Elderly Housing Symposium 2018

National Housing Compliance

“Raising the Bar in Compliance”
TRACS Update

National Housing Compliance
By
Lisa M. Furbush
“Raising the Bar in Compliance”
TRACS RELEASE 2.0.3.A FALL 2018 IMPLEMENTATION SCHEDULE

The TRACS Release 2.0.3.A 4-month implementation schedule date was to begin February 1, 2018. This implementation date is being RESCHEDULED to the Fall of 2018 to accommodate:

- Office of Management and Budget (OMB) approval of new and revised HUD forms and associated collection of information from the public; and

- HUD Office of Chief Information Officer (OCIO) TRACS upgrade project to allow currently unsupported CoolGen v6.5 software development tools to be upgraded to the current vendor supported release CA Gen v8.6.

MFH will publish a final 4-month implementation schedule once TRACS has completed: [i] User Acceptance Testing (UAT) of TRACS software upgrade with industry software vendors and [ii] OMB approval of HUD’s new and/or revised forms for the collection of information.

Testing requirements, the final TRACS Release 2.0.3.A Implementation Schedule, and stakeholders' notifications will be posted on the TRACS documents page: https://www.hud.gov/program_offices/housing/mfh/trx/trxsum

RESCHEDULED

Industry notified January 30, 2018
Preparing to convert to 203A

Before you migrate to TRACS 203A you should review the following:

1. TRACS Certification Query
2. Verify FSS accounts
3. Verify Repayment Agreements
Social Security Numbers

Current requirements under 202D and changes in 203A
Social Security Numbers

12-29-2009 Rent Refinement Final Rule
   effective 1-31-2010

HSG Notice 10-08

3-8-2016 Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs
   effective 4-7-2016
999-99-9999 in 202D Fatals

When the notice came out for the Minor Exemption code at MI or IC all coding had already been written.

The work around for 202D MI & IC files— HSG 16-09

999-99-0000 (with no exemption code)

999-99-9999 with ‘M’ will work for AR’s and IR’s

If adding to an existing household create an IR/AR – no corrections.
999-99-9999 in 203A Baseline

If such a case was reported prior to site software being updated to version 2.0.3.A and the sanctioned workaround used of reporting an SSN of “999990000” (or if any other made-up SSN was reported).

The OA MUST transmit an IR (or AR if appropriate depending on the timing) correcting the SSN to all 9’s and using the M exception code.
SSN Baseline

Completed on the first 203A voucher submission.

Must be an IR or an appropriate AR – no corrections.

Once updated/corrected TRACS will issue a warning message soon after the 180 day grace period.
Not Valid SSN – MAT Error 25

000-00-0000  666-66-6666
111-11-1111  777-77-7777
222-22-2222  888-88-8888
333-33-3333  123-45-6789
444-44-4444  987-65-4321
555-55-5555
Repayment Agreements

Baseline required on first 203A voucher transmission
Who needs to be baselined?

1. Active repayment agreements;
2. Active tenants with repayment agreements that have not made a payment;
3. Previous tenants who have moved out but continue to make payments;
4. Self-managed repayment agreements never reported to HUD;
5. FSS Participants.
NHC contacted all O/A’s with reported repayment agreements. We will continue to monitor in preparation for the 203A transition.

- Please contact NHC – Incorrect Balance
- Please contact NHC – Agreement Amount
- Please contact NHC – current resident/no payment
- Please contact NHC – data error
Not current on a Repayment Agreement?

Termination of Tenancy

not Subsidy

*Can receive subsidy if under eviction.
Regulatory Reminders

National Housing Compliance
By
John Nocheherly
“Raising the Bar in Compliance”
O/As are required to have continuous access to, and utilize the EIV System in its entirety.

O/As who do not have access to or are not utilizing the EIV System in its entirety, will receive a finding and incur a penalty of a 5% of their monthly rental subsidy payment from HUD.

A decrease in the voucher payment will be levied for the month following the date the violation was found and each subsequent voucher payment, until the violation is cured.
HUD has created a web page called VAWA Resources for Multifamily assisted housing. It contains links to the following:

- Violence Against Women Reauthorization Act of 2013;
- HUD’s final VAWA rule;
- Multifamily Housing program notice H 2017-05, “VAWA Reauthorization Act of 2013 – Additional Guidance;
- July 26 and August 1, 2017 training webcasts on YouTube;
- A summary of industry Questions & Answers;
- HUD VAWA Forms, and
- Additional survivor resources.

VAWA Resources for O/As
https://www.hud.gov/program_offices/housing/mfh/violence_against_women_act
Replaces RHIIP Listserv #373 (12-15-16).

Model forms for VAWA are available on HUD:

- Notice of Occupancy Rights under VAWA (form HUD-5380)
- Model Emergency Transfer Plan (form HUD-5381)
- Certification of Domestic Violence… (form HUD-5382)
- Emergency Transfer Request… (form HUD-5383)
  - Replaces HUD form 91066

Model forms may be customized, as long they contain the same information and language.
Effective 12-16-16.

Notice of Occupancy Rights (form HUD-5380) and Certification form (form HUD-5382) must be provided as follows:

- With any notification of eviction or termination of assistance,
- To rejected applicants, and
- To new households at move-in.

Does **not** have to be provided to every applicant on the waiting list.

Does **not** have to be provided at recertification.
Emergency Transfer Plan

- Must be developed by property owners.
- Plan must be available upon request, and publicly available whenever feasible.
- Must discuss priorities given to tenants regarding emergency transfers vs. other individuals seeking transfers, or placement on the waiting list.
- Must describe procedures to transfer tenants when a safe unit is/is not immediately available w/o a new application.
- Emergency transfer obligation does not supersede any eligibility or other occupancy requirements.
Owners must keep confidential any information submitted by VAWA victims about emergency transfer.

Documents submitted by VAWA victims must be filed separately from the applicant/tenant file in a secured location.

The owner is not required to bear moving costs that tenants generally pay to move, including application fees & deposits.

The owner is not required to obtain acknowledgements from the applicants/tenants, but it is highly recommended.
VAWA’s Ripple Effect

- Policy & procedures affected by this rule are;
  - Tenant Selection Plan
  - Waiting list
  - Transfer policy
  - Rejections
  - House Rules
  - Termination of assistance and/or tenancy; and
  - Eligibility of remaining household members.
Interim Final Rule on Streamlining Administrative Regulations

- Listserv #401 was issued on 12-13-17, but delayed to allow for public comments.
- Extends streamlining changes adopted in 2016 for housing choice vouchers & public housing to Multifamily programs.
- Effective on 3-12-18.
- Comments period ended on 1-11-18.
- HUD will consider changes before publication of the final rule.
Interim Final Rule on Streamlining Administrative Regulations

(Continued…)

■ HUD allows Multifamily Housing owners to:

■ Conduct full income recertification for families with 90% or more fixed income, every 3 years instead of annually.

■ Make utility allowance reimbursement of $45 or less per quarter, on a quarterly basis. A hardship policy is required.

■ Accept family declaration of net assets equal or less than $5,000, with third party verification of all family assets required every 3 years.
Utility Allowance Methodology

Presented by Kim Lance
HUD’S NEW U/A METHODOLOGY

- HUD Notice 2015-04 Issued June 22, 2015
- Revised September 9, 2015 for Clarification
- FAQ’s Issued
Purpose and Background

- Provides instruction to owners/agents for completing the annual utility analysis
- Builds on the June 2011 memorandum titled “Clarification Utility Allowance Regulations”, issued by former DAS Carol Galante
- Streamlines the methodology for utility analyses as part of a larger effort to make energy and water conservation a priority at all Multifamily properties
New Methodology Requirements

- Must establish baseline analysis for each bedroom size
- After baseline is established, owner has option to perform a factor-based utility analysis for 2 years
- Consistent Sample size requirements outlined in notice.
- The starting month of the back up documentation must be within 18 months of the contract anniversary date.
Baseline Utility Analysis

- Request utility data from either the tenant household or utility company—however it is ultimately the tenant responsibility if the utility company doesn’t provide the data

- Must be done for each bedroom size at the property.

- Must meet minimum sample size
Excel Spreadsheet

- Calculations can be made using a software tool of the owner’s choice or owners may use the Excel spreadsheet offered by HUD.

- The inputs must reflect the methodology detailed in the housing notice.

- Ensure worksheet is used correctly, including not putting a zero in the blank spaces.
UAF (Utility Allowance Factor)

- For two years after a baseline analysis is completed, the utility allowance amounts can be adjusted by a state specific increase factor- The UAF (Utility Allowance Factor).

- The UAF Factors are found on the HUD User website and change every year in line with the OCAF Factors.
The Department of Housing and Urban Development’s Office of Housing permits owners/agents to use Utility Allowance Factors (UAFs) for projects subject to the requirements found in Housing’s Utility Analysis Notice. The notice describes when owners/agents of Multifamily Housing properties that receive a utility allowance may use the published UAFs to adjust these allowances. The dataset will be updated once per year and will be published with an effective date. The dataset will be based on information published by the U.S. Energy Information Administration and the Bureau of Labor Statistics. Owners/agents will determine their utility and state specific UAF and apply the published UAF to their existing allowance for the utility allowance they are adjusting.

- FY 2017 UAFs – Table (*.xlsx, 12.8 KB);
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</table>
UAF (Utility Allowance Factor)

Special Notice:

- UAF Factors below 1.00 result in a decrease in that utility type. In these cases, proper notice must be given to tenants of the U/A decrease.
If, in the O/A’s determination, the results indicate a significant disparity between the two, the O/A should complete a baseline analysis to help ensure the allowance(s) provided are accurate.
The owner's analysis of the Utility Allowance (UA) must be prepared in accordance with HUD Notice H-2015-04. For two years after a baseline is completed, the UA amounts can be adjusted by a state-specific increase factor, the Utility Allowance Factor (UAF). The UAF can be found here: [https://www.huduser.gov/portal/datasets/muaf.html](https://www.huduser.gov/portal/datasets/muaf.html). After completing the UA under the factor-based method, owners should compare the adjusted UA to their paid utilities at the property over the past 12 months. If the results indicate a significant disparity between the two, the owner should complete another baseline analysis.

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<th>Recommended 1-2000</th>
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</tr>
</tbody>
</table>

I have compared the factor-based analysis to the paid utilities over the past twelve months and confirmed that there is not a significant disparity between the two.

I (We) hereby recommend the Factor-Based Utility Analysis.

OWNER'S NAME: 
OWNER'S SIGNATURE: 
DATE:
If the owner’s U/A analysis indicates a decrease in the U/A, if necessary, the following steps must be taken:

- The decrease is an increase in the tenant’s portion of the rent and must be posted for tenant comment for 30 days as required by 24 CFR 245.405 (a) and 245.410
Post for Tenant Comment
Before the request is submitted

Comments

30 DAYS
Once the 30 day comment period has passed, the owner must certify the posting took place and the owner has reviewed and evaluated all comments.

Certification form (24 CRF 245) must be dated after 30 day posting period.
U/A Decreases- Step by Step

- After the 30 day comment period, the rent adjustment package is complete and can be sent in to NHC for processing.
- The 2nd tenant 30 day notice must be sent to tenants at least 30 days prior to the rent increase implementation date and it must be received in order to process the rent schedule.
- The 30 day notice must be in compliance with Chapter 6-11 of the 4350.3 REV-1 Guidebook.
U/A Decreases- Step by Step

- If the 30 day notice of an increase in the tenant’s portion of the rent is not given to the tenant at least 30 days prior to the HAP contract anniversary date (rent schedule effective date) then the increase in the tenant’s rent can not be collected from the tenant until the proper 30 day notice is given.

- Any balance owed by the tenant is uncollectable from the tenant if proper notice is not given. This must be a “write off” by the owner or collected from HUD if approved (via voucher credit).
Baseline- Best Practices

- Obtain a Tenant Utility Release Form at Move In and Annual Recertification.

- The tenant is required to sign a release as part of the HUD Model Lease for Subsidized Projects.

- The Release remains applicable for the household’s term of tenancy; however, there may be utility providers that require a signed release more frequently.
Baseline - Best Practices

When there is 100% sample size requirement and units are excluded due to vacancy (vacant more than 2 months):

- Provide Move In and Move Out Dates of tenants for verification.
- Provide Lease Violation Letters for tenants that are current in the unit for the time of the analysis but can’t provide any utility data for whatever reason.
- Demonstrate that every effort has been made to provide the minimum sample size.
Baseline - Best Practices

When there is 100% sample size requirement and units are excluded due to flat rate billing:

- Indicate Flat Rate billing on the spreadsheet and provide back up documentation (tenant bills showing same amount each month or utility company print out).

- Note: If Flat Rate billing is the majority at the property, then the Flat Rate billing would be used in the analysis.
Baseline - Best Practices

- Late and “other” charges are not allowed to be used as part of the utility allowance calculations.

- Owners can use a combination of data collection methods (some bills from residents, some from utility provider).

- Encourage tenants with medical equipment who have extraordinary utility bills to seek a reasonable accommodation for a higher utility allowance.
Best Practices

- Go ahead and post for tenant comment the proposed U/A amount when submitting to HUD/CA.
- HUD/CA can change the approved amount up or down and the 30 day posting for comment is still valid.
- No need to repost for 30 day comment period.
Best Practices

- Go ahead and post for tenant comment the proposed U/A amount when submitting to HUD/CA.
- HUD/CA can change the approved amount up or down and the 30 day posting for comment is still valid.
- No need to repost for 30 day comment period.
Best Practices

- It is the Owner’s responsibility to submit a U/A analysis that meets the new methodology.

- An incomplete U/A analysis is not acceptable.

- The rent adjustment effective date will not be delayed due to incomplete U/A unless there is a U/A decrease. The decrease will require tenant posting/notice requirements (if not already met).
QUESTIONS
Thank You …

For attending

Elderly Housing Symposium