

Executive Summary

This chapter provides the CAs with an overview of processing rental adjustments using an annual adjustment factor (AAF), operating cost adjustment factor (OCAF), budget-based method, and special adjustments. This chapter also provides an overview of the CA's role in reviewing tenant utility allowance adjustments and changes in the reserve for replacement deposits. [Note: This guidebook does not apply to Moderate Rehabilitation HAP Contracts or tenant-based subsidy programs, such as rental vouchers or certificates.]

The CA will review the HAP contract to determine which method to use to adjust contract rents. Generally, contracts authorized under Title 24 CFR Parts 880, 881, 883, 884, and 888 may be adjusted using the applicable Section 8 annual adjustment factor. Rents for contracts authorized under Title 24 CFR Part 886 are usually adjusted through the budget-based process, although there are exceptions. Contract renewals for applicable projects may be authorized under a Plan of Action (POA) approved under the Low Income Housing Preservation and Resident Homeownership Act (Title VI)- [and the Emergency Low Income Housing Preservation Act \(Title II\)](#). Contracts adjusted through an Annual Adjustment Factor (AAF) may be eligible for special rental adjustments.

Special Note on Expiring Contracts: Because owners of expiring contracts may have the option to choose between budget-based and OCAF rent increases, CAs must familiarize themselves with Notice H 99-36, Project-Based Section 8 Contracts Expiring in Fiscal Year 2000, to ensure the proper rental adjustment methods are used.

Special Note on Data Input: REMS has been enhanced to provide CA access and input ability to update rents for **HAP Contract renewals**. All other rental adjustments will initially require input into TRACS by HUD field staff. TRACS will update REMS.

CAs are responsible for ensuring that:

- owner eligibility and submission requirements are met;
- recommendations to HUD are documented for approval/disapproval of rental adjustments;
- adjustments are made accurately and in a timely manner;
- analyses of utility allowances are completed;

- recommendations are made to HUD for adjusting replacement reserve deposits; and
- REMS is updated.

Section 3-2

Chapter Overview

- 3-3 Budget-Based Rental Adjustments
- 3-4 Annual Adjustment Factor Adjustments
- 3-5 Operating Cost Adjustment Factor Adjustments
- 3-6 Special Adjustments
- 3-7 Utility Allowance Analysis
- 3-8 Reserve for Replacement Deposit Recommendations
- 3-9 Appeals
- 3-10 Monitoring

Section 3-3

Budget-Based Rental Adjustments

Budget-based rental adjustments are requested as needed for properties with HAP contracts eligible for a budget-based rent increase during the term of the contract or at contract renewal. Properties eligible to request a rent increase under budget-based rental adjustments include Section 202 Elderly/Handicapped Housing and Section 236 (Interest Reduction Payment) and Section 221(d)(3) (Below Market Interest Rate **and Market Rate**) properties that may be wholly or partially assisted with Loan Management Set-Aside contracts.

After the owner submits a request for a rent increase, the CA has 30 days to:

- review the request for completeness and compliance with existing guidance;
- request additional information if the submission is incomplete;
- update REMS to indicate receipt of the request;
- Review and forward to the Hub/Program Center HUD for review and approval Budget Based rental adjustments which exceed a five percent (5%) threshold over the prior HUD approved rents ,

Owner Submission

Owners are required to make initial and final submissions for rent increase requests; paragraph 7-22 of HUD Handbook 4350.1, REV-1, describes the submission requirements. When resident notification procedures (Paragraph 7-7 of the HUD Handbook 4350.1) are required, the initial submission is made concurrent with resident notification. After the required posting period, the final submission must include any resident comments received and a certification of compliance with 24 CFR Part 145. If the owner requests an increase at contract

renewal, Attachment 4 of Notice H 99-36 must also be included. The CA must update REMS upon receipt of the owner's submission.

CA Processing

Review of the Owner's Submission

The CA must review the owner's submission to be sure that any required Notice to Residents provides all the required information. If not, the owner must revise the notice and distribute as directed.

If the owner has not submitted all required documentation, the CA must contact the owner/agent and request submission of the missing documents. The CA must ensure that the missing documents are available for resident review. The CA must document receipt of the submission and note whether any items are outstanding.

The CA may not require owners to routinely submit materials not otherwise stated in HUD Handbook 4350.1, Chapter 7. Additional information may be required if the actual or estimated expense appears to be excessive.

Review of Project Income and Expenses

The CA determines if the property has any special conditions that affect income and expense estimates. Guidance on factors to consider can be found in Paragraph 7-29 of the HUD Handbook 4350.1, REV-1, while detailed information on reviewing budget line items is located in Paragraph 7-30 of the Handbook. Under or overestimating expenses may have a detrimental effect on the property and/or residents; any reductions or increases by the CA in line items must be fully documented.

Computing Rent Potential

To compute the new rent potential, the CA must use the Rent Computation Worksheet found at Appendix 5 of Chapter 7 to the HUD Handbook 4350.1, REV-1 (or the Excel version which is available through HUD). Instructions for completing the worksheet can be found in Appendix 5 of the handbook, in Paragraphs 7-32 and 7-33.

In reviewing budget-based increase requests for properties required to maintain residual receipts, the CA will assess whether residual receipts are to be used in lieu of a rental increase. Further guidance on this matter can be found in HUD Handbook 4350.1, REV-1, Multifamily Asset Management and Project Servicing, Chapter 25.

Notification and Implementation

Within 30 days of receiving the owner's final submission, the CA must complete the review and processing of the owner's request, and when applicable, forward to the Hub/Program Center for review and approval Budget Based rental adjustments which exceed a five percent (5%) threshold over the prior HUD

approved rents. The request must include the complete rent increase package. When HUD approves or disapproves the rent increase request, the PM will update TRACS and forward written notification to the CA. The CA will send a letter to the owner and the Form HUD 92458, Rental Schedule. Within five days of receipt of the rent schedule, if the request was part of a HAPC renewal, the CA will enter the HAP renewal rents into REMS.

If the rent increase is not approved by the Hub/Program Center, the rent increase package may be returned to the CA for additional information or justification, or the CA will notify the owner that the increase is not approved. The CA will inform the owner of their option to appeal the decision. The CA updates REMS within five days of notification by HUD.

For more detailed instructions on reviewing rent increase requests, see HUD Handbook 4350,1, REV-1, Multifamily Asset Management and Project Servicing, Chapter 7.

Section 3-4

Annual Adjustment Factor Adjustments

Annual Adjustment Factor (AAF) adjustments are requested no more than annually. While owners must request the adjustments for most HAP contracts, some contracts are adjusted automatically. CAs must review all HAP contracts to determine if there is an owner request requirement.

Detailed processing instructions for AAF adjustments can be found in Notice H 97-14, Fiscal Year 1997 Annual Adjustment Factor (AAF) Requirements which was extended by Notice H 99-18.

Owner Submission

~~At least 90 days before the HAP anniversary date, the CA notifies the owner of the eligibility to submit a rent increase request.~~ The owner's **complete** submission must be received 60 days before the HAP anniversary date for the increase to be effective on the anniversary date. Requests not received 60 days before the anniversary date will take effect 60 days after receipt of the owner's submission. Upon receiving the owner's submission, the CA must update REMS.

The owner's submission varies by the type of contract and whether the contract rents exceed Fair Market Rents (FMRs). As stated in Notice H 97-14, "Part 1." contracts are new construction and substantial rehabilitation contracts where contract rents exceed the FMRs. "Part 2" contracts are new construction and substantial rehabilitation contracts where contract rents do not exceed FMRs, as well as loan management and property disposition set-aside contracts that use the AAF to adjust rents.

Note: A rental adjustment will not result in a rent decrease for Section 8 new construction and substantial rehabilitation contracts. When applying the AAF, the factor of 1.000 should be used in all cases where the published factor is below 1.000.

Reversing Previously Approved Special Adjustments

Before computing the annual adjustment of rents, all special rent increases approved after the last annual adjustment are to be deducted from the contract rent. Special increases approved during the last annual adjustment should be deducted only if the increase was given for an expense that has now decreased significantly.

CA Processing

The CA reviews the owner's submission, which may include a market comparability study, (if required), the Funds Authorization, Reserves for Replacements Fund, Form HUD 9250 and any other rental increase information. The CA reviews the owner's submission, including the market comparability study, if required. The CA notifies the owner of any deficiencies in the submission, or notes any concerns about the comparability study. For units subject to comparability, the CA follows the "Part 1" instructions in the Notice; for units not subject to comparability, "Part 2" instructions apply.

The CA forwards the packet to the Hub/Program Center for approval and execution of the Form HUD 9250. HUD will approve the form and forward to the mortgagee for processing and provide a copy to the CA.

Notification and Implementation

Once the AAF processing is complete, the CA sends a letter to the owner with copies to the management agent. The letter details the approved new rents, or explains why no increase has been granted. If the increase is approved, the letter must include the AAF Worksheet, which details the rent calculations, and two copies of Form HUD 92458, Rental Schedule, for the owner's signature.

The letter must also advise the owner of any increase in the replacement reserves deposit. Upon receipt of the owner's signed Rental Schedule, the CA executes it and returns the original to the owner. HUD will update rents in TRACS.

Section 3-5

Operating Cost Adjustment Factor Adjustments

Operating Cost Adjustment Factor (OCAF) adjustments are processed for properties that have approved Preservation Plans of Actions (POA) under Title VI (LIHPRHA) and for other eligible contract renewals.

Title VI Projects

At least 60 days before the implementation anniversary of the Plan of Action, or before a desired date of rent increase, the owner must request the CA's approval of the next year's budgeted operating expenses. This request may include documentation for the amount of utility allowances requested, a profile of current occupancy, and a projection of anticipated occupancy of vacant units meeting the approved resident file.

Within 30 days of receiving the owner's request, the CA will apply the most recent OCAF factor (published in the Federal Register) to the portion of the Gross Rent Potential (GRP) attributable to operating expenses adjusted for vacancies and management fees. For priority purchasers oversight costs will also be considered. If non-operating costs increase or decrease (e.g., a loan secured by the property is repaid) the budget will be adjusted accordingly. HUD will send a letter notifying the owner/management agent of the results.

Other Projects

The CA will apply the most recent OCAF factor to the **gross contract** rent.

Notification and Implementation

Once OCAF processing is complete, the CA writes a letter to the owner and provides a copy to the management agent. The letter must include the approved new rents, as well as two copies of Form HUD 92458, Rental Schedule, for the owner's signature.

The letter must also advise the owner of any increase in the replacement reserve deposit. (Note: For Preservation Properties, the terms of the POA will determine if the replacement reserve is increased) The owner submits to the CA the Funds Authorization, Reserve for Replacements Fund, Form HUD 9250 and any other rental increase information. The CA forwards the packet to the Hub/Program Center for approval and signature of Form HUD 9250. HUD forwards this form to the mortgagee for processing and provides a copy to the CA.

Upon receipt of the owner's signed Rental Schedule, the CA executes it and returns the original to the owner, and updates HAP renewal rents in REMS within five days.

Section 3-6

Special Adjustments

Owners with HAP contracts whose rents are adjusted through an AAF factor may request special rental adjustments for increases in property taxes, utilities, and hazard insurance. Special rent increases may also be approved for Service Coordinators. The CA processes the owner's request within 30 days, and forwards it to HUD with a recommendation for approval/disapproval.

Note: In processing special adjustments for Property Disposition Section 8 contracts sold on an all cash basis, allowances are included for debt service and return on equity (HUD Handbook 4350.1, Chapter 34, provides detailed instructions on calculating these amounts).

Owner Submission

The owner's submission requirements for increases in taxes, utilities, and insurance are described in paragraph 34-5 of HUD Handbook 4350.1. For tax increases the owner should apply for all reductions and provide a required certification. For insurance increases the owner must certify that the increased rate is the best rate the property could obtain. For utility increases the owner must have analyzed rates and requested the most advantageous rates available.

Instructions for processing special rental adjustments for Service Coordinator funding are found in Chapter 8 of HUD Handbook 4381.5 REV-2, The Management Agent Handbook.

CA Processing

The CA processes the owner's special increase request using Form HUD 9833B, Part G: Special Adjustments for Taxes, Insurance, or Utility Increases in accordance with the instructions contained in Paragraph 34-6 of HUD Handbook 4350.1.REV -1. This form is also used for Service Coordinator funding increases.

Within 30 days, the CA determines whether to approve/disapprove the special adjustment. If the rental adjustment exceeds a five percent (5%) threshold over the prior HUD approved rents, the CA must review and forward to the Hub/Program Center HUD for review and approval.

If the CA recommends approval and there are Residual Receipts Funds available to reduce the special increase, the CA will notify the Hub/PC for consideration accordingly. If Residual Receipts Funds are used for taxes and insurance, releases will be made directly to the mortgagee by HUD through Form HUD 9250. The Hub/PC will notify of the CA if the Residual; Receipts Funds are

approved and process the request for release of funds and update [TRACS](#) [REMS](#).

Computing Rent Potential

If applicable, the special adjustment computed by the CA will be reduced by the amount of residual receipts approved for use by HUD. The resulting figure is factored into resident rents using the following formula:

$$1 + \frac{\text{Total Special Adjustment}}{\text{AAF Annual Rent Potential}} = \text{Adjustment factor}$$

This factor should be multiplied by the current AAF rents for each unit type to determine the increase in tenant rents.

Backing Out of Previously Approved Special Adjustments

Before computing the annual adjustment, all special rent increases approved after the last annual adjustment should be deducted from the contract rent. Special increases approved during the last annual adjustment should be subtracted if the increase was given for an expense that has decreased significantly.

Notification and Implementation

The CA reviews the owner's request and notifies the owner in writing and includes two copies of Form HUD 92458, Rental Schedule, for completion and signature. Within five days of receipt of the owner's signed Rental Schedule, The CA notifies the Hub/PC to update rents in TRACS.

If the request is not approved, the CA notifies the owner in writing and outlines the appeal procedures.

Section 3-7

Utility Allowance Analysis

For Section 8 contracts with utility allowances, owners may (as part of a rent increase request or as a separate action) recommend an increase or decrease in existing utility allowances for each bedroom type. The recommended utility allowance should represent the owner's best estimate of the average monthly utility cost that an energy-conscious resident will incur for the year. Proposed and current allowance levels must be included in notices to the residents, if required.

Owner Submission

Submission requirements are detailed in Paragraph 7-24(A) of HUD Handbook 4350.1, REV-1. An owner must request approval of revised utility allowances whenever a utility rate change would cumulatively increase by at least 10 percent the most recently approved utility allowances. Additional utility allowances should be recommended if the property's design causes utility costs to vary significantly for units of the same size (e.g., end units versus interior units).

CA Processing

In determining new utility allowances, CAs must review the owner's utility analysis and recommended allowances, entering the new allowances on the Rent Computation Worksheet, to determine whether:

- the owner's comments on recent and proposed rate increases are consistent with information obtained from other properties, utility suppliers, and news reports;
- the owner appropriately adjusted for recent and planned rate increases;
- the owner appropriately adjusted consumption estimates to reflect any significant savings likely to result from recent energy conservation efforts.

If the owner's analysis does not support the request, the CA documents the reasons and advises the owner accordingly. The CA can request additional information, if needed.

Notification and Implementation

If the request is approved, the CA notifies the owner by letter, and includes two copies of Form HUD 92458, Rental Schedule, for the owner's completion and signature. If part of a HAPC renewal, within five days of receiving the signed schedule, the CA updates REMS, if not part of a HAPC renewal, the CA notifies the Hub/PC to update TRACS. If the request is not approved, the CA notifies the owner in writing and describes the appeal procedures.

Section 3-8

Reserve for Replacement Deposit Recommendations

When processing rental adjustments, if an increase in the reserve for replacement is contemplated as part of a rental increase, the owner remits a signed Form HUD 9250, Funds Authorization, Reserves for Replacement Fund . The CA must include this request (Form HUD 9250) with the complete rent increase package to the Hub/Program Center for approval/disapproval.

Regulations require the Reserve for Replacement deposits be increased when rental increases are approved for Section 8 new construction and substantial rehabilitation contracts adjusted by an AAF factor. The factor used to increase the rents is also used to increase the reserve deposit.

Section 3-9

Appeals

Budget-Based and Special Adjustments

When an owner does not agree with a rent decision, the first level of appeal is with the CA. Further information on the appeal process can be found in HUD Handbook 4350.1, REV-1, .

Section 3-10

Monitoring

This section outlines how HUD will oversee the CA performance. HUD's monitoring and evaluation program is comprised of four main elements:

- Remote Monitoring
- Day-to-Day Oversight
- Compliance Reviews
- Target Reviews.

Remote Monitoring occurs in two phases and is the primary method by which the CAs will be monitored and evaluated.

HUD will closely monitor the CAs performance through use of monitoring tools, which includes a review of the CA's submission of a monthly Invoice and supporting documentation (outlined in Chapter 11, Section 11-5), automated reports from HUD systems, and a review of the CAs' submission of monthly, quarterly, and annual reports (outlined in Chapter 11, Section 11-6).

A. Remote Monitoring

Upon receipt of the CA's monthly invoice, the CAOM will use existing systems to verify that adjustments have been processed in accordance with HUD guidelines and in a timely manner. All special adjustments and budget-based rent increases of 5 percent (5%) or more will be subject to a thorough review. All other rent increases will be reviewed in accordance with HUD guidelines.

B. Day-to-Day Interaction

Transitional Phase

The PM will offer the CA day-to-day support and will review 10 percent of rental adjustments to assess the CA's readiness to move into Full Implementation.

Full Implementation Phase

The PM will review and approve all budget based and special rental adjustments of five percent (5%) or more.

The PM will review both the first appeal level performed by the CA and the second level appeal when made to HUD.

C. Compliance Review

A Review Team which may be comprised of the CAOM, the HUD PM, and the SPM, will review at least 10 percent of the property files, including those properties that have experienced rental increase difficulties. The Review Team will also review a sample of property files to ensure that:

- REMS reporting was conducted accurately;
- the increase was processed in accordance with HUD regulations and guidelines;
- proper notification was provided to the owner/management agent.

D. Targeted Review

In the course of monitoring and evaluating a CA, if HUD decides the CA requires more oversight and guidance, a targeted review may be scheduled. A targeted review, similar in format to the compliance review, covers CA operations, including property files, processes, and protocols. The intent of a targeted review is to work cooperatively with the CA to resolve any areas of concern. As the targeted review is all encompassing, an annual compliance review is unnecessary if a targeted review is completed within a twelve-month period.

The Review Team will contact the CA to schedule an appointment when the need for a targeted review is identified

References

- HUD Handbook 4350.1, REV-1, Multifamily Asset Management and Project Servicing
- HUD Handbook 4370.2, Financial Operations and Accounting Procedures for Insured Multifamily Projects. HUD Handbook 4381.5, REV-2, The Management Agent Handbook
- Notice H 99-36, FY2000 Housing Notice
- Notice H 97-14, Fiscal Year 1997 Annual Adjustment Factor Requirements
- Notice H 97-12, FHA's Mixed-Income Housing Underwriting Guidelines
- Notice H 95-92, Reinstatement and Extension of Notice 95-12
- Notice H 95-12, Annual Adjustment Factor Rent Increase Requirements Pursuant to the Housing Appropriations Act of 1995
- Form HUD 92273, Estimates of Market Rent by Comparison

Form HUD 92458, Rental Schedule Low Rent Housing
Form HUD 9250, Funds Authorizations, Reserve for Replacements
HAP Contract
Regulatory Agreement

Submission of Section 8 Budgets, Requisitions, Revisions and Year-End Settlements

Section 4-1

Executive Summary

This chapter provides an overview to the CA on preparing and submitting the Estimate of Required Annual Contributions and Supporting Data (Forms HUD-52672 and HUD-52673)*; Annual Requisition for Partial Payments of Annual Contributions (Form HUD-52663); and Year-End Settlement Statement (Form HUD-52681). To receive monthly ACC payments, the CA must submit this data to support the payments requested. The CA uses the ACC payments to pay owners under the HAP contract.

* At this time only is completed until further notice

Section 4-2

Overview

- 4-3 Estimate of Total Required Annual Contributions (Form HUD-52673) and Supporting Data for Annual Contributions Estimates (Form HUD-52672)
- 4-4 Annual Requisition for Partial Payments of Annual Contributions (Form HUD-52663)
- 4-5 Voucher for Payment of Annual Contributions and Operating Statement (Year-End Settlement) (Form HUD-52681)
- 4-6 Revisions to Estimate of Required Annual Contributions and Supporting Data (Forms HUD-52672 and HUD-52673)
- 4-7 Revisions to Annual Requisition for Partial Payment of Annual Contributions (Form HUD-52663)
- 4-8 Monitoring

Section 4-3

Estimate of Required Annual Contributions (Form HUD-52673) and Supporting Data for Annual Contributions Estimates (Form HUD-52672)

Information requested on Forms HUD-52672 and HUD-52673 is used to estimate the total amount to be paid to the CA by HUD throughout the fiscal year. The ACC requires the CA to submit these forms for each contract to support the payment request and to ensure costs do not exceed available funds.

The CA will prepare Forms HUD-52672 and HUD-52673, as prescribed by HUD, 90 days before the beginning of the CA's fiscal year or any other annual cycle

agreed to between HUD and the CA. These documents are not submitted to HUD but, must be placed in the CA files for review by the HUD staff at time of the next site visit. The appendix contains a copy of each form with instructions for completion.

Section 4-4

Annual Requisition for Partial Payments of Annual Contributions (Form HUD-52663)

Payments from HUD are made to the CA based on the Form HUD-52663 information. The approved Form HUD-52673 supports the monthly advances claimed on Form HUD-52663.

The CA must prepare Form HUD-52663, 90 days before the beginning of the CA's fiscal year and transmit to HUD via the Internet, or as otherwise specified by HUD. This data identifies the monthly and annual funds required to cover housing assistance payments and are submitted together.

Section 4-5

Voucher for Payment of Annual Contributions and Operating Statement (Year-End Settlement) (Form HUD-52681)

The CA must transmit to HUD via the Internet, or as otherwise specified by HUD, data from Form HUD-52681 within 45 days of the CA's fiscal year-end. This data identifies the actual Housing Assistance Payments that the CA paid to the property owner.

If the CA has received partial payments in excess of the actual HAP reflected on Form HUD-52681, HUD will recover the overpayment by an offset against the next scheduled monthly partial payment.

If the CA has been underpaid for the prior fiscal year, HUD will add the amount of underpayment to the next scheduled monthly partial payment.

Section 4-6

Revisions to Estimate of Required Annual Contributions and Supporting Data for Annual Contributions Estimates (Forms HUD-52672 and HUD-52673)

Tracking Expenses

The CA must track monthly requests from the owner to ensure that actual amounts for the fiscal year do not exceed the HUD-approved estimated annual payment voucher amounts.

Since HUD will not make advances that exceed the amounts approved on Form HUD-52673, CA's must develop a system for keeping actual costs within estimated expenditures. The CA's budget control system should track actual payments to owner and CA estimates monthly. The CA can use this data to project its annual HAP needs and to verify that it is operating within the approved limits for the fiscal year.

Preparing and Submitting Revised Forms HUD-52672 and HUD-52673

At the end of each quarter, if the CA is overpaid by more than five percent (5%) (as indicated by monthly reviews of HAP payments to owners and ACC payments received), the CA must prepare and place in files revised Forms HUD-52672 and HUD-52673 to reduce future payments accordingly. CAs must prepare revisions by their fiscal year-end.

Section 4-7

Revisions to Annual Requisition for Partial Payment of Annual Contributions (Form HUD-52663)

Preparing and Submitting Revised Requisitions

At the end of each quarter if the CA has received partial payments in excess of five (5) percent of the total approved annual contributions, the CA must submit a revised Form HUD-52663. No revision is required if the excess partial payments occur in the fourth quarter of the CA fiscal year.

Section 4-8

Monitoring

This section outlines how HUD will oversee the CA performance. HUD's monitoring and evaluation program is comprised of four main elements:

- Remote Monitoring
- Day-to-Day Oversight
- Compliance Reviews
- Target Reviews

Remote Monitoring occurs in two phases and is the primary method by which the CAs will be monitored and evaluated.

HUD will closely monitor the CAs performance through use of monitoring tools, which includes a review of the CA's submission of a monthly Invoice and supporting documentation (outlined in Chapter 11, Section 11-5), automated reports from HUD systems, and a review of the CAs' submission of monthly, quarterly, and annual reports (outlined in Chapter 11, Section 11-6).

A. Remote Monitoring:

The CAOM compares HUD's internal log with the invoice to verify submission dates. HUD will generate reports that enable the CAOM to track the flow of funds from HUD to the CA and from the CA to the owner. The CAOM will provide the CA with ongoing support for preparing these documents.

B. Day-to-Day

Transitional Phase

The SPM/PM provides support to the CA as needed. The PM will provide the CAs with day-to-day support and assist with the budget, requisition, revision, and settlement process as needed.

Full Implementation Phase

The SPM/PM provides support to the CA as needed.

C. Compliance Review

A Review Team which may be comprised of the CAOM, PM, SPM, coordinates with the designated HUD office to identify any problems relating to the timely submission of budget/ requisition requests. The Team reviews a sample of all project files related to reported problems in the past year to help identify CA development needs for budgets, requisitions, revisions, and year-end settlements. The Team also assesses the CA's internal procedures for processing budgets, requisitions, revisions, and year-end settlements.

D. Targeted Review

In the course of monitoring and evaluating a CA, if HUD decides the CA requires more oversight and guidance, a targeted review may be scheduled. A targeted review, similar in format to the compliance review, covers CA operations, including property files, processes, and protocols. The intent of a targeted review is to work cooperatively with the CA to resolve any areas of concern. As the targeted review is all-encompassing, an annual compliance review is unnecessary if a targeted review is completed within a twelve-month period.

The Review Team will contact the CA to schedule an appointment when the need for a targeted review is identified

References

HUD Handbook 7420.7

Form HUD-52672, Supporting Data for Annual Contributions Estimates

Form HUD-52673, Estimate of Total Required Annual Contributions

Form HUD-52663, Annual Requisition for Partial Payment of Annual Contributions

Form HUD-52681, Voucher for Payment of Annual Contributions and Operating Statement (Year-End Settlement)

ACC Contract

Monthly Vouchers and Special Claims

Section 5-1

Executive Summary

This chapter outlines the process for reviewing Section 8 monthly vouchers submitted by the owner: unless a different process for reviewing such vouchers has been set forth in the CA's proposal submitted in response to the HUD RFP and accepted by HUD, in which event, CA shall follow the process set forth in such proposal. (The term "owner" refers to either the owner or an owner's representative such as the management agent.) The owner submits a monthly Section 8 voucher (Forms HUD-52670 and 52670A) to the CA to request payment for regular resident assistance, adjustments to prior vouchers, and/or special claims. (Note: In the future, TRACS will be enhanced so the voucher detail can be submitted electronically to the CA and the owners will not have to submit a hard copy of the monthly voucher). The CA must ensure that payments are made to owners only for those units in compliance with and covered by the contract(s). The CA pays the owner no earlier than the first day of each month and no later than the first business day of the month. Monthly payments are made only when the owner submits a properly completed and certified voucher.

Section 5-2

Overview

- 5-3 Voucher Submission
- 5-4 Voucher Review and Approval
- 5-5 Rent and/or Utility Allowance Changes
- 5-6 Discrepancy Notification and Resolution
- 5-7 Owner Payments
- 5-8 Special Claim Review, Approval, Rejection, or Adjustment
- 5-9 Special Claim Log
- 5-10 Monitoring

Section 5-3

Voucher Submission

Owner Submission Requirements

The owner must submit a voucher to the CA by the tenth day of the month prior to the month for which payment is requested. HUD Handbook 4350.3, Appendices 28 and 29 provide instructions for how the owner should complete the voucher.

CA Tracking of Voucher Submission

The CA must develop and maintain an internal tracking system to verify timely receipt of the voucher. The CA must follow-up on delinquent vouchers until received.

Section 5-4

Voucher Review and Approval

Time Requirement for Voucher Review

The CA must verify the accuracy of the Section 8 voucher before paying the owner. Vouchers submitted to the CA by the tenth of the month must be processed so monthly payments are made to the owner no earlier than the first of the month and no later than the first business day of the month. ~~Owners' submissions received after the tenth of the month are reviewed and paid within 20 days of receiving the voucher.~~ Owners' submissions received after the tenth of the month are reviewed and paid within 20 days of receiving the voucher. If the twentieth day is not a business day, then the payment shall be made on the first business day thereafter. In a 31 day month, payment for a current month's voucher received on the 11th shall be made on the first business day of the following month.

Voucher Review Requirements

The CA monitors the owner's data in TRACS, including all Form HUD-50059s, Owner's Certification of Compliance with Tenant Eligibility, and Rent Procedures.

The CA verifies that the amount of HAP paid on behalf of each resident is accurate and verifies that abated Section 8 units are not claimed on the voucher. The CA also verifies that interim re-certifications, move-in/move-outs, and adjustments to prior claims for Section 8 assistance have been completed accurately and on time. Adjustments for move-ins and move-outs are included in the first voucher submitted after the event occurred.

The CA verifies pre-approval of Section 8 special claims (see Section 5-8). More detailed guidelines are outlined in HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing which outlines the voucher and certification process.

Section 5-5

Rent and/or Utility Allowance Changes

The CA must verify that all approved rent and/or utility allowance changes are reflected in the Section 8 monthly voucher. The owner will have been notified of

any changes in the rents and/or utility allowances with an approved Rent Schedule for Low Income Housing Form HUD 92458.

The CA verifies that the rent and/or utility allowance change was incorporated accurately and in a timely manner. The change is to be reflected on the first voucher submitted after receipt of the owner's signed Rent Schedule. A rent and/or utility allowance change will appear on the voucher by completing Column 13 with the code "GR" (Gross Rent Change).

A rent increase request is at an owner's discretion; failure to request a rent increase results in non-compliance only if the property's physical and/or financial capacity is jeopardized.

Section 5-6

Discrepancy Notification and Resolution

The CA performs a review of the voucher and makes any necessary adjustments and/or corrections. The owner must be notified of any corrections made as a result of the CA's voucher review. The CA will review the owner's subsequent voucher submissions to verify that any changes made are reflected in subsequent vouchers.

Section 5-7

Owner Payments

~~The owner may not be paid until the CA reviews the submitted Section 8 voucher.~~ The owner may not be paid via the CA's electronic funds transfer method until the CA reviews the submitted Section 8 voucher. The CA pays the owner via electronic funds transfer no earlier than the first of the month and no later than the first business day of the month or within 20 days of receipt of the voucher when the owner submits later than the 10th day of the month.

Section 5-8

Special Claim Review, Approval, Rejection, or Adjustment

Owner's Submission

The owner may submit a Section 8 special claim request for reimbursement for vacancy loss during rent up; vacancy loss after rent up; tenant damages; unpaid tenant rent; and debt service on eligible units. The owner will submit to the CA the special claims Forms (HUD-52670A Part 2 and 52671 A-D) for review and approval (HUD Handbook 4350.3, Chapter 6, and Appendices 30 and 31 provide the owner with detailed instructions for submitting special claims).

Review and Approval, Rejection, or Adjustment of Special Claims

The CA must pre-approve the owner's special claims before the owner submits the claim with the next monthly voucher. The CA analyzes, verifies, and either approves, rejects, or adjusts claims using information in Handbooks, Regulations, Notices, TRACS, contract documents, and information provided by the owner. At a minimum, the CA must verify that:

- calculations are accurate;
- no duplicate claims are submitted;
- the claim is for an eligible Section 8 unit and that a Section 8 resident caused the claim;
- the owner has made appropriate adjustments on the voucher for any move-outs and move-ins;
- the correct security deposit was collected at move-in.

The claim must be reviewed and returned to the owner within 30 days of receipt. The CA executes the forms and indicates whether the claim is approved, rejected, or adjusted. The CA notifies the owner of the decision and explains any rejection or adjustment of claims.

Section 5-9

Special Claim Log

The CA must develop a special claims log that includes the following data:

- project name
- Section 8 project number
- date received
- approved amount
- contact person
- claim status (approved, rejected, adjusted)
- claim approval number (if approved).

The CA's log must be compatible with HUD's systems; HUD currently uses an Excel spreadsheet format.

Section 5-10

Monitoring

This section outlines how HUD will oversee the CA performance. HUD's monitoring and evaluation program is comprised of four main elements:

- Remote Monitoring

- Day-to-Day Oversight
- Compliance Reviews
- Target Reviews

Remote Monitoring occurs in two phases and is the primary method by which the CAs will be monitored and evaluated.

HUD will closely monitor the CAs performance through use of monitoring tools, which includes a review of the CA's submission of a monthly Invoice and supporting documentation (outlined in Chapter 11, Section 11-5), automated reports from HUD systems, and a review of the CAs' submission of monthly, quarterly, and annual reports (outlined in Chapter 11, Section 11-6).

A. Remote Monitoring

The CAOM receives the CA's monthly log of voucher processing to verify that vouchers are processed in a timely manner. The CAOM also reviews a copy of the CA's Electronic Funds Transfer request to the bank to confirm that funds have been distributed to owners. The CAOM conducts a monthly random sample of voucher processing in TRACS to test how accurately the CAs have processed vouchers.

The CAOM compares the CA monthly Invoice with the TRACS voucher payment system data to ensure that voucher payments are made correctly and reflect actual performance and timing.

The CAOM compares the HAP payments that the CA makes to owners against the ACC payments made to the CA, using reports generated by the appropriate HUD accounting system.

B. Day-to-Day Interaction

Transitional Phase

The PM will provide ongoing, daily support to the CA for voucher processing and participate in conference calls as needed to provide the CAs with additional guidance.

Full Implementation Phase

The PM will assist the CAs as needed.

C. Compliance Review

A Review Team may be comprised of a CAOM, a HUD PM, and an SPM, will review all property files with reported problems in the past year to identify any CA development needs for voucher processing. The Review Team will also randomly sample property files to assess the accuracy of voucher processing, and will thoroughly review the CA's internal voucher processing procedures to gauge the CA's performance.

The Review Team will randomly sample owner certifications to:

- ensure certifications match vouchers
- ensure the CA adequately reviews owner certification
- ensure that adjustments to resident data are adequately reflected in the voucher and payments.

The Review Team will also review the CA's financial records to ensure that HAP contract funds are accounted for separately from other PHA funds.

D. Targeted Review

In the course of monitoring and evaluating a CA, if HUD decides the CA requires more oversight and guidance, a targeted review may be scheduled. A targeted review, similar in format to the compliance review, covers CA operations, including property files, processes, and protocols. The intent of a targeted review is to work cooperatively with the CA to resolve any areas of concern. As the targeted review is all-encompassing, an annual compliance review is unnecessary if a targeted review is completed within a twelve-month period.

The Review Team will contact the CA to schedule an appointment when the need for a targeted review is identified

References:

- Form HUD-52670, Housing Owner's Certification & Application for Housing Assistance Payments Form HUD-52670A Part I, Schedule of Tenant Assistance Payments Due
- Form HUD-52670A Part II, Schedule of Section 8 Special Claims
- Form HUD-52671-A, Section 8 Special Claims for Unpaid Rent/Damages
- Form HUD-52671-B, Section 8 Special Claims for Vacancies During Rent-Up
- Form HUD-52671-C, Section 8 Special Claims for Regular Vacancies
- Form HUD-52671-D, Section 8 Special Claims for Debt Service
- Form HUD-50059, Owner's Certification of Compliance with Tenant Eligibility and Rent Procedures
- HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs
- Form HUD-92458, Rental Schedule Low Rent Housing

Annual Contributions Contract (ACC)
Housing Assistance Payment Contract (HAP)
Attachment one (1) of the RFP, page 41
TRACS User Guide

Management and Occupancy Reviews

Section 6-1

Executive Summary

This chapter outlines the methodology used to perform desk reviews and on-site management and occupancy reviews for multifamily properties. (The terms “management review” and “management and occupancy review” are interchangeable.) While some properties have more than one Housing Assistance Payment (HAP) contract, each **property** must be reviewed at least annually. The CA must comprehensively assess the owner/management agent’s policies and procedures for directing and overseeing property operations, and their adequacy for carrying out daily, front-line activities. If the CA identifies areas of noncompliance with HUD regulations and requirements, the management review report must outline and support any proposed enforcement actions that will be taken.

Section 6-2

Overview

- 6-3 Prior to the Review
- 6-4 During the Review
- 6-5 Close Out Meeting
- 6-6 After the Review
- 6-7 Written Report
- 6-8 Follow Up Actions
- 6-9 Appeals
- 6-10 Closing Reviews
- 6-11 Monitoring

Section 6-3

Prior to the Review

Prioritizing Reviews

Management reviews, conducted annually, should be prioritized based on the following:

- properties with expiring contracts, especially if the contract may be terminated due to owner noncompliance;
- within six months after a property commences occupancy;

- following a change in the property's ownership/management;
- when desk reviews of available asset management documentation or risk analysis indicate that physical, financial, or management problems exist and the extent or cause of the problems is not readily apparent;
- when the property is managed by an agent whose performance is less than satisfactory at other properties in the CA's inventory.

Review Scheduling

The CA schedules an on-site review with the owner and/or management agent at least two weeks in advance. The CA also notifies the Hub or PC and the Office of Fair Housing and Equal Opportunity (FHEO).

Desk Review

The CA conducts a desk review at their offices prior to the management/occupancy review. This desk review determines the status of various property operations, including physical, financial, and management conditions. This review may provide sufficient information to determine if a property is troubled and/or at-risk, and enables the CA to complete some information on the management review form. Reviewing property files and information systems such as REMS , helps the CA compile a property history. If enforcement actions are required, this review also supports and provides further documentation for the administrative record.

The desk review may focus on various aspects of the property operations. The following questions may be used as a framework for performing the desk review:

Financial

- Has the owner requested or used reserve funds for purposes other than their intended use?
- Are an inordinate number of replacement reserve withdrawal requests made?
- Have any liens been filed against the property?

Physical

- When was the most recent REAC physical inspection?
- What was the score and what owner actions were required?
- Were any exigent conditions noted and have they been corrected?
- Is the owner complying with a required corrective action or Management Improvement and Operating (MIO) plan?
- Have complaints from residents or congressional inquiries about the property's physical condition been received?
- Have any state, local, or fire codes been violated?
- Have there been media reports about the property?

Subsidy

- When does the Section 8 contract expire?
- If the owner is opting out, have the required notifications been provided?
- Have residents expressed concern about the subsidy calculations or program requirements?
- Have TRACS reports been reviewed?

Management Reviews

- Has the owner satisfactorily responded to findings in prior reviews?

Other Items

- Has the owner/agent responded in a timely manner to all correspondence?
- Have any sanctions been imposed against the owner or agent?
- Have any contractual violations been noted?
- Have potential Fair Housing violation complaints been received?

Section 6-4

During the Review

The reviewer will complete Form HUD-9834, Management Reviews of Multifamily Properties, or a subsequent suggested format. For each task included on the review form, the CA must determine whether existing policies, conditions, and procedures are acceptable or whether corrective actions are needed.

Questions on the management review forms are designed to help reviewers identify and analyze problem areas. Additional information on conducting a management review is outlined in Chapter 6 of HUD Handbook 4350.1, REV-1, Multifamily Asset Management and Project Servicing.

Management reviews are part of the administrative record. Thorough documentation is required to support any required enforcement actions which may be necessary.

Section 6-5

Close Out Meeting

A close-out meeting with the owner/agent is conducted upon completion of the management review. The purpose of the meeting is to discuss with the owner/agent the results of the management review and any preliminary findings and/or concerns that were identified. The CA may also request copies of property policies and procedures for further review as necessary.

The CA should conduct the close-out meeting on the last day of the review, as the last action. The meeting should be held either on-site or in the management agent's office. The management agent and any additional staff identified by the owner/agent should attend, as well as the CA reviewer and any additional CA staff identified by the CA.

The close-out meeting addresses all major findings and provides the owner/agent immediate feedback on what the CA observed at the property, including results of the occupancy file review and interviews with staff. The owner/agent begins taking corrective actions as the meeting immediately provides the owner/agent an opportunity to take action before the report is issued. The meeting also provides management with the opportunity to explain or comment on findings.

Section 6-6

After the Review

Before writing up the management review letter, property ratings must be assessed.

Ratings

The CA must assess the impact of all management deficiencies in the findings. Each category on the management review form is aggregated in an overall rating. HUD Handbook 4350.1, REV-1, Multifamily Asset Management and Project Servicing Chapter 6, provides an overview on four possible ratings: superior, satisfactory, below average and unsatisfactory.

In determining an overall rating, the CA must decide whether the agent demonstrates acceptable management practices. A rating that is less than satisfactory may be reported by Hub/PC in the Previous Participation and Compliance System (2530). The CA will recommend to the Hub/PC when the management rating warrants reporting to the 2530 system. This rating could effectuate a change in management and have direct impact on the owner/agent's ability to participate in HUD programs in the future.

Section 6-7

Written Report

Within 30 days of the management review, the CA must complete a written report, which provides a rating, outlines findings, cites violations, and

recommends corrective actions, as applicable. The CA must include target dates for any findings or required corrective actions. Copies of the report should be distributed to:

- the owner;
- the management agent;
- the Multifamily Hub or Program Center and the mortgagee, if the rating is below satisfactory.

Reserved for FHEO Directive

The CA also forwards any applicable forms/reports to FHEO. The CA must input the management review results into the REMS management review detail and property action screens.

Section 6-8

Follow Up Actions

Within 30 days of receiving the owner's response, the CA must review the response and advise the owner of appropriate actions and follow-up. If a Management Improvement Operating (MIO) plan is required, the plan must be transmitted to the Hub Director, or designee, for approval.

Section 6-9

Appeals

When the overall review rating is below average or unsatisfactory, the cover letter transmitting the rating provides the owner the right to appeal within 30 days. This appeal process is outlined in HUD Handbook 4350.1, REV-1, Chapter 6. The rating is a snapshot of management operations at the time the CA conducted the review at the property. In order to change the rating through the appeal process, the owner must show that the rating was not reflective of the conditions reviewed. The owner's correction of any deficiencies will not be a factor in the rating appeal, nor is the owner's response and correction of all deficiencies delayed by the option to appeal. The CA must respond to the appeal within 45 days.

Section 6-10

Closing Reviews

On an ongoing basis, the CA will monitor any MIO plan or other required corrective actions. If applicable, a follow-up management review may be

performed to gauge progress in correcting deficiencies and improving operations since the prior review. After determining that the owner has taken all corrective actions, the CA notifies the owner and closes the review. The close-out date is entered into REMS.

Section 6-11

Monitoring

This section outlines how HUD will oversee the CA performance. HUD's monitoring and evaluation program is comprised of four main elements:

- Remote Monitoring
- Day-to-Day Oversight
- Compliance Reviews
- Target Reviews.

Remote Monitoring occurs in two phases and is the primary method by which the CAs will be monitored and evaluated.

HUD will closely monitor the CAs performance through use of monitoring tools, which includes a review of the CA's submission of a monthly Invoice and supporting documentation (outlined in Chapter 11, Section 11-5), automated reports from HUD systems, and a review of the CAs' submission of monthly, quarterly, and annual reports (outlined in Chapter 11, Section 11-6).,

A. Remote Monitoring

The CAOM will review REMS or other reports to:

- ensure that fair housing reviews have been sent to FHEO in a timely manner;
- track management reviews scheduled, but not completed each month, as projected in the CA's work plan.
- The CAOM or designee will follow-up on clearance of management review findings and MIO plan progress.
- The SPM/PM will review all management reviews with a less than satisfactory rating.

B. Day-to-Day Interaction

Transitional Phase

The PM will provide the CA with day-to-day support. In addition, the SPM/PM will review at least 10 percent of CA-conducted management reviews to assess the CA's readiness to enter the Full Implementation phase.

Full Implementation Phase

The PM will provide ongoing support to the CA for management reviews.

C. Compliance Review

The Review Team will:

- review a sample of all property files, emphasizing those properties with reported problems in the past year, to help identify CA development needs related to the management review process;
- examine the reports sent to FHEO to ensure compliance with HUD regulations and guidelines, for selected properties;
- use TRACS to spot-check CA review of owner certification data;
- pick a random sample of properties to complete on-site reviews, including fully subsidized and partially subsidized properties;

The CAOM will review a sample of property files to ensure CA fees were paid correctly.

D. Targeted Review

In the course of monitoring and evaluating a CA, if HUD decides the CA requires more oversight and guidance, a targeted review may be scheduled. A targeted review, similar in format to the compliance review, covers CA operations, including property files, processes, and protocols. The intent of a targeted review is to work cooperatively with the CA to resolve any areas of concern. As the targeted review is all-encompassing, an annual compliance review is unnecessary if a targeted review is completed within a twelve-month period.

The Review Team will contact the CA to schedule an appointment when the need for a targeted review is identified.

References:

HUD Handbook 4350.1, REV-1, Chapter 6, Multifamily Asset Management
and Project Servicing

HUD Handbook 4381.5, The Management Agent Handbook

Notice H 99-36, FY2000 Housing Notice

Form HUD 9834 or other HUD Suggested Format

Physical Inspection Monitoring

Section 7-1

Executive Summary

This chapter provides information to CAs on monitoring physical inspections conducted at Section 8 properties. The Real Estate Assessment Center (REAC) is conducting a baseline physical inspection for every Section 8 property with a HUD-administered HAP contract.

The REAC physical inspection software and protocol are used for all inspections (see <http://www.hud.gov/reac/reaphyin.html>). Once these baseline inspections are complete, HUD will determine how frequently future inspections are needed. This chapter addresses the CA's responsibilities for exigent health and safety (EH&S) conditions and all other observable conditions and findings during a physical inspection.

Section 7-2

Overview

- 7-3 Areas Addressed During Physical Inspections
- 7-4 Exigent Health and Safety Conditions
- 7-5 Managing REAC Inspection Results
- 7-6 Abatement of Section 8 Units
- 7-7 Section 8 Contract Renewal Activities
- 7-8 Monitoring

Section 7-3

Areas Addressed During Physical Inspections

Hundreds of items will be inspected under REAC's inspection protocol. The inspectable areas are:

- site
- building exterior
- building systems
- dwelling units
- common areas
- exigent health and safety conditions.

Inspectors will record observable conditions of a targeted area, including exigent health and safety deficiencies. The health and safety component is integral to the physical inspection and is a red flag to the CA and HUD if deficiencies are observed.

Observable deficiencies are categorized as minor, major, or severe. Severe deficiencies require comments on the conditions observed.

Section 7-4

Exigent Health and Safety Conditions

If exigent health and safety deficiencies are noted during the inspection, the inspector gives the owner a “citation” identifying EH&S conditions requiring immediate repair. The owner must correct all EH&S conditions within 72 hours. Within 72 hours of the inspection, the CA is notified that a physical inspection has been completed, including whether any EH&S conditions require corrective action (EH&S findings can be viewed in the REMS Physical Condition screen). The inspector will also notify local authorities (i.e., fire department, county health, etc.) immediately after the inspection if fire safety hazard and smoke detector conditions are observed.

As soon as the CA is notified of EH&S conditions, the CA must immediately contact the owner. The CA follows up by sending a letter to the owner by fax and mail, confirming the owner's awareness of the EH&S conditions and the need for corrective action.

The owner must certify to the CA, on owner letterhead, that all EH&S items have been corrected. If the owner fails to correct or mitigate the EH&S conditions, subsequent monitoring and follow-up is conducted. The CA makes every attempt to obtain compliance. The owner's failure to respond may result in regulatory and/or contractual default. In such an event, the CA recommends to the Hub/PC to seek other remedies or either terminate the contract. If the owner fails to correct EH&S conditions the CA and the Hub/PC office may consider Section 8 abatement of individual units. If HUD decides to terminate the contract, appropriate termination procedures must be followed. The CA must input all actions taken into REMS.

Section 7-5

Managing REAC Inspection Results

The Physical Inspection Report is available in REMS on the Physical Condition screen. The inspection is given a numerical score based on conditions noted. Physical inspection scores range from 0 to 100, with 100 being the highest obtainable score. The CA's actions are dependent upon the score as noted below. Owner appeals of physical inspection results must be submitted directly to REAC by the owner,

Scores of 30 or below:

Inspections with scores of 30 or below are automatically referred by REAC to the Department Enforcement Center (DEC) within 30 days of the inspection. The CA is notified by the Hub/PC whether the property will be transferred to the DEC and may be instructed to send copies of property file data to the DEC.

The CA notifies the owner in writing that the inspection has been referred to the DEC and includes a copy of the inspection with the requirements for the owner's response.

The CA must notify the owner that a written response on official letterhead must be submitted immediately. The response may include a proposed plan of action, a certification that all units not inspected have been surveyed, a corrective action plan, or an MIO plan (not required if all repairs are completed within 90 days of inspection).

If the owner does not respond to the CA's first letter immediately, the CA sends a second follow-up letter. The CA must log all actions taken in REMS.

Scores of 31-45:

Owners of properties with a physical inspection score of 31-45 must provide an MIO plan or similarly formatted response to the CA within 30 days regarding the status of the items noted during the inspection. The CA works with the owner to develop this plan. The proposed MIO must identify sources and uses of funds, timeframe for completion, and must be reasonable for the amount of work required to correct the deficiencies. After incorporating the CA's comments and input, the owner must submit the final MIO plan to the CA within 90 days of the inspection. The CA forwards the MIO plan to HUD for approval.

Within 30 days of receiving the MIO plan, the Hub Director or designee sends a letter to the owner, copying the CA, indicating whether the MIO plan is approved. If it is not approved the owner must make appropriate corrections and resubmit.

The CA must monitor the owner's implementation of the MIO plan, and requires written monthly status reports from the owner until all conditions are resolved.

If the owner does not respond to the CA, the CA will follow up with letters and telephone calls in an attempt to obtain the owner's compliance. An owner's

failure to correct or mitigate conditions identified in the inspection may result in regulatory and/or contractual default. The Hub/PC may terminate the contract or seek other remedies, based on the CA's written recommendations. The CA must input all actions taken in REMS.

Scores of 46-59:

Owners of properties with a physical inspection score of 46-59 must submit a Proposed Plan of Correction to the CA within 30 days. The proposed correction plan includes actions taken to correct deficiencies noted during the inspection, the results of the owner's property survey using the findings of the REAC Inspection as the basis for the survey, and the owner's plan to correct all deficiencies. The Proposed Plan at a minimum includes:

- ▼ Additional deficiencies identified by your survey
- ▼ Deficiencies already corrected
- ▼ A proposal for correction
- ▼ Available resources

The CA determines whether the owner can complete the repairs within 90 days, and may permit the owner to certify that repairs have been completed. The CA prepares a signed memo for the file stating that the owner-certification is appropriate. This information is input into REMS. If the owner completes all repairs within 90 days, the proposed plan of action suffices. Using owner letterhead, the owner must report to the CA when the repair program is complete.

If the CA determines that the owner does not have the capacity to complete repairs within 90 days and self-certify, the owner must submit a detailed final correction plan. The plan must include a description of each deficiency, the corrective action proposed for each, the timeframe for correction, and the sources of funds. The owner must submit to the CA a monthly update specifying which corrections have been made, until all repairs are completed. Upon final completion, the owner must write a letter on owner letterhead confirming that all repairs have been made.

If the owner does not respond, the CA will follow up with letters and telephone calls in an attempt to obtain the owner's compliance. An owner's failure to correct or mitigate conditions identified in the inspection may result in regulatory and/or contractual default. The Hub/PC may terminate the contract or seek other remedies, based on the CA's written recommendations. The CA must input all actions taken in REMS.

Scores of 60 and Over:

Owners of properties with scores of 60 and over should make repairs as part of ongoing maintenance program and are not required to submit a corrective action

plan unless requested to do so by the Hub/PC. The CA must input all actions taken in REMS as needed.

Section 7-6

Abatement of Section 8 Units

The CA and the Hub/Program Center may consider abatement of individual Section 8 units if an owner fails to correct EH&S conditions or fails to address the physical inspection conditions.

Abatement consists of the removal or suspension of the Section 8 subsidy for a unit or contract for a temporary or permanent period of time as determined by the CA.

The CA notifies the owner and provides a timeframe to correct the deficiencies. If the owner does not repair or mitigate the unit, the CA will notify the owner of ensuing abatement actions. The CA notifies HUD and ensures that there are no billings on subsequent vouchers for the unit in question.

Further information on abatements can be found in Notice H 99-36, Section VXII.

Section 7-7

Section 8 Contract Renewal Activities

When a Section 8 contract is ready for renewal, the CA must review the most recent inspection report and note the status of deficiencies to determine if the contract should be renewed.

If the owner has not had at least 90 days to correct the deficiencies, the CA renews the Section 8 HAP contract. The CA may renew contract for one year if all EH&S conditions are corrected, even if the MIO plan has not yet been submitted.

If the repair/correction plan continues into the new contract term, the owner must execute the HAP Addendum to the Section 8 HAPC. Guidelines for HAPC renewals are outlined in Notice H 99-36. The CA should wait until at least 30 days before expiration before obtaining the owner's signature on the HAPC. Rents are renewed at current rents not to exceed 120 percent of fair market rents. This action shall not negatively affect administrative fees received.

When an owner receives a score of 59 or below and fails to complete repairs or provide an acceptable plan, the Section 8 units needing repairs should be abated. Based on the CA's recommendation, the Hub/Program Center will decide whether to renew the contract.

Section 7-8

Monitoring

This section outlines how HUD will oversee the CA performance. HUD's monitoring and evaluation program is comprised of four main elements:

- Remote Monitoring
- Day-to-Day Oversight
- Compliance Reviews
- Target Reviews

Remote Monitoring occurs in two phases and is the primary method by which the CAs will be monitored and evaluated.

HUD will closely monitor the CAs performance through use of monitoring tools, which includes a review of the CA's submission of a monthly Invoice and supporting documentation (outlined in Chapter 11, Section 11-5), automated reports from HUD systems, and a review of the CAs' submission of monthly, quarterly, and annual reports (outlined in Chapter 11, Section 11-6).

A. Remote Monitoring

The CAOM will review the CA's physical inspection follow-up activity to verify that follow-up has occurred in a timely manner as stated on the invoice. The CAOM will also compare the CA REMS input and notification information received from REAC to confirm and calculate invoice payment. The CAOM will document and notify the CA and SPM/PM of any deficiencies related to performance in physical inspection follow-up.

Projects without the required repair plan or MIO within 90 days are subject to a thorough review by the PM, who will provide status reports to the SPM. This information is then reported to the CAOM.

B. Day-to-Day Interaction

The SPM/PM will provide additional guidance as necessary. The SPM will also report any performance difficulties to the CAOM related to this task.

Transitional Phase

The CA will submit to the SPM/PM memoranda outlining follow-up actions taken for the first five properties with physical inspection scores below 60, for review by the PM.

Full Implementation

The PM will provide ongoing support to CAs for physical inspection follow-up.

C. Compliance Review

A Review Team may be comprised of the CAOM, HUD PM, and SPM, and will randomly sample projects that have had physical inspection findings to ensure CA follow-up has been conducted in accordance with HUD requirements. The team will also conduct random on-site reviews and will randomly sample property files to ensure REMS reporting is correct. Other reviews may be conducted as necessary.

D. Targeted Review

In the course of monitoring and evaluating a CA, if HUD decides the CA requires more oversight and guidance, a targeted review may be scheduled. A targeted review, similar in format to the compliance review, covers CA operations, including property files, processes, and protocols. The intent of a targeted review is to work cooperatively with the CA to resolve any areas of concern.

As the targeted review is all-encompassing, an annual compliance review is unnecessary if a targeted review is completed within a twelve-month period.

The Review Team will contact the CA to schedule an appointment when the need for a targeted review is identified.

References

HUD Handbook 4350.1, REV-1, Multifamily Asset Management
and Project Servicing

REAC Physical Inspections

Office of Multifamily Housing REAC Physical Inspection Instructional Notices and
Memorandums, September 1999, October 1999, April 2000, and other
subsequent dates

Notice H 99-36, FY 2000 Housing Notice

Health and Safety Issues and Resident and Community Relations/Inquiries

Section 8-1

Executive Summary

Guidance provided in this chapter will help CAs respond to health and safety issues and inquiries from residents and others.

HUD and the CA expect owners and management agents to establish constructive partnerships with the residents and the surrounding community. Resident participation and cooperation is important in creating a suitable living environment and contributes to the properties' successful operations. For example, resident involvement can help maintain the property's physical condition, ensure proper maintenance, improve security, contribute to gains in energy efficiency, and control operating costs.

Owners and management agents must adhere to HUD regulations regarding resident involvement. These regulations are minimum standards; owners and agents should take additional steps to foster strong resident/community relations. These requirements apply to all HUD-insured and HUD-assisted properties (except the resident input provision described in Section 8-10, which applies only to projects receiving project-based assistance).

The owner/management agent and on-site management staff are responsible for addressing all resident concerns. The CA is responsible for ensuring the owner/management agent responds to concerns in a timely manner. The CA must have a system in place to formally notify management agents and/or owners when a resident concern is received. Resident inquiries forwarded by other agencies, as well as those discovered during on-site reviews or sent directly to the CA, will be addressed by the CA's staff. If the owner/agent does not respond to resident concerns, the CA will follow up by conducting on-site reviews, interviewing residents, or taking other action to gather the relevant information and assess the situation. The CA will take appropriate action to ensure that problems identified are addressed.

In some cases, however, the CA staff should not become actively involved in resolving a concern. The CA staff should refrain from involvement in:

- disputes involving third parties;
- lawsuits involving residents and owners and/or management agents

- eviction matters; and
- interpretations of local laws and ordinances.

Section 8-2

Overview

8-3	Life-Threatening Health and Safety Issues
8-4	Non-Life-Threatening Health and Safety Issues
8-5	Verbal Resident or Community Group Inquiries
8-6	Written Resident or Community Group Inquiries
8-7	Congressional Inquiries
8-8	Media Inquiries
8-9	Developing a Collaborative Relationship
8-10	Resident Input Regarding Owner Requests to HUD
8-11	Resident Efforts to Obtain Assistance
8-12	Relations with Resident Organizations
8-13	Monitoring

Section 8-3

Responding to Life-Threatening Health and Safety Issues

When notification of a life-threatening health and safety (H&S) issue is received, the CA must respond, document, and notify the owner within one hour or prior to close of the same business day, whichever is sooner. The CA will monitor the owner's response to concerns, ensure that corrective actions are implemented, and ensure that all life-threatening health and safety issues are resolved within the required time frame.

Section 8-4

Responding to Non-Life-Threatening Health and Safety Issues

When notified about non-life-threatening health and safety issues, the CA must document actions taken to notify the owner and must respond to residents within two business days during normal business hours. The CA continues to follow up every two weeks on actions taken until final resolution is reached. Documentation of all action is recorded.

Section 8-5

Responding to Verbal Resident or Community Group Inquiries

The CA must respond to all general verbal inquiries received from residents and community groups. When an immediate response is not possible, the caller's name and number should be taken and the caller should be assured that the call will be returned promptly. If additional information is needed or if the inquiry is property related, the CA will refer the call to the owner/agent for action. The CA will monitor the owner's response to inquiries and ensure that appropriate action is taken.

Section 8-6

Responding to Written Resident or Community Group Inquiries

The CA must ensure that residents and community groups receive a response to all written inquiries. The CA contacts the owner/management agent by telephone; if the information received resolves the issue, the CA will prepare a written response to the resident or community group. If the issue remains unresolved after the call, the CA will forward a letter to the owner requesting a written response within an established time frame. Upon receipt of the owner's reply, the CA will prepare a written response to the resident or community group. Whether an inquiry is resolved by phone or written communications with the owner, the CA will monitor the owner's response to inquiries to ensure that appropriate responses are made.

When HUD receives a Freedom of Information Act (FOIA) request, a HUD representative may contact the CA for information. The CA is to provide HUD with all information applicable to the FOIA request.

Section 8-7

Responding to Congressional Inquiries

When HUD receives a congressional inquiry, a copy will be forwarded to the CA. HUD will send an interim letter to the congressional office stating that the inquiry was forwarded to the CA, and that HUD will provide a final response within two weeks.

The CA will gather all pertinent data, contact the owner, management agent, resident, or other party as necessary, and provide HUD with a written response. HUD will respond to the congressional office, providing the CA with a copy. If the CA receives a congressional inquiry, the CA ~~will respond directly to the congressional office, providing HUD with a copy, including all documentation.~~ **must draft a response and send it to the CAOM for HUD signature.**

Section 8-8

Responding to Media Inquiries

If the media contacts the CA directly regarding a property-related inquiry, the CA will notify the HUD office immediately. HUD will coordinate a response to the media inquiries with the appropriate office. The CA is responsible for researching the inquiry using available information and for contacting the owner/management agent. HUD requires a response within the same business day. The CA must follow-up with the owner/management agent until the inquiry is addressed.

Section 8-9

Owner-Resident Relations

The CA will work with owners to ensure compliance with HUD regulations governing owner-resident relations. Information on owner-resident relations is addressed in HUD Handbook 4381.5, Chapter 4.

Residents and resident organizations can be invaluable partners for owners/management agents and should be given the opportunity to express their views and concerns. Owners/management agents are encouraged to take additional steps beyond the minimum requirements for resident involvement, including:

- fostering enhanced communication between residents and both on-site and central office management;
- improving resident access to management;
- ensuring that resident input is properly considered and acknowledged; and
- emphasizing the importance of promptly resolving problems.

Section 8-10

Resident Input Regarding Owner Requests to HUD

HUD regulations require owners of properties that receive project-based assistance to provide evidence that they have notified residents of the proposed action. The CA is responsible for making sure the owner complies with these requirements. Resident notification and comment are required when an owner requests any of the following actions:

- 1 Increase in maximum permissible rents.

- 2 Conversion from project-paid utilities to resident-paid utilities, or a reduction in resident utility allowances.
- 3 Conversion of residential units to non-residential use, or to cooperative housing or condominiums.
- 4 Partial release of mortgage security.
- 5 Major capital additions.
- 6 Additional resident subsidy or funding under the Flexible Subsidy program.

Additional resident notice requirements applicable to properties receiving Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) funding are covered in HUD Handbook 4350.6. Upon request, owners/management agents must provide copies of the documents listed below, if available, to designated resident association representatives.

- 1 Physical inspection and management review reports.
- 2 Owner/management agent's proposed Management Improvement Operating (MIO) Plan and funding strategy.
- 3 CA/HUD non-compliance notices to the owner and the owner's response.
- 4 HUD declaration of default, Mortgagee In Possession (MIP) action, or other sanctions.
- 5 Applications by the owner for HUD assistance or HUD approval.

Owners/management agents are expected to comply with these requirements, as provided in management contracts. Neither owners nor agents may take any actions that would hinder proper notification or resident input as prescribed. The CA may need to provide a written response or meet with residents regarding proposed owner actions that require CA approval.

Section 8-11

Resident Efforts to Obtain Assistance

The CA should ensure that the owners/management agents abide by the following requirements:

- A. Residents Seeking Assistance: Owners/management agents may not interfere with the efforts of residents to obtain rent subsidies or other public assistance (24 CFR, Part 245.205). For example, owners/management agents may not reject residents during the screening process solely because they receive public assistance or hold a Section 8 Rental Certificate or Rental Voucher.

B. Rental Assistance for Existing Residents:

1. Owners/management agents must provide existing residents with information regarding rent subsidies and other public assistance that is prepared by the CA and sent for distribution to residents (24 CFR, Part 245.210.)
2. Owners/management agents of properties with rent supplement, Rental Assistance Payments (RAP), and Loan Management Set-Aside HAP contracts may not refuse to extend assistance to existing residents who are eligible if sufficient funding and units are available. Existing residents who are eligible for assistance may, at the owner's option, receive priority over applicants on the property's waiting list (24 CFR, Part 245.205.).

Section 8-12

Relations with Resident Organizations

Owners/management agents are expected to recognize legitimate resident organizations that meet regularly, operate democratically, and are representative of all residents in the development. The CA must ensure that:

- owners/management agents do not impede either residents' reasonable efforts to organize, or activities of resident organizations to reasonably represent resident interests (24 CFR, 245.105);
- owners/management agents provide an accessible meeting space on the property's premises, if available, to allow legitimate resident associations to hold meetings. Owners/management agents may not unreasonably withhold the use of this space when it is requested by: a) a resident organization in connection with the representational functions of the organization; or b) residents seeking to organize or to collectively consider any matter pertaining to the property's operation.
- in properties subject to budget-based rent adjustments, owners/management agents may not charge residents a fee for using such meeting rooms. For all other properties, residents/resident organizations may be assessed a fee for using these facilities if such a use fee is normally charged. The CA does not approve the fees for such facilities.

Section 8-13

Monitoring

This section outlines how HUD will oversee the CA performance. HUD's monitoring and evaluation program is comprised of four main elements:

- Remote Monitoring
- Day-to-Day Oversight
- Compliance Review
- Target Reviews

Remote Monitoring occurs in two phases and is the primary method by which the CAs will be monitored and evaluated.

HUD will closely monitor the CAs performance through use of monitoring tools, which includes a review of the CA's submission of a monthly Invoice and supporting documentation (outlined in Chapter 11, Section 11-5), automated reports from HUD systems, and a review of the CAs' submission of monthly, quarterly, and annual reports (outlined in Chapter 11, Section 11-6).,

The CA must maintain a tracking log for all for life-threatening and non-life threatening issues, responses, and corrective actions. This log is to be submitted to the CAOM with the monthly invoice. The log will provide the following information for each inquiry received: the date and time; name of resident; nature of concern; classification of life-threatening or non-life threatening; date and time owner/management agent contacted; resolution; and date and time of resolution. The CA will be required to input relevant data into REMS.

A. Remote Monitoring

The CAOM provides remote monitoring by reviewing the CA's monthly log, and comparing the log to the data in REMS.

B. Day-to-Day Interactions

On a daily basis, the PM provides ongoing monitoring by supporting the CA during the resident and community inquiry/response process, offering guidance as needed.

C. Compliance Review

A Review Team which may be comprised of the CAOM, HUD PM, and SPM, will conduct a comprehensive compliance review. The team will review property files for which HUD has received inquiries. The Review Team will interview owners, residents, and other third parties, as necessary. The Review Team will also review a random sample of files to ensure that the resident inquiry log

corresponds to information submitted with the monthly invoice. In addition, the CA's internal resident and response protocol will be reviewed to ensure compliance with HUD regulations.

D. Targeted Review

In the course of monitoring and evaluating a CA, if HUD decides the CA requires more oversight and guidance, a targeted review may be scheduled. A targeted review, similar in format to the compliance review, covers CA operations, including property files, processes, and protocols. The intent of a targeted review is to work cooperatively with the CA to resolve any areas of concern.

As the targeted review is all-encompassing, an annual compliance review is unnecessary if a targeted review is completed within a twelve-month period.

The Review Team will contact the CA to schedule an appointment when the need for a targeted review is identified.

References

HUD Handbook 4381.5, Management Agent

Chapter 9

Contract Administrator's Audit

Section 9-1

Executive Summary

The CA must maintain complete and accurate financial records for the units covered under the Annual Contributions Contract (ACC). An annual audit of these records is submitted to HUD. This chapter reviews the submission requirements and HUD's oversight of the CA's audit.

Section 9-2

Chapter Overview

9-3 Submission Requirements

9-4 Monitoring

Section 9-3

Submission Requirements

To fully ascertain and determine any issues related to submission requirements, it is important to understand terms and definitions used in OMB Circular A-133. Refer to the glossary for definitions of the following terms: auditee, auditor, audit finding, federal award, federal financial assistance, pass-through entity, recipient, subrecipient, and vendor.

Many of the Contract Administrators selected to date are State HFAs and as such are required to comply with OMB Circular A-133 more commonly known as the Single-Audit Act. It allows recipients of Federal funds to conduct one audit instead of separate audits for each Federal source of funding. These audits must comply with the generally accepted government auditing standards issued by the Comptroller General of the U. S.

The auditors determine whether the financial statements prepared by the auditee are presented fairly in all material respects and in conformity with generally accepted accounting principles. They also offer an opinion or disclaimer of opinion as to whether the schedule of expenditures of Federal funds is presented fairly in all material respects. The auditors also perform testing of internal controls over funds and compliance of the auditee with laws, regulations, and provisions of contracts that may have a direct and material effect on Federal

programs. The audit will also contain a schedule of any findings and/or questioned costs.

Audit Required

Audits are required for CAs that expend \$300,000 or more in a year in federal awards in order to be in compliance with OMB Circular A-133. Unaudited statements are submitted within 60 days after the CA's FYE. Audited financial statements are submitted no later than nine months after the CA's Fiscal Year End (FYE).

For-profit entities must submit audited financial statements within 60 days of the CA's fiscal year end .

Audit Not Required

CAs that expend less than \$300,000 a year in federal awards are exempt from federal audit requirements for that year, but must make their records available for review or audit by appropriate HUD officials, a pass-through entity, and the General Accounting Office (GAO).

CAs not required to comply with OMB Circular A-133 must submit annual unaudited financial statements to HUD within 60 days of the CA's fiscal year end.

Submission of quarterly copies of the CA's general ledger pages that pertain to HAPC receipts and payments will be submitted for the CAOM to review in lieu of annual unaudited financial statements as stated in the ACC/RFP

.

Section 9-4

Monitoring

A. Remote Monitoring

The CAOM will review the CA's reported date of submission of the audit on the invoice and compare to the actual date of receipt.

The CAOM will review the audit, document and notify the CA of any deficiencies noted in the review.

B. Day-to-Day Interaction

The CAOM will provide assistance to the CA as needed and will follow up on any discrepancies identified.

C. Compliance Review

The Review Team will review audit files and follow up on any deficiencies noted in the review.

Reference

OMB Circular A-133

Tenant Income Verification

Section 10-1

Executive Summary

This chapter outlines the roles and responsibilities of a Public Housing Authority and Owners/Agents, collectively referred to as POAs, in resolving Tenant Income Verification (TIV) discrepancies. The CA's role in following up and reporting on these discrepancies is addressed in Section 10-4. HUD's computer matching income verification (CMIV) system is used to identify differences between resident federal income data provided by the Internal Revenue Service (IRS) and the Social Security Administration (SSA), with comparable resident data maintained in HUD's Tenant Rental Assistance Certifications Systems (TRACS) database. The Tenant Assessment Subsystem (TASS) was developed to implement a large scale computer matching program.

Section 10-2

Overview

- 10-3 Roles and Responsibilities of POA
- 10-4 Roles and Responsibilities of the Contract Administrators
- 10-5 Monitoring

Section 10-3

Roles and Responsibilities of POA

CMIV will identify all resident households that received rental assistance during the prior calendar year for analysis in the income verification process. Only households that received assistance for the full year are included in the large-scale match. Once households and residents are selected, individual resident identifiers (name, social security number, and date of birth) are sent to the IRS and SSA. The IRS and SSA then provide HUD with federal tax data (unearned and earned income data) for each resident, if the data is available. TASS matches the federal tax data with the data in the resident databases, identifying discrepancies at various household and individual thresholds. Because the Internal Revenue Code and Privacy Act restricts the disclosure of tax data, HUD can only disclose the federal tax data to the "owners" of the tax data, i.e., the residents.

Upon noting a resident income discrepancy, TASS sends a discrepancy letter to the resident and directs the resident to disclose the letter to the appropriate POA. At the same time, TASS sends a notification letter to the POA that discrepancies

exist between the income shown in HUD's tenant databases and federal tax data for specific residents.

The POA must resolve the discrepancy to determine whether the discrepancy is valid, or a "false positive" (one which did not involve unreported income or excess rent assistance). An example of a false positive is when no actual discrepancy exists after the discrepancy is researched. A full list of false positive discrepancies can be found in the Income Discrepancy Resolution Guide.

The POA is responsible for following up on resident discrepancies. A series of letters, telephone calls, or meetings between the POA and the resident may occur, as prescribed by the Income Discrepancy Resolution Guide. POA follow-up includes calculating any discrepancies using one of two approaches:

1) using existing rent assistance calculations to compare assistance paid with assistance amount including unreported income or 2) multiply unreported household income, minus eligible deductions, by 30 percent.

In the event of a valid income discrepancy, the POA pursues one of several repayment options:

- Tenant repayment of excess in full
- Tenant repayment of excess assistance through use of a repayment agreement
- POA decreases prospective rental assistance without use of repayment agreement
- Repayment through legal action.

Beginning April 30, 2000, the POA submits to TASS (via the secure Internet) a quarterly discrepancy update for each resident listed in the discrepancy notification. Subsequent reporting will be submitted upon case resolution but not less frequently than quarterly, beginning June 1, 2000.

Section 10-4

Roles and Responsibilities of Contract Administrators

RESERVED

Section 10-5
Monitoring

RESERVED

Chapter 11

Monitoring and Oversight

Section 11-1

Executive Summary

This chapter outlines the monitoring procedures and tools that HUD will use to oversee the CA performance.

HUD developed a comprehensive monitoring and oversight program to oversee the CA performance which is outlined in detail in the Monitoring and Evaluation Guide. Monitoring and evaluation is comprised of four main elements:

- Remote Monitoring
- Day-to-Day Oversight
- Annual Compliance Review
- Target Reviews

Remote Monitoring occurs in two phases and is the primary method by which the CAs will be monitored and evaluated. HUD's monitoring tools include a review of the CA's submission of a monthly Invoice and supporting documentation (outlined in Section 11-5), automated reports from HUD systems, and a review of the CAs' submission of monthly, quarterly, and annual reports (outlined in Section 11-6).

The CA will submit a Monthly Invoice and supporting documentation to the CAOM for payment of performance for each Incentive Based Performance Standard (IBPS) as outlined in the Performance Requirements Summary (PRS). HUD will review the CAs performance under each IBPS task based on the documentation submitted with the invoice. After the CAOM reviews the Invoice, the CA will be paid an administrative fee for performance of the tasks for each covered unit at the beginning of the month. The review will determine the amount of basic and incentive fee payments, and any disincentive fees levied for performance that falls below Acceptable Quality Levels (AQL).

Section 11-2

Chapter Overview

- 11-3 Work Plan
- 11-4 Incentive Based Performance Standards (IBPS)
- 11-5 Monthly Invoice
- 11-6 Monthly, Quarterly, and Annual Reports
- 11-7 Monitoring

Section 11-3

Work Plan

The CAs submit a Work Plan initially and as part of the Annual Report (discussed in Section 11-6) to outline their work for core tasks in the RFP. The work plan tasks correspond to Section 3.1.4, core tasks of the RFP. The Work Plan is one of the analytical tools HUD uses to review the CA's Invoice and compare projected accomplishments to actual performance.

The Work Plan describes in detail each task and sub-task and must address:

- who will perform the core task activity;
- what activities will be performed to fulfill the core task, identifying methods used;
- which properties are involved;
- all areas and services the CA will review;
- timelines (duration, start, finish) for each core task.

Core tasks in the Work Plan include all those tasks that can be scheduled and are as follows:

- Management and Occupancy Reviews
- Documentation of Section 8 Owner Compliance
- Rental Adjustments (AAF, OCAF)
- Review of Section 8 vouchers
- Renewals of Section 8 Contracts
- General Reporting Requirements

Any revisions to the annual Work Plan should be made when submitting the Monthly or Quarterly Reports, as applicable.

Section 11-4

Incentive Based Performance Standards (IBPS)

HUD will use Performance-Based Service Contracting (PBSC) for work performed under the ACC. PBSC relies on the development of a performance work statement that defines work in measurable, mission-related terms with established performance standards and review methods to ensure quality. PBSC incorporates incentives to reward performance that exceeds the AQL and deductions to penalize performance below the AQL. [This Guidebook clarifies how those performance standards will be applied, modified and reported to HUD.](#)

The CA must complete all tasks described in the RFP, including “Requirements” listed in Section 3 and “Incentive Based Performance Standards” (IBPS) described after each core task in the RFP and summarized on the Performance Requirements Summary (PRS) table- outlined in Section 4.7 of the ACC. (HUD may amend the PRS during the term of the ACC by providing a 90 day notice to the PHA). If the CA fails to complete the tasks, it may result in a default on the ACC terms and conditions. HUD may terminate the ACC at any time in whole or in part if it determines the CA has defaulted.

The RFP (through Amendment 2, dated November 15, 1999):references 16 IBPS factors and their corresponding weights :

1. Management and Occupancy Reviews	8%
2. Documentation of Section 8 Owner Compliance	5%
3. Processing Rental Adjustments	5%
4. Owner Opt-Out Notifications and Contract Termination	5%
5. HAP Termination; Submit Resident Data to HUD	5%
6. Review, Verify, and Authorize Monthly Section 8 Vouchers	15%
7. Notification of Corrective Actions	3%
8. Monitoring & Reporting of Owner Follow-up Efforts on Tenant Income Verification Discrepancies	3%
9. Life-Threatening Health and Safety Issues	7%
10. Non-Life-Threatening Health and Safety Issues	5%
11. Section 8 Budgets, Requisitions, and Revisions	8%
12. Year-End Settlement Statements	8%
13. Contract Administrator’s Audit	3%
14. Renewals of Expiring Section 8 Contracts	12%
15. General Reporting Requirements	5%
16. Monitoring of Physical Inspection Results	3%

IBPS factors are grouped into two categories: Scheduled Work Plan and Unscheduled Events.

A. Scheduled Work Plan

These factors are property-specific, predetermined by the work plan, recurrent, and applicable to every property/contract. IBPS factors in this category are:

- #1 Management and Occupancy Reviews
- #2 Document Section 8 Owner Compliance
- #3 Certain Rental Adjustments (AAF and OCAF)
- #6 Review Monthly Section 8 Vouchers
- #14 Renewal of Expiring Section 8 Contracts

B. Scheduled Non-Work Plan

These factors have predetermined compliance dates (CA's fiscal year-end, report due dates). They are CA-specific and are tracked by the FMC (or other designated HUD office), REAC, or the Multifamily Hub, as applicable. IBPS factors in this category are:

- #11 Budget, Requisitions and Revisions
- #12 Year-End Settlement Statements
- #13 CA Audit
- #15 General Reporting Requirements

C. Unscheduled Events

These are factors triggered by external parties, for example when an opt-out is triggered by an owner. All unscheduled events, listed below, must be tracked:

- #3 Processing Rental Adjustments (Budget-based and Special)
- #4 Contract Opt-Out or Contract Termination
- #5 Provide Resident Data to HUD
- #7 Notification of Corrective Actions
- #9 Life-Threatening Health and Safety Issues
- #10 Non-Life-Threatening Health and Safety Issues
- #16 Monitoring of Physical Inspection Follow-up
- #8 Monitoring of Owners' TIV Follow-up Efforts

Section 11-5

Monthly Invoice

The contracts' performance-based standards require HUD staff to review the CA's Monthly Invoice to ensure that work performed corresponds to IBPS items outlined in the ACC. Work will be deemed to conform to the IBPS item if (a) it is performed in accordance with the AQL established for such item, or (b) if CA demonstrates in the Monthly Invoice that it would have performed in accordance with the established AQL but for circumstances beyond its control, provided CA has taken reasonable steps to affect third party compliance with related required tasks.

Payment Components

HUD pays the CA an administrative fee for services rendered. The total administrative fee is comprised of a basic fee paid monthly and a pooled incentive fee paid quarterly.

The monthly **basic fee** is based on the IBPS factors for each corresponding task in the RFP. HUD pays the basic fee for each unit covered by the HAP contract during the ACC term. The basic fee is paid based on the CA's performance of tasks described in Section 4.8 of the RFP and in accordance with the CA's work plan.

The CA's performance is documented in the Monthly Invoice, which HUD verifies in a quality assurance review. The maximum basic fee will vary each month according to the total number of covered units. Of the total basic fee, HUD has allocated a percentage of the total fee for each IBPS task performed.

The basic fee is calculated by using the two bedroom FMR for every unit in the covered state, multiplied by the number of units corresponding to that FMR. The sum of all FMR calculations is multiplied by the agreed upon basic fee percentage to arrive at the maximum basic fee for the month. The fee percentage is agreed to in the ACC, and does not exceed two percent. For example, if the FMR for a covered unit is \$400 and the CA agreed to a 1.7 percent fee, the basic fee for each covered unit will be \$6.80. If the CA's inventory comprised 10,000 covered units as of the first of the month, the total basic fee available for that month would be \$68,000. The per unit per month figure is provided in Exhibit E of the ACC and will remain static for the first two years. For years three through five the per unit per month figure will be recalculated using the new FMRs for that period.

An **incentive fee** may be earned in addition to the basic fee. HUD pays the CA an incentive fee for performance on specific tasks listed in section 4.8 of the RFP.

A specified percentage of the pool applies to each task with an incentive fee. HUD determines how large an incentive fee to pay the CA based on HUD's evaluation of the CA's performance. The incentive fee per unit per month is agreed to in the ACC in Exhibit E and does not exceed one percent.

The incentive fee is calculated in a manner similar to that of the basic fee, using the two bedroom FMRs for the state. Using the example from the basic fee description, if the FMR is \$400 the incentive fee percentage is .85 percent; for 10,000 covered units, the available incentive fee is \$40,000 for the month. Any incentive fees earned are accrued and paid at the end of the quarter.

If there are no occurrences of event that in connection with an IBPS task, the CA earns all administrative fees as specified in the ACC applicable to that task. For example, if no owners notify the CA of their intent to Opt-out of their Section 8 contract and no contracts in the CA's portfolio are terminated, the CA will earn the full 5% of the total monthly basic fee applicable to this IBPS task as well as the applicable incentive fee.

A **disincentive deduction** is applied to the basic fee for performance that falls below the AQL. The disincentive deduction is a percentage of the basic fee amount. The **earned basic fee** is the basic fee per unit per month for each IBPS task, less any disincentive deduction for any IBPS task.

Invoice Review and Evaluation

HUD determines the CA's earned basic fee and incentive fee by reviewing data submitted in the CA's monthly invoice and supporting documentation (defined in Chapter VII of the Monitoring and Evaluation Deliverable document). Any electronic submissions of information should be compatible with HUD's systems. Monthly and quarterly reviews measure the CA's performance of each core task. Each month HUD assesses the CA's performance to determine the earned basic fee by reviewing the AQL for each task. Each quarter HUD determines the CA's incentive fee based on performance against the AQL for each task.

Fee Payment

Each month the CA determines the number of eligible units as of the first day of the month. The CA applies the approved basic fee percentage to the number of covered units to determine the maximum monthly basic fee and the amount of incentive fees pooled for the month.

A. Payment of Basic Fee

For tasks paid annually, the CA applies the percentage of the IBPS factor to the maximum basic fee and pools that amount which is held in pending core task completion and performance as required in the PRS. The CA calculates the eligible monthly fee based on performance against the AQL. The CA submits the invoice to HUD by the tenth business day of each month for the administrative fee earned for the previous month. Each invoice must be fully supported by documentation of the CA's achievements relative to the AQL for each IBPS factor. If HUD later determines through quality assurance reviews that the CA did not meet the AQL, HUD may adjust future payments to reflect the amounts that should have been withheld.

B. Payment of Incentive Fee

HUD pays the incentive fee quarterly. The amount of the incentive fee is based on the CA's performance against the IBPS.

If HUD notes any discrepancies on the invoice for the incentive fee HUD will adjust the invoice amount to reflect the findings. The CAOM is responsible for reviewing the invoice, assisted by the SPM and the PM. Once the CAOM calculates the amount of the invoice to be paid, the invoice is reviewed and approved by the Hub Director. Both the CAOM's review and the Hub Director's final approval are documented in HUD's files.¹

C. CA Appeal of HUD's Fee Determination

At the end of each contract year, the CA may appeal a HUD fee determination that it feels was errant. In its Annual Report to HUD, the CA must clearly state what determination was errant and the nature of the error. The CA must provide supporting documentation to substantiate claim.

HUD will review the CA's appeal and notify the CA in writing of its findings. If a finding indicates that the HUD owes the CA administrative fees, HUD will make an adjustment to the next fee payment following the notification to rectify the error.

Section 11-6

Monthly, Quarterly, and Annual Reports

The CA must submit monthly, Quarterly, and Annual Reports to HUD. These reports serve as a vehicle for HUD to monitor the CA's performance and provide a mechanism for the CA to notify HUD of their capability to complete the work as required under the IBPS.

A. Monthly Report

The CA must submit to the CAOM a Monthly Report and supporting documentation, with the Invoice, by the tenth business day of each month for the previous month. The required supporting documentation is listed in Chapter VII of the Monitoring and Evaluation Deliverable document. The Monthly Report must include:

- "hot" topics: properties and/or property-related activities that require additional oversight and administration; activities include abatement actions, excessive resident complaints, inquiries from government officials or the general public;
- an updated Work Plan Status Report: number of areas reviewed and services performed, dates of the reviews and services, name(s) of CA staff performing the reviews and services;
- note for HUD's review and consideration any circumstances beyond the control of the CA that impacted its ability to meet the AQL for any IBPS task

¹ For electronic document submission, documents must be compatible with Microsoft Word 95.

and the effort made on the part of the CA to positively influence those circumstances. HUD will use this information to make adjustments to the CA's administrative fees. For example, if in performance of IBPS #14, Renewal of Expiring Section 8 Contracts, an owner fails to submit the renewal data to the CA 120 days prior to expiration after notification ~~and prompting~~ from the CA, the CA should notify HUD of this on the monthly report so that the CA's performance on this task will not negatively affect earned administrative fees.

- certifications identifying any staff turnover that has occurred during the previous month and any excess funds per Chapter VI of the Monitoring and Evaluation guide;
- any significant administrative actions that could affect the contract;
- CA quality control activities and results;
- major accomplishments, success stories, etc.
- noteworthy meetings;
- pending issues.

B. Quarterly Report

The quarterly report must be submitted by the tenth business day following the quarter's end. The quarterly report consists of an updated work plan and status report.

0 Annual Report

Annual reports are due by the twentieth business day following the end of the CA's contract year. The report must describe the CA's progress against the work plan for that year. All actions and services with dates, locations, and employee names for that calendar year must be included. The CA must also submit a work plan for the following year, describing its plan to satisfy the ACC service requirements. The CA must disclose any conflicts of interest in a certification to be included with the annual report, per Chapter VI of the Monitoring and Evaluation guide.

The Annual report must also identify any appeal of HUD's fee determination for administrative fees paid in the report year. This appeal must clearly state the specific determination that CA is challenging and the nature of the error. The CA must substantiate this claim with supporting documentation.

B. Transitional Phase Reporting

During the initial phase of CA oversight, the CA will operate in a transitional phase. During this period, HUD works closely with the CA to provide assistance and to ensure that work is done correctly and in accordance with HUD's guidelines and regulations. The CA submits the core tasks as indicated in Chapter V of the Monitoring and Evaluation guide or as otherwise directed to HUD on a monthly basis. The CAOM assesses the quality of the CA's work, using pre-determined questions that serve as performance indicators. This

information will be recorded by the SPM/PM and given to the CAOM for monthly administrative tracking. When the CA achieves an acceptable performance level for each required process for three consecutive months, the CA will be notified of completion of the transitional phase and will operate in the full implementation phase. More information on these reporting requirements can be found in Chapter V of the Monitoring and Evaluation guide.

Section 11-7

Monitoring

A. Remote Monitoring

The CAOM will receive the CA's invoice, supporting documentation, and monthly reports. The CAOM will review the reports for accuracy, quality and compare data in corresponding REMS screens to ensure consistency. The CAOM will also compare the CA's work plan to further evaluate the CA's performance.

B. Annual Review

Each year the Hub/PC will conduct a formal compliance review of the CA. The initial compliance review must be completed within one year of the CA's ACC effective date. The annual compliance review will focus on the CA's business processes, including internal CA processes and procedures. The compliance review will include a comparison of the invoices submitted during the year and a random review of the CA's property files at the CA's offices and on-site property visits. HUD will focus the review on any areas that have been identified as areas of risk or concern.

A Review Team which may be comprised of the CAOM, the HUD PM, and SPM, will contact the CA to schedule the visit at least 30 days before the review. After the review the CA will receive a summary of the team's conclusions and findings.

C. Targeted Review

In the course of monitoring and evaluating a CA, if HUD decides the CA requires more oversight and guidance, a targeted review may be scheduled. A targeted review, similar in format to the compliance review, covers CA operations, including property files, processes, and protocols. The intent of a targeted review is to work cooperatively with the CA to resolve any areas of concern. As the targeted review is all-encompassing, an annual compliance review is unnecessary if a targeted review is completed within a twelve-month period.

The Review Team will contact the CA to schedule an appointment when the need for a targeted review is identified.

References

Sample Work Plan

Sample Invoice

Compliance Review Questionnaire

Monitoring and Evaluation Guide

Glossary of Terms and Acronyms

Acceptable Quality Level (AQL) : The required performance level for each IBPS Task. The AQL for each IBPS task is specified in the performance requirement summary (PRS).

Annual Adjustment Factor (AAF) An increase in rents derived by applying factors published annually in the Federal Register, supported by documents submitted by owners, as outlined in Housing Notices.

Annual Contributions Contract (ACC) The contract between HUD and the CA that outlines the terms under which HUD will pay CAs to enter into HAP contracts with owners and monitor designated units under the contract.

Auditee Any non-federal entity that must be audited under Office of Management and Budget's A-133 requirements, if the entity expends federal funds.

Audit finding Deficiencies the auditor must report in the schedule of findings and questioned costs.

Auditor A public accountant or a federal, state, or local government audit organization that meets the general standards specified in generally accepted government auditing standards (GAGAS). The term does *not* include internal auditors of non-profit organizations.

Automatic Renewal and Amendment Management Subsystem (ARAMS)
A system that automates the processing and confirmation of funding reservation requests for renewal and amendment subsidy contracts. This system allows funds to be reserved earlier, enhancing timely and continuous payment disbursement.

Budget-Based Rental Adjustment A rent increase that promotes the efficient management and continued financial viability of projects when current rent levels are insufficient to cover operating costs. The increase is supported by a budget of revenue and expenses and other required documentation.

Comparable Market Rents Rents charged for non-subsidized properties determined to be similar to the subject property in age, size, location, apartment mix, amenities, utilities, and other relevant characteristics.

Comparability Study See Rent Comparability Study.

Computer Matching Agreements The agreements between HUD and the Internal Revenue Service (IRS) and the Social Security Administration (SSA) that allow the matching of data between each entity's databases.

Computer Matching Income Verification (CMIV) A process for comparing data from HUD, the IRS, and the Social Security Administration to identify potentially unreported income.

Contract Administrator (CA) Public housing agency, and/or a joint venture between a public housing agency and private entity, authorized to enter into an ACC with HUD. The CA is responsible for assuming or entering into HAP contracts with owners and enforcing the owner's obligations to comply with the contract terms and HUD regulations and requirements.

Contract Administration Oversight Monitor (CAOM) HUD staff in the Multifamily Hub who reports to the Operations Director. The CAOM oversees CA performance and overall contractual compliance for the ACC/RFP

Compliance Review: An annual review which is conducted by HUD staff to evaluate a CAs overall performance in accordance with the required Incentive Based Performance Standards (IBPS) under the Request for Proposal. A review of the CA, files and records is performed.

Corrective Action Plan A formal plan that describes each deficiency, the corrective action proposed for the deficiency, when each deficiency will be corrected, and the sources of funds. The owner must submit monthly updates to the CA specifying what corrective actions were made, until all deficiencies are corrected. Upon final completion, a letter on owner's letterhead is required certifying that all repairs were made. If HAP contract renewal is pending for Section 8 properties, the owner must sign a Section 8 HAPC contract Addendum, reference Notice H 99-36.

Departmental Enforcement Center (DEC) HUD center with an objective of reducing the Department's troubled Multifamily housing inventory to a level comparable to or lower than the private sector (that is 5% to 7% of its housing portfolio) through enforcement actions. Properties may be referred to the DEC by REAC or the Multifamily Hub or PC or through CA recommendation.

Discrepancy Letter The letter that HUD sends to a tenant indicating that a potential discrepancy exists between a tenant's reported income identified by Federal tax data. The letter directs the tenant to provide the letter to the tenant's POA.

Discrepancy Notification The notification that HUD sends to a POA with a listing of tenants who were sent discrepancy letters. The notification directs

POAs to contact tenants and resolve potential income discrepancies identified in the tenant letters.

Emergency Low-Income Housing Preservation Act (ELIHPA), aka Title II Law enacted in 1987 that prohibited some owners of Section 236 and Section 221(d)(3) properties from prepaying mortgages after 20 years, unless a HUD-approved “Plan of Action” was in place. Some owners elected not to pursue their contractual right to prepay these mortgages. In return, HUD provided incentives to owners who agreed to maintain their properties as lower income housing.

Enhanced Voucher Vouchers worth up to the unit's market value, provided the local housing authority approves the rent as reasonable. Enhanced vouchers can only be used in opt-outs and prepayments.

Excess Rental Assistance The difference between the amount of rental assistance received by a tenant based on reported income and the amount of rental assistance the tenant was entitled to receive.

Exigent Health and Safety (EHS) Physical conditions that impact the health or safety of residents, that may be an emergency, and that are cited by a REAC inspector during an inspection. The owner must correct or mitigate exigent items immediately, no later than 72 hours after the citation.

Fair Housing and Equal Opportunity (FHEO) Office in HUD responsible for enforcing the requirements of the Fair Housing Act, as amended, including the provisions prohibiting discrimination in selling or renting housing.

Fair Market Rent (FMR) Rents established by HUD for existing housing according to bedroom sizes, published in the Federal Register at 24 CFR Part 888. The fair market rent, including the cost of utilities (except telephone), is the amount required in the housing market to obtain privately owned, decent, safe, and sanitary housing of modest nature with suitable amenities.

False Positive Discrepancy A potential income discrepancy identified from Federal Tax Information matching that upon POA review and/or investigation did not result in unreported income or excess rental assistance or if the discrepancy was less than \$1,000.

Federal Award Federal financial assistance contracts that non-federal entities receive directly from federal awarding agencies or indirectly from pass-through entities. Procurement contracts under grants or contracts used to buy goods or services from vendors are not included.

Federal Financial Assistance Assistance that non-federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative

agreements, interest subsidies, insurance food commodities, direct appropriations, and other assistance.

Federal Housing Administration (FHA) Part of HUD's Office of Housing, responsible for implementing mortgage insurance programs authorized under the National Housing Act, as amended. HUD and owners enter into regulatory agreements that establish the contractual obligations for each insurance program.

Federal Tax Information The earned and unearned income data provided to HUD by the IRS and the SSA under a computer matching agreement.

Financial Management Center (FMC) or other designated accounting office: The HUD center reviews and processes the CA's budget, requisitions, revisions, and year-end statements. FMC also pays the CA's monthly invoice after it has been reviewed and approved by the CAOM and Multifamily Hub Director.

False Positive Discrepancy A potential income discrepancy identified from Federal Tax Information matching that upon POA review and/or investigation did not result in unreported income or excess rental assistance or if the discrepancy was less than \$1,000.

Federal Tax Information The earned and unearned income data provided to HUD by the IRS and the SSA under a computer matching agreement.

Freedom of Information Act (FOIA) Request A formal request for information that may be released to the public.

Full Implementation Phase: The second phase of Remote Monitoring in HUD's Monitoring and Oversight Program when a CA transitions from the "transitional phase."

Housing Assistance Payment (HAP) Contract A contract between HUD, or a CA, and an owner to pay housing assistance payments in return for an owner's providing decent, safe, and sanitary housing, and for compliance with other HUD requirements.

Hub/PC: See Multifamily Hub

HUD The United States Department of Housing and Urban Development.

HUDCAPS HUD's central accounting and program system –the department's official general ledger. This system also captures, reports, controls, and summarizes financial results of such accounting processes as budget execution, fund controls, accounts receivable, collections, and accounts payable.

Income Discrepancy The difference between tenant income data maintained in HUD's tenant databases and Federal tax information.

Initial Renewal The first renewal of a project's contract or stage that is processed under Section 524 of MAHRA or the current housing renewal notice.

Interim Recertification Policy The policy that determines when a tenant must report income increases. The policy also identifies if a POA recalculates rental assistance and, if so, when rental assistance will be increased.

Invoice: The CA submits a monthly invoice and supporting documentation to the CAOM for payment of performance for each Incentive Based Performance Standard (IBPS) as outlined in the Request for Proposal (RFP).

Life Threatening Health and Safety (LTHS) Concern Property condition posing a life safety threat to property residents. The CA should deal with any reported LTHS conditions immediately.

Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA), aka Title VI A permanent program to preserve low-income housing resources and to enable residents to become homeowners, while compensating owners for the value of their properties. Agreement terms to maintain the housing's affordability, compensate the owners, and/or convert the property to homeownership are found in the project's HUD-approved Plan of Action (POA).

Loan Management Set Aside (LMSA) Section 8 project-based contract authorized subsequent to the endorsement of the mortgage's FHA loan insurance.

Management Agent A management agent is responsible for operating and managing a property and is paid a fee by the property owner.

Management and Improvement Operating (MIO) Plan A detailed plan developed by the owner to formalize what actions will be undertaken to restore or maintain a property's financial and physical soundness. The plan includes corrective actions, sources of funds, and the timeframe for completion.

Market Rent Comparable rents for unsubsidized properties in the local market area.

Mortgagee In Possession (MIP) HUD becomes the Mortgagee In Possession when the current mortgagee on a property assigns the mortgage to HUD.

Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) Law that establishes OMHAR and renewal of Section 8 contracts.

Multifamily Headquarters The office under the Deputy Assistant Secretary for Multifamily, which handles the contract administration initiative. This office develops and disseminates policies and procedures, coordinates with Hubs and PCs, and oversees implementation of the CA initiative.

Multifamily Hub One of 18 offices responsible for overseeing Multifamily Program Centers. The Multifamily Hub Director oversees this office and is staffed with an Operations Director. The Operations Director supervises the CAOM.

Multifamily Program Center One of 51 offices responsible for monitoring and implementing all multifamily programs. Program Center teams of project managers will work directly with CAs and provide guidance.

Multifamily Tenant Characteristics System (MTCS) HUD's tenant database for PIH programs.

New Construction (NC) Section 8 project-based rent assistance for newly constructed, privately-owned rental housing with any type of construction or permanent financing, including FHA insurance programs.

Office of Multifamily Housing Assistance Restructuring (OMHAR) HUD office responsible for restructuring FHA-insured or HUD-held mortgages on multifamily properties that receive rent subsidy assistance under HUD's Section 8 program. Properties potentially eligible for restructuring have Section 8 contract rents above comparable market rents.

OMHAR-Lite, aka "Haircut" A request for a reduction in rents without mortgage restructuring.

Operating Cost Adjustment Factor (OCAF) An increase in rents derived by applying factors published annually in Housing Notices, based on documentation submitted by the owner.

Opt-Out An owner's decision not to renew a project-based subsidy contract when the contract expires. Enhanced vouchers are issued to eligible residents.

Owner Any private person or entity, including a cooperative, an agency of the federal government, or a public housing agency, having the legal right to lease or sublease dwelling units.

Participating Administrative Entity (PAE) A public agency, non-profit organization, or any other entity (including a law firm or an accounting firm) or a combination of such entities, that meets the requirements under Section 513(b) of MAHRA and performs screening and restructuring functions for OMHAR or recommends rejection when appropriate.

Pass-through Entity A non-federal entity that provides a federal award to a subrecipient to carry out a federal program.

Plan of Action (POA) An agreement between an owner and HUD that requires the owner to maintain a property as affordable housing, in return for certain incentives. Also see ELIHPA and LIHPRHA.

POA The term used to refer collectively to Public Housing Agencies and Owner/Agents administering HUD's Public Housing, Section 8 Tenant-Based, Section 8 Project-Based and other Housing rental assistance programs.

Portfolio Reengineering Restructuring of a HUD-insured mortgage and/or reduction of Section 8 rents completed before OMHAR's creation.

Program Center (PC) See Multifamily Program Center.

Property Disposition Set Aside (PDSA) Section 8 project-based contract authorized in conjunction with the sale of a HUD-owned multifamily project or foreclosure.

Project-Based Assistance Rent assistance obligated to a multifamily housing property in accordance with the HAPC.

Project Manager (PM) HUD staff located in the Multifamily Hub and/or Program Center responsible for daily interaction with the CA and general program support, when needed. Additionally, PMs serve as contacts for the CA regarding Section 8 property information.

Public and Indian Housing (PIH) Office in HUD responsible for processing resident vouchers as part of the opt-out and termination processes. PIH also oversees the FMC.

Public Housing Authority (PHA) A state, county, municipality, or other government entity or public body (or agency or instrumentality thereof) authorized to engage in the development or operation of low-income housing.

Real Estate Assessment Center (REAC) HUD center that conducts physical inspections of HUD properties and that notifies the CA of any exigent health and safety conditions. REAC also reviews audited annual financial statements and the CA's audit, and conducts resident surveys and tenant income verification.

Real Estate Management System (REMS) HUD's data source for Multifamily Housing's portfolio of insured and assisted properties. Data are maintained on each property's location, size, ownership, financing, physical condition, and assistance contracts. This system allows Hubs, Program Centers, REAC, the

DEC and CAs to oversee property operations and detect trends that may result in the need for enforcement actions.

Recipient A non-federal entity that expends federal awards received directly from a federal awarding agency to carry out a federal program.

Renewal Replacement of an expiring federal rent assistance payment contract with a new contract under Section 8 of the Housing Act of 1937.

Rent Comparability Study (RCS) A method of estimating market rents for Section 8 units in a subject property. The appraiser derives an indicated (market) rent by comparing the Section 8 units with similar, but unsubsidized, properties, making adjustments as appropriate to the comparable rents.

Remote Monitoring: A primary method that HUD will utilize to monitor and evaluate the CA s performance. Remote monitoring provides information that can be used to alert HUD and CAs to potential problems, correct CA errors and minor problems before becoming major issues, and assure HUD that CAs are performing at an acceptable level.

Reserve for Replacement A fund used to defray the costs of replacing a project's capital fixtures and/or improvements. The owner is responsible for making monthly deposits to the account according to terms approved by HUD on the Form HUD 9250. The fund is held by the mortgagee and is controlled by HUD.

Residual Receipts A fund established to deposit surplus cash remaining after a project's expenses have been paid. Non-profit owners must deposit all surplus cash, while limited dividend owners must deposit the amount remaining after allowable distributions have been paid. HUD controls the fund. Some HAP contracts require residual receipts to be returned to HUD upon contract termination or opt-out.

Review Team: A group which may be comprised of the Contract Administrator, a HUD Project Manager, and a Supervisory Project Manager that will concurrently and independently provide monitoring and oversight over the CAs performance.

Service Coordinator Links property residents with support or medical services provided by public agencies or private practitioners within the general community; may assess service needs, determine eligibility for public services, and work with other agencies.

Special Rental adjustment An increase in rents derived by applying a factor based on actual increases in taxes, utilities, insurance, or service coordinator expenses. Owners with contracts whose rents are adjusted through the AAF are eligible if they meet all submission requirements.

Stub Contract Short-term renewals for less than 12 months designed to protect the residents and/or to align multiple contracts or stages in a project.

Subrecipient A non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program. Individual beneficiaries of such programs are not included. A subrecipient may also receive other federal awards directly from a federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in [§.210](#) of the Office of Management and Budget's Circular A-133.

Subsequent Renewal Renewal of an expiring contract that was originally renewed under Section 524 of MAHRA. Renewals are processed according to terms of the current applicable housing notices.

Substantial Rehabilitation Section 8 project-based rent assistance for newly constructed, privately-owned rental housing with any type of construction or permanent financing, including FHA insurance programs.

Supervisory Project Manager (SPM) HUD staff in the Multifamily Hub and/or Program Center responsible for overseeing the HUD project managers' day-to-day interaction with the CA, including communications, delegation of workload, and coordination of meetings.

Target Review: A compliance review which is conducted by HUD staff to evaluate a CAs overall performance in accordance with the required Incentive Based Performance Standards (IBPS). It entails a review of the CA, files and records and may be conducted at any time that HUD determines it may be necessary to assess the CAs performance.

Tenant Assessment Subsystem (TASS) The automated system used by HUD to conduct computer matching, create discrepancy letters, POA discrepancy notifications, and track case resolution.

Tenant-Based Rent Assistance Rent assistance that is given to eligible residents and is not tied to a specific property.

Tenant Identifiers For the purposes of computer matching income verification, the tenant's name, social security number, and date of birth.

Tenant Rental Assistance Certification System (TRACS) HUD's automated system for voucher processing. It contains specific information on units, residents, and rent subsidies and is used in the voucher review process.

Tenant Repayment Agreement The agreement signed between the POA and a tenant in which the tenant agrees to repay excess rental assistance based on the terms specified in the agreement.

Termination The non-renewal or cancellation of a Section 8 contract. Terminations are usually the result of owner noncompliance with regulations and requirements.

Transitional Phase The first phase of Remote Monitoring as part of HUD's Monitoring and Oversight Program. This phase is characterized as a partnership between HUD and CAs.

Valid Discrepancy The situation in which a tenant's rental assistance is decreased based on Federal tax information provided in HUD's discrepancy letter to a tenant.

Vendor A dealer, distributor, merchant, or other seller providing goods or services that are required for a federal program. These goods or services may be for an organization's own use or for the use of the program's beneficiaries.

Verification The confirmation with the tenant of Federal Tax Information that the tenant discloses to the POA. Confirmation of the Federal Tax Information with employers or financial institutions is essential only if the tenant contests the accuracy of the information.

ADDENDUM C:

**CLARIFICATION OF SPECIFIC REQUIREMENTS IN THE
PERFORMANCE BASED ACC**

The purpose of this addendum is to clarify specific requirements of the Performance-Based ACC. The work performed under the Section 8 Contract Administration ACC is performance-based. Performance-Based Service Contracting (PBSC) is based on the development of a performance work statement, which defines the work in measurable, mission-related terms with established performance standards and review methods to ensure quality assurance. PBSC assigns incentives to reward performance that exceeds the minimally acceptable and assesses penalties for unsatisfactory performance. The list of ACC provisions requiring clarification are as follows:

Separate Accounts for Administrative and HAP Fees

The Contract Administrator (CA) must establish separate accounts with a federally insured banking institution for receipt of its Housing Assistance Payment (HAP) distribution from HUD. The CA may elect to use an account into which the administrative fee is deposited for other receipts at its discretion. However, the HAP account must be solely used for the deposit of the monthly HAP payment.

Fidelity Bond Coverage

The CA must carry fidelity bond coverage, equal to one month of the HAP payment or greater, to compensate the CA and HUD for any theft, fraud or other loss of program property resulting from action or non-action by CA officers or employees or other individuals with administrative functions or responsibility for contract administration under the ACC.

Depository Information

The CA must enter into an agreement with a federally insured financial institution in accordance with HUD requirements. All program receipts must be promptly deposited into a federally insured financial institution account. In addition, the CA's financial institution must be capable of receiving and sending electronic fund transfer (EFT) transactions. HUD may provide an exception to this provision where a CA's State law conflicts with this provision.

