

Welcome to the **MULTIFAMILY HOUSING RENTAL HOUSING INTEGRITY IMPROVEMENT PROJECT (RHIP) LISTSERV** that brings you up-to-date RHIP related publications, news, information and occupancy tips in an effort to help reduce errors in rent determinations and subsidy calculations.

RHIP TIP ON VERIFYING ELIGIBILITY OF NONCITIZENS

In accordance with Section 214 of the Housing and Community Development Act of 1980, as amended, owners operating projects under certain assisted housing programs are prohibited from making financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible non-citizens. To determine the eligibility status of non-citizens, owners must verify with the Department of Homeland Security (DHS) the citizenship status of each member of a household applying for housing assistance and at interim or annual recertification when there is a change in citizenship or eligible immigration status of any family member. Section 214 is applicable to owners operating projects under the following programs: Section 236, Rent Supplement, Rental Assistance Program (RAP), and Section 8 including Section 202/8 projects.

To verify the validity of the documents owners must:

Obtain computer software to install on the owner's personal computer, an access code and user ID by contacting Mrs. Denise Taylor-Parker at HUD Headquarters, Office of Multifamily Housing at (202) 708-3000, extension 2892. Mrs. Taylor-Parker will record the required information which will be sent to DHS and request that the computer software and access to the verification system be provided to the owner.

If more than one personal computer is used, it is necessary to request computer software and user IDs for each computer. Multiple users can use a single computer but a unique user ID is needed for each computer user.

Upon receipt of the software, access code and user ID, the owner is able to use the automated system to obtain primary, and in many instances, secondary verification.

If the owner does not have a personal computer or a CD drive and Windows on their personal computer, it will be necessary to verify immigration status using the paper process. A completed Document Verification Request, Form G-845S, and photocopies of the immigration documentation must be mailed to the local immigration office to receive verification of validity of the documents.

Please reference Chapter 3 Paragraph **3-12.H** of *HUD Handbook 4350.3 REV-1 Occupancy Requirements of Subsidized Multifamily Housing Programs*. Appendix 2 of this handbook is the instruction manual providing specific and detailed instructions on use of the Systematic Alien Verifications for Entitlements System (SAVE) and interpretation of results of DHS verification information.

ITEMS OF INTEREST

1. The Office of Multifamily Housing has issued several page changes to the project-based Section 8 Renewal Policy Guidebook that pertain to the Housing Assistance Payment

(HAP) contract. The copies of the changes will be available on HUDCLIPs at www.hudclips.org. The major changes to the Guidebook are as follows:

- a. Removes previous guidance, found at Sections 2-1E, 4-1 and 6-1B that stated once the owner of an exception project renewed under either Option One or Option Two they were prohibited from reverting back to an exception status. The Office of General Counsel (OGC) reexamined this policy and found that the Multifamily Assisted Housing Reform Act ("MAHRA") did not support this position. A clarification to the MAHRA regulations was published January 12, 2006. Therefore, at any renewal the owner of an exception project may elect to renew under any option that the contract is eligible for at the time of renewal.
- b. Authorizes Program Centers to approve Discretionary Mark-Up-To-Market requests without first obtaining Headquarters approval.
- c. MAHRA originally limited the renewal of Section 8 contracts associated with preservation projects to a term of one year. MAHRA was amended and the one-year limitation was removed. Therefore, preservation projects are now permitted to use multiyear Section 8 contracts. The maximum term of the multiyear contract will be based on the lesser of 20 years or the remaining term of the Use Agreement.
- d. MAHRA limits the owner of a preservation project to renew his/her Section 8 contract using Option Five. We have emphasized this requirement.

2. The Office of Affordable Housing Preservation (OAHP) sent out an e:mail on May 4th with the information shown below pertaining to Housing Assistance Payments (HAP) contract renewals. Please visit the OAHP's Section 8 internet website at <http://www.hud.gov/offices/hsg/omhar/readingrm/sect8.cfm> for additional information about OAHP.

Out Year Contracts:

Now that the new Owner Election Form has been approved for use (attached) OAHP can again accept properties in for restructuring with HAP contracts that may have an expiration several years in the future ("Out Year Contracts"), **without the owner having to give up their current, above-market contract.** While OAHP has done many of these transactions over the years, the approaching sunset of Mark-to-Market (M2M) authorities, and the need for a Section 514 contract as evidence of a "binding commitment" had required OAHP to restrict Out Year projects. With the release of the new Owner Election Form, however, OAHP can again accept these referrals.

There is a cost to OAHP for completing a restructuring plan. OAHP has set up the following guidelines for Out Year referrals (use of the Contract Renewal Form for Out Year Contracts when a new Section 514 contract will not be put in place):

Contract Expiration must be in excess of 18 months from owner request to enter the program **or** the Multifamily referring office must indicate that funding is not available for issuance of a Section 514 contract at this time.

A rationale for a potential OAHP restructuring must be submitted with the request. Possible reasons may include:

Need for significant rehab

Insufficient cash flow to meet current operating/cash flow needs

OAHP has in its toolbox the ability to use an Out Year Rider, which will allow the current contract to remain in place, with the higher contract rents, until maturity. The rent differential in many cases flows to the property's replacement reserves. The net effect of this Rider is to create a smaller Mortgage Restructuring note, saving the owner money long term. The Rider will only be used in the following situations:

The out year contract must mature between 6 months and 36 months past the closing of the M2M restructuring. If outside of this window, the owner will have to accept a M2M Full restructuring contract at market rents, beginning the month after the M2M closing.

The gross difference between market rents and contract rents must exceed \$25,000 per year.

The Out Year Rider recapture agreement is administered by the respective Multifamily office. Therefore, the MF office must agree to monitor the recovery of the out year monies (difference between contract and market) and implement the M2M Full restructuring contract at market rents determined by OAHF, increased by OCAF since the date of closing.

Even when an Out Year Rider is not used, an OAHF Restructuring may benefit the property and preserve affordable housing. HUD will have a Use Agreement in place, the property will be rehabbed as necessary and OAHF will ensure that cash flow is sufficient to maintain the property long term.

Please contact Norman Dailey if you have any questions about this process. (Norman_Dailey@hud.gov or at 202-708-0614, x8371)

(See attached file: Owner Election Form - 9624.pdf)

Bond Financed Properties Renewed Under Option 4:

OAHF is in the process of pulling an updated report from REMS of all properties that were renewed under Option 4 and comparing that information to their Bond Database. The Renewal Guide Chapter 6 (on Option 4) requires that the bond documents (for Programs eligible for M2M; i.e. not 202, 811, etc) be reviewed by OAHF to determine whether the properties are exempt or not. OAHF will distribute the database in the very near future and ask for Multifamily HUD staff assistance in clearing any exceptions to the Guide. With Sunset less than 6 months away, it is important that any M2M eligible properties are identified, the owners notified, and referral is completed as soon as possible.

OAHF has also recently been notifying some of the Field offices and owners of properties which were previously exempt. Exemptions due to a bond indenture lockout or prepayment restriction in the mortgage will no longer be exempt when the lockout expires.

3. Notice of Funding Availability (NOFA) under the Section 202 Demonstration Pre-Development Grant Program

The NOFA announcing funding under the Section 202 Demonstration Pre-Development Grant Program was published in the Federal Register on Thursday, May 4, 2006. The NOFA makes available approximately \$42,178,662 for pre-development grants to Sponsors who received fund reservations under the Fiscal Year 2005 Section 202 Supportive Housing for the Elderly Program.

The Section 202 Demonstration Pre-Development Grant Program is to assist Sponsors/Owners to bring their projects to initial closing within 18 months of their Section 202 fund reservation. The funds are awarded for such pre-development activities as: architectural and engineering work, site control extensions, and other planning related expenses that are eligible for funding under the Section 202 Supportive Housing for the Elderly Program.

Applicants will be required to submit their application via www.grants.gov no later than the deadline date of June 6, 2006. To view the notice in its entirety, please visit www.grants.gov.

Please encourage others to sign-up for the Listserv, so they too can receive current RHIP related information from HUD <http://www.hud.gov/subscribe/maillinglist.cfm>

If you should have any occupancy related questions, please contact your assigned contract administrator, or your RHIP Help Desk Representative
<http://wwwhud.gov/offices/hsg/mfh/rhiip/helpdesk.pdf>

You can view the RHIP Tips Archives: issues 11-20, under "Listserv-Multifamily RHIP Tips" at <http://wwwhud.gov/offices/hsg/mfh/rhiip/mfhrhiip.cfm>.