Owner & Management
Agent Meeting

Working Cooperatively with Our Industry Partners
<table>
<thead>
<tr>
<th>Time</th>
<th>Agenda Item</th>
<th>Presenter</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1:30 p.m.</td>
<td>Welcome &amp; Introductions</td>
<td>Valerie Todaro</td>
<td>Chief Executive Officer, National Housing Compliance</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dan Burke</td>
<td>Mid-West Multifamily Hub Director, U.S. Department of HUD</td>
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<tr>
<td>1:45 p.m.</td>
<td>Voucher Processing</td>
<td>Lisa Furbush</td>
<td>Voucher Financial Manager, National Housing Compliance</td>
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<tr>
<td>2:15 p.m.</td>
<td>HUD Notice Update</td>
<td>Umeka Taylor</td>
<td>Compliance Manager, National Housing Compliance</td>
</tr>
<tr>
<td>3:00 p.m.</td>
<td>Utility Analysis Methodology &amp; Contract Renewals</td>
<td>Kim Lance</td>
<td>Director, Asset Managers, National Housing Compliance</td>
</tr>
<tr>
<td>3:50 p.m.</td>
<td>Questions &amp; Answers</td>
<td>Panel</td>
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<tr>
<td>4:00 p.m.</td>
<td>Meeting Conclusion</td>
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</table>

"Raising the Bar in Compliance"
HUD Initiatives:
- Exclusion of Arrest Records in Housing Decisions
- EPA’s Energy Star Portfolio Manager
- Help A Homeless Veteran

*Please update your contact information with HUD (and NHC). HUD will be contacting properties to participate in the Father’s Day Initiative.*
Voucher Processing Department

Working Cooperatively with Our Industry Partners
Special Claims Updates

- Effective February 1, 2016 NHC is now accepting special claims via email:
  SpecialClaimsIL@nhcinc.org

- Effective January 1, 2016 NHC has implemented a new checklist for completing special claims.
Submitting Your Claims via E-mail

- NHC will now be providing each unit claim a unique claim approval number.

- You may submit multiple unit claims in one email. Please follow this naming convention:
  
  IL06T1000000 – V – 312 (Vacancy Claim)
  IL06T1000000 – D – 312 (Damages Claim)

- Each pdf file must contain all documentation needed to verify that unit claim.
Receiving Your Claims Back

Once your claims have been reviewed, you will receive an email with the HUD 52670-A Part 2 and an NHC produced HUD 52671-C/HUD 52671-A.

An approved claim:

![Image of approved claim form]

“Raising the Bar in Compliance”
Receiving Your Claims Back

- Once your claims have been reviewed, you will receive an email with the HUD 52670-A Part 2 and an NHC produced HUD 52671-C/HUD 52671-A.

- An adjusted claim:

  ![Image of a claim form with an adjusted claim]

  I certify: (a) Units are in decent, safe, and sanitary condition, and are available for occupancy during the vacancy period in which the payments are claimed. (b) The Owner/Agent did not cause the vacancy by violating the lease, the contract, or any applicable law. (c) I notified HUD or the contract administrator immediately upon learning of the vacancy, or prospective vacancy, and the reasons for it. (d) I complied with all HUD requirements on termination of tenancy (Chapter 8, Section 3 of Handbook 4350.3 Rev.1) if the vacancy was caused by an eviction. (e) All documentation will be retained by the project's file for 3 years.

  Owner's printed name, signature, & date
  Sylvia McDuffie

  HUD will prosecute false claims & statements. Convictions may result in criminal and or civil penalties (18 U.S.C. Sections 1001, 1010, 1012; 31 U.S.C. Sections 3729,3802)

  Claim ID: GA800201615322
  Date: 1/27/2016
Receiving Your Claims Back

Once your claims have been reviewed, you will receive an email with the HUD 52670-A Part 2 and an NHC produced HUD 52671-C/HUD 52671-A.

A denied claim:

I certify: (a) Units are in decent, safe, and sanitary condition, and are available for occupancy during the vacancy period in which the payments are claimed. (b) The Owner/Agent did not cause the vacancy by violating the lease, the contract, or any applicable law. (c) I notified HUD or the contract administrator immediately upon learning of the vacancy, or prospective vacancy, and the reasons for it. (d) I complied with all HUD requirements on termination of tenancy (Chapter 8, Section 3 of Handbook 4350.3 Rev. 1) if the vacancy was caused by an eviction. (e) All documentation will be retained by the project's file for 3 years.

Owner's printed name, signature, & date

HUD/Contract Administrator Review

☐ Claim approved.
☐ Claim adjusted. Reason:
☐ Claim denied. Reason: Late submission - over 180 days from ready for occupancy date

Official's name, signature, & date
Lisa Furbush

HUD will prosecute false claims & statements. Convictions may result in criminal and or civil penalties (18 U.S.C. Sections 1001, 1010, 1012; 31 U.S.C. Sections 3729,3802)

Claim ID: GA800201615328
Date: 1/27/2016
Applying Your Claims to Your Voucher

- Using the claim number in the lower right hand corner of the HUD 52671, you will enter the amount approved/adjusted in line #13 and the claim approval number.

- [Image showing a section of the HUD 52671 with a claim number 211.00 and a signature from Lisa Furbush with a claim ID IL800201616091 and date 2/18/2016]
### Approved Special Claims for Schedule of Tenant Assistance Payments Due

**U.S. Department of Housing and Urban Development**

Office of Housing

Federal Housing Commission

Before completing this form, read and follow the instructions in the Monthly Activity Transmission (MAT) User’s Guide. See the statements on the form HUD-52670 for information on public burden.

1. Asst. Pymts Due for (mm/yyyy):
   - 03/01/2010

2. Project Name:
   - DEMPSEY APARTMENTS

3. FHA / EH / Non-Insured Proj. No.:
   - 00135325

4. Section 8 / PAC / PRAC Contract No.:
   - GA008023000

5. Type of Subsidy:
   - Section 8

<table>
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<tr>
<th>Claim Type Code</th>
<th>Claim ID</th>
<th>Amount Requested</th>
<th>Unpaid Rent</th>
<th>Damages</th>
<th>Rent-Up Vacancy</th>
<th>Regular Vacancy</th>
<th>Debt Service</th>
<th>Approved (HUD/CA use only)</th>
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<td>567</td>
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</tbody>
</table>
Top 7 Claim Mistakes

- Ready For Occupancy Date
  - No two actions can take place on the same day

```
4. Date of Death
5. Date of Unit Transfer
6. Date of Move-Out 11-19-15, Anticipated Move-In Date 11-20-15
7. Maintenance: Start Date 11-19-15, Finish Date 11-20-15
  Comments

  Comments

12. Carpet Cleared: Start Date 11-19-15, Finish Date 11-20-15
  Comments

14. Unit Cleared: Start Date 11-19-15, Finish Date 11-20-15
  Comments

16. Date Approved for Occupancy 11-20-15
```
Top 7 Claim Mistakes

- Move-Out/Move-In POSTED in TRACS.
- Unit Transfers are not Move-In files!

“Raising the Bar in Compliance”
Top 7 Claim Mistakes

- Waiting List Submission
  - Shows the NEW tenant (move-in)

- Signatures on HUD 52670-A Part 2, HUD 52671-A & C

- Ineligible items requested for (unit damages)
  - Normal wear & tear
  - Appendix 5C & 5D

- Implement the 1-1-2016 NHC Special Claims Checklist

- Sending in more documentation than required
Voucher Processing Update

Effective May 1, 2016

NHC is bringing voucher processing in house!

June 2016 Voucher Processing
Voucher Processing Update

Meet the team!
Sylvia, Carol, Myeesha, Janet, Laura, Brigitte, and Tamara
What will be different…

- Mid-April you will receive notification of your new voucher processor.

- Your voucher processor will:
  - Work with you to ensure your voucher submission to HUD is accurate and complete.
  - Work with you to ensure a 100% compliance percentage.
  - If there are file errors, you’ll receive an email notification reviewing your entire file submission.
  - If there are voucher errors, you’ll receive a draft HUD 52670 with suggestions how on to correct your voucher.
  - A finalized HUD 52670 will be sent to you for your records.
Owner Agent Forms

- Owner/Agent Forms
  - Signature Authorization Form
  - Owner Agent Information Form
  - Direct Deposit Sign-up Form
  - W-9
Owner Agent Forms (cont.)

- Friendly Reminders:
  - NHC accepts emailed or faxed copies of all required O/A Forms.
  - Original forms do not need to be mailed to our office.

- Always include **Mandatory Checklists** with the Property Name, Contract number, and Contact Information completed at the bottom of the form.

- Review your paperwork prior to submission to ensure that all documents required per the checklist are included with your submission.
Owner Agent Information Form

- Property/Owner/Management
  - When making updates, only update the information that has changed.
  - It is not necessary to complete the entire form.
- The form must be signed by the Owner contact on record or an authorized signer.
- The form can be submitted via email correspondence to Toya Davidson. (toya.davidson@nhcinc.org).
Direct Deposit Form

- The banking and routing numbers on the form must match the voided check or the deposit slip’s banking and routing numbers.
  - If they do not match, the banking institution must provide a formal letter confirming the ACH bank account and routing numbers for the property.
- This form (and the W-9 Form) must be signed by the owner, controller, or finance staff member of the company.
- The owner must indicate any other authorized signers of banking documentation on the Signature Authorization Form.
- If the owner authorizes the management agent to set up a banking account for the property, all bank account information (Direct Deposit Form, W-9, and voided check) must be submitted in the Agent’s company name.
- The agent must submit a W-9 Form and the agent will receive the 1099 (tax liability) form for the property at the end of the year.
- The authorized agent signer may sign the banking change forms in this case.
Direct Deposit Form (cont.)

- Include your Tax ID and DUNS numbers in Section 1C of the form.
- National Housing Compliance’s information must be in Section 2 (Government Agency Name and Address).
- The banking institution needs to send the O/A contact a copy of the completed form once it is signed by the bank representative as a precaution in the event it is not received by NHC or get lost in the mail.
- The Letter of Authorization must be submitted on the Owner’s letterhead and signed by the Owner or Owner’s contact.
  - Please note: An email message written by the owner will not be acceptable.
- The Signature Authorization Form must be signed by the Owner or Owner’s contact.
Lastly…

- Quick Reminder! If you notice a missing file in TRACS, please contact NHC before reaching out to HUD.

- Changes you may be seeing right now!
  - Email notification that your voucher/tenant files have been received.
  - A late notice notification if your file has not been received by the 10th.

- What do you need to do right now?
  - Ensure that NHC has current contact information for the staff processing the special claims and vouchers.
Website references

- NHC’s Owner Agent Change forms

- TRACS Documents
QUESTIONS
Please send follow up questions to:

Lisa Furbush  
National Housing Compliance  
Voucher Financial Manager  
Office: (770)939-3939 Ext.2017  
Toll Free: (888) 530-8266  
TTY (Hearing Impaired Only)  
Toll Free: (877) 349-8100  
Fax: (770) 939-3886  
lisa.furbush@nhcinc.org
HUD Notice Update

National Housing Compliance
Umeka Taylor
Compliance Manager
“Raising the Bar in Compliance”
This Notice replaces Inspector Notice 2010-01 issued September 1, 2010.

- Effective: February 1, 2016

Amended the inspection protocol to include all units in the sample of inspected units.

- Units with bed bugs are no longer excluded.

The presence and/or active treatment of bed bugs will not be included in the score per the Uniform Physical Conditions Standard (UPCS) inspection.
Required Actions – Failed REAC Inspection Notice H 2015-02

- HUD is required to take certain steps when multifamily housing properties receive a score of 59 or below.

- This Notice provides guidance to ensure compliance with these procedural steps:
  - Generally, the owner is provided an opportunity to appeal within 30 days.
  - If no response or correction, HUD may require 100% project survey and corrections of all deficiencies (not just those listed by REAC).
  - HUD may impose money civil penalty, subsidy abatements, and ultimately foreclosure.
Passbook Savings Rate Notice H 2016-01

- Supersedes Notice H 2014-15
  - Effective 2-1-16

- Used to determine annual income from net family assets.

- Passbook Savings rate of 0.06% remained unchanged. Based on the national average provided by the Federal Deposit Insurance Corporation.

- Multifamily Housing adjusts the passbook savings rate at least annually to represent current national averages.
Definition of Tuition
Notice H 2015-12

HUD adopted the definition of “Tuition” given by the Department of Education.

The Definition was amended to include the amount paid for tuition as well as “other required fees and charges”:

- Fees that are charged to every student specific to the major or program of study, such as:
  - Writing or science lab fees
  - Student center fees
  - Technology fees

- Fees and charges do not include costs such as books, supplies, room & board, meals, transportation, etc.
Arrest Records
Notice H 2015-10

- Arrest Records may not be the basis for:
  - Denying admission,
  - Termination of assistance, or
  - Eviction.

- HUD does not require the “One-Strike” policy.

- An arrest is not evidence that an individual has engaged in criminal activity.
  - Review the TSP and House rules to ensure that your policies are in compliance.
Occupancy Protection for HUD HHs
Memo 1-12-15

- HUD assisted tenants may not be evicted if they fail to meet eligibility for the Tax Credit program;
  - Income limits
  - Student rule
  - Other
- This language should be entered on the TSP and House Rules.
Equal Access – Regardless…
Notice H 2015-01

Notice H 2015-06 discusses compliance & enforcement by HUD regarding equal access.

The goals is to:

- Increase awareness to the HUD equal access rule.
- Ensure that housing across HUD programs are open to all eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Definition of “Family” revised to include the terms “Gender Identity” and “Sexual Orientation”.

Language should be entered on the TSP.

If the application inquires about gender, it is suggested that “prefers not to declare” be added as an option.
HUD Form 27061
Race and Ethnicity Form

- A new Race and Ethnic Data Reporting Form HUD-27061 was posted December 2015.
  - Expires on 6-30-17.
  - The reporting form is completed and maintained by the O/A and submitted to HUD upon requested.

- Form HUD-27061H, completed by the household and maintained in the tenant file.
  - A new Form HUD-27061H was posted in February 2015 (expiration dates 6-30-17).
  - The expiration date is not required on this form when the form is produced using TRACS or the site’s software.
Marijuana Medical Use
Memo 12-29-14

- Several states have legalized medical use.
- Illegal under the Controlled Substances Act;
- Therefore, illegal under the Quality Housing and Work Responsibility Act of 1998 (QHWRA).
  - Owners must deny admission to households using a controlled substance.
  - Owners must establish policies that allow for termination of tenancy when rules are violated.
- Action: Update the TSP & House Rules.
Violence Against Women Act (VAWA)

- New Form HUD-91067 - VAWA Addendum
  - Expiration date of 6/30/2017
  - The expiration date can be removed if you are using TRACS or site software.
  - If an expiration date is displayed, the date must be 6/30/2017.

- HUD hasn’t officially added sexual assault as a covered protected act but the O/A can add this policy to the House Rules/Tenant Selection Plan.

*Revisions to Form HUD-91066 & Form HUD-92006 currently haven’t been made.
Help A Homeless Veteran

- HUD Notice 2013-21
  - Implementation and approval of owner-adopted admissions preferences for individuals or families experiencing homelessness.

- HUD Approval is required for this admission preference.
  - Owner adopted preferences can be removed without HUD approval.

- The TSP must be revised to indicate the selection process (alternating between applicants).

- All applicants on the waiting list must be notified when new preferences are adopted.

- Adoption of this preference may require revises to the Affirmative Fair Housing Marketing Plan.
What’s next…. 

- Management and Occupancy Reviews (MOR) are expected to return this year!!!

- NHC in cooperation and support of HUD’s efforts to have a paperless office is going digital.
  - NHC will submit MOR related documentation digitally to O/A.
  - NHC requests that O/A join our efforts by submitting MOR requested items electronically. This includes TSP, Application, Additional Action letter responses, etc..
Management & Occupancy Review
RHIIP Listserv #295

- Form HUD-9834 (expiration date 2/28/15)
  - Effective March 4, 2013
- General Appearance & Security
- REAC/EHS Inspection Follow-up
- Maintenance & Operating Procedures
- Leasing & Occupancy
- Tenant/Management Relations
- General Management Practices

HUD conducted reviews include Financial Management and Procurement.
Form HUD-9834 Management Reviews of Multifamily Projects

Some of the added topics include:

- **EIV**
  - Reports, File Maintenance (i.e., master binder), Policy & Procedures, etc…

- **VAWA**

- **HUD Fact Sheet Form**
  - EIV & You, How Your Rent is Determined, HUD 92006, etc…

- **Sex Offender**
  - Addendum D-State Lifetime Sex Offender Statistics
Management & Occupancy Review Process

- NHC will contact the O/A to schedule the review.
- Scheduling letter sent via e-mail.
- O/A submits a copy of the Tenant Selection Plan, House Rules, and Application.

- On-site Review
  - Tenant File Review
  - Physical Inspection, if applicable
  - Form HUD-9834
  - Exit Interview

- Additional Action Letter
- Closeout Letter

*The entire process from beginning to end should take about 90 days.*
Website References

- Inspector Notice No. 2016-01 - **REAC Inspection Protocol**

- Notice H 2015-02 - **Failing REAC Scores**

- Notice H 2016-01 – **Passbook Savings Rate**

- Notice H 2015-12 – **Amended Definition of Tuition**

- Notice H 2015-10 – **Excluding the Use of Arrest Records in Housing Decisions**

- HUD Memo 1/12/15 - **Occupancy Protections for HUD Assisted Households at Properties with Low Income Tax Credits**
Website References (cont.)

- Notice H 2015-01 – *HUD’s Equal Access Rule*

- HUD Race and Ethnic Date Reporting Form

- HUD Memo 12/29/14 – Marijuana Use in Multifamily Assisted Housing

- Form HUD 91067 – VAWA Lease Addendum

- HUD Notice 2013-21 – Homeless Preference

- Form HUD 9834 – Management Reviews of Multifamily Projects
Other Useful links

- Notice H 2010-21 - Optional Smoke Free Housing Policy

- HUD Handbook 4350.1, Multifamily Asset Management and Project Serving
Please send follow up questions to:

Umeka Taylor
National Housing Compliance
Compliance Manager
Office: (773)304-0431 Ext.3017
Toll Free: (866) 737-7504
TTY (Hearing Impaired Only) Toll Free: (877) 349-8100
Fax: (888) 291-6502
umeaka.taylor@nhcinc.org

www.nhcinc.org

Mailing Address:
1975 Lakeside Parkway, Suite 310
Tucker, Georgia 30084

“Raising the Bar in Compliance”
Understanding HUD’s new Utility Analysis Methodology

Presented by:
Kim Lance
Director, Asset Managers
HUD’S NEW U/A METHODOLOGY

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

“Raising the Bar in Compliance”
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.
June 2011 Memorandum Highlights

- Utility allowance amounts must be supported by a utility analysis
- An analysis is required every year
- Rent Adjustments are not processed until the owner submits the utility analysis
- Tenants must be given required 30 day notice when a U/A is decreased
- Mid-year U/A change is required if utility rates increase 10% or more
New Methodology Requirements

- Must establish baseline analysis for each bedroom size once every third year.
- After baseline is established, owner has option to perform a factor-based utility analysis for 2 years.
- Consistent Sample size requirements outlined in notice.
Baseline Utility Analysis

- Request utility data from either the utility company or the tenant household.
- Must be done for each bedroom size at the property.
- Must meet minimum sample size.
Baseline Utility Analysis

- Only Section 8 units (those units receiving subsidy) should be used in the baseline.
## Sample Size Requirements

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<th>Minimum Sample Size</th>
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<td>389 and above</td>
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### Sample Size Example

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Units to be excluded from Sample Size

- Units receiving an increased U/A as a reasonable accommodation
- Units vacant for more than 2 months. Units included in the sample should have at least 10 months of occupancy
- Units receiving a flat utility rate as part of a low-income rate assistance utility program***
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.
U/A Decreases- Step by Step

If the owner’s U/A analysis indicates a decrease in the U/A is 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
Comments

30 DAYS
U/A Decreases- Step by Step

- 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, a 30 day notice must be sent to the tenant of the approved U/A decreased amount.

- 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

Phase in of Certain Decreases:

- If the U/A decrease exceeds 15 percent of the most recent utility allowance and that decrease is equal to or greater than $10, the decrease must be phased in.

- The owner will implement the decrease amount above 15% the following year.

- No decrease in any one year can be greater than 15%
## Phase In of Decrease - Example

<table>
<thead>
<tr>
<th>Current Utility Allowance Amount</th>
<th>$75</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Utility Allowance Amount from Analysis</td>
<td>$63</td>
</tr>
<tr>
<td></td>
<td>The decrease must be phased in because it is over 15% and $10</td>
</tr>
<tr>
<td>Second Year Phase In Utility Allowance Amount</td>
<td>$12 will be phased in over the next 2 years/ after the U/A is adjusted by the UAF factor</td>
</tr>
</tbody>
</table>
Rural Housing Projects (RHS)

- HUD recently clarified in the Section 8 Renewal Policy Handbook, Chapter 2 that RHS utility allowance calculations are not acceptable.

- Section 8 Policy Guidebook – Chapter 2 – 17 part g.
Back Up Documentation Requirements

- Can be from the utility provider or from the tenant’s directly.
- The starting month of the back up documentation must be within 18 months of the contract anniversary date.
Allowances for New Construction & Substantial Rehabilitation

- Can establish initial utility allowances for new or rehabilitated units based on analysis completed at underwriting.

- Specific guidance of how calculated are in the notice.
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.
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.
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.
Best Practices

For Larger properties:

- Take the time to analyze the data on hand…. Is it representative of the actual bills of most of the tenants at the property?
- Consider submitting the U/A data most representative of the utility costs at the property in the sample size. Submitting a larger sample size may be necessary.
Best Practices

Smaller Properties:

- Demonstrate that every effort has been made to provide the minimum sample size.

- If unable to provide the minimum sample size due to move outs or tenant releases not obtained, HUD can make the determination to postpone the baseline requirement until the following year.
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

- Use the HUD worksheet provided on HUDclips.
- The UAF is a component of the OCAF factor and is published yearly with the OCAF factors.
- Owners should take a “second look” at the factor-based results and do a new baseline in year 2 or 3 if warranted.
Best Practices

- Go ahead and post for tenant comments 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).
Best Practices

- What happens when the minimum sample size cannot be obtained?
  - Depends on circumstances.
  - FAQ’s address “perfect” analysis hard to obtain.
  - If circumstances warrant, CA can recommend a baseline the following year with HUD’s approval.
Website references

- **Section 8 Renewal Policy Guidebook w/ Transmittal (issued 8/7/15)**

- **Notice H 2015-04 - Methodology for Completing a Multifamily Housing Utility Analysis**

- **HUD Handbook 4350.1, Multifamily Asset Management and Project Serving**
QUESTIONS
Section 8 Contract Renewal
Guidebook Updates

National Housing Compliance
Kim Lance
Director, Asset Managers
“Raising the Bar in Compliance”
What will be covered?

<table>
<thead>
<tr>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guidebook changes effective November 5, 2015</td>
</tr>
<tr>
<td>Impact on rent adjustment processing</td>
</tr>
<tr>
<td>New provisions (in Brown font)</td>
</tr>
<tr>
<td>Questions</td>
</tr>
</tbody>
</table>
What’s new?

Most of the 125 changes are in the following Chapters:

- Chapter 2 – Section 8 Renewals (rewrite of entire chapter)
- Chapter 3 – Mark up to Market
- Chapter 9 – RCS Studies
- Chapter 15 - Preservation
- Added Chapter 16 “Old Regulation” State Housing Finance Agency Projects-Owner Options upon Full Prepayment of Original, Permanent Financing”
  - Describes the options owners have when they prepay a state agency financed loan on a project with an “old reg” Section 8 Contract.
Chapter 2 - RCS/Contract Misalignment (Section 2-5)

- In cases where the RCS and 5th year anniversary of contract are not aligned:
  - No RCS until contract’s 5th year anniversary.
  - OCAF only.
  - New RCS required with Contract Termination/New Contract even if 5 year cycle of RCS has not expired.
Chapter 2 - Contract Terms
(Section 2-7)

- **Minimum term** – 1 year
- **MUTM contracts** have minimum 5 year term.
- **Maximum term** – 20 years
- **Use Agreement**- can be extended to facilitate preservation transaction.
- **Contracts must expire** on the last day of the month.
Chapter 2 - Combining Contracts (Section 2-10)

- Guidance issued September 8, 2014 and included with guide.

- Goal is to combine contracts.

- Request is part of a renewal package.

- Some can be approved by local HUD office.

- Others go to OAMPO (HUD HQ).
Chapter 2 - Distributions
(Section 2-12)

- **New Reg contracts-Non Profit and Profit Motivated and also Elderly versus non-elderly.**

- **Old Reg Contracts - Language added that LMSA, Pension Fund and property Disposition contracts typically have no limitations on distributions.**
Chapter 2 - Distributions
(Section 2-12)

- Increased For Profit distributions (all surplus cash) if:
  - Must maintain a 60 REAC score;
  - Material FASS findings closed or plan in place;
  - Owner not debarred;
  - No unresolved physical inspection or MOR issues;
  - Not sent to Recap; and
  - In compliance with FHA regulatory agreement.
Chapter 2 - Budget-Based Rent Adjustment Requests (Section 2-15)

- Follow Chapter 7 4350.1 except:
  - No 2% nonprofit contingency reserve
  - Current debt service
  - Debt Service Savings (Section 202)
  - Debt Service Coverage (1.2%)
Chapter 2 - Budget-Based Rent Adjustment Requests (Section 2-15)

- Vacancy rates
  - 100% Section 8 properties – 3% vacancy.
  - Projects with 50 or fewer units must use 5% vacancy.
  - Projects where the assisted units account for 20 percent or less of the total units must use 7%.

- Tax Credit fees-clear guidance on allowable expenses.

- Zero Budget Based Rent Adjustments- RCS not required for Option 4.

- Section 515/8 Projects- No RCS required if budget rents are below the OCAF adjusted rents.

“Raising the Bar in Compliance”
Chapter 2 - Processing (Section 2-17)

- Clarify that Section 245 Tenant Notifications are not required for OCAF, but required for Budgets and U/A decreases.
- Zero budget based – worksheet not necessary.
- Owners must follow guidance in HUD notices regarding utility allowances.
- Highlight that HUD does not accept the RHS (rural housing) utility allowance calculation.
Chapter 3 – Option 1 Mark up to Market

- Option 1 A – Entitlement MUTM
- Option 1 B – Discretionary MUTM
Chapter 3 – General Eligibility Criteria (Section 3-2) (MUTM)

- Aggregate Rents less than comparable market rents.
- Management must be Satisfactory – MOR Satisfactory or above.
- REAC must be 60 +.
- All FASS (Financial Assessment System) findings need to be closed or have HUD approved corrective action plan.
Chapter 3 - General Eligibility Criteria (Section 3-2)

- **Owner must be profit motivated**: Can also be a non profit controlled “for profit”.

- Housing authority “public body corporate and politic” – letter from HA attorney stating ownership.

- A limited partnership with one or more nonprofit general partners or a sole general partner that is wholly owned and controlled by one or more non profit entities.

- **LLC** where managing general partner is wholly owned by nonprofit.

- In the case of a proposed sale, ownership requirement must be met by the purchaser.
Chapter 3 - Entitlement Eligibility - One A (Section 3-3)

- **Owner’s** RCS rents must be at or above 100% of the FMR.

- No Use Restrictions (Tax Credits, Flex Sub, Green Retro fit).

- RCS Changes - 2nd HUD RCS eliminated if Owner’s RCS rents are at or below 140% of the Median Gross Rent by Zip Code Tabulation Area (More in Chapter 9).

- HUD allows MAP lender appraisals to be used as 2nd RCS in an above 140% scenario.
Most existing MAHRA contracts and pre-MAHRA can enter MUTM.

CAN NOT TERMINATE THE FOLLOWING CONTRACTS EARLY:

- Mark to Market Full Contract
- Demo Use Contracts
- Preservation Contracts
- RAD Contracts
Chapter 3 - Processing for Option One (Section 3-8)

- **Initial Eligibility:** Owner’ RCS determines eligibility.

- Projects with ‘as-is’ and ‘after rehab’ rents – ‘as is’ determines initial eligibility.
Chapter 15 - Section 8
Preservation Efforts

Rent increase to pay for capital repairs and transfers.
Chapter 15 - Overview
(Section 15-1)

- Nonprofits - Renew under Option 2 with this chapter.
- For profit owners - Renew under Option 1.
- For profit purchasers - Renew under Option 1 with this chapter.

FAQ Update: HUD expects to issue a revised Chapter 15 clarifying when Non profit owners can quality for MUTM Option 1.
Chapter 5 - Subsequent Renewals

- Lite Contracts- After Basic Renewal Contract (generally 5 years) owner can renew under any option the project is eligible for when the contract expires.

- Full Contracts- project must remain under Option 3 for the remaining term of the Use Agreement.
Chapter 6 – Exception Rents

- Rents above market
- Rents may remain above market
- Mostly clarifications – No major changes
Chapter 6 - Rent Adjustments (Section 6-3)

- OCAF

- Budget Based Rent Adjustment – RCS Required

- 515 Projects- Can submit RHS approved budget without RCS if rents do not exceed the rents project would have received from OCAF.
Chapter 6 - Section 202 Refinancings (Section 6-4)

- Housing Notice 2013-17 – detailed information on refinancing

- Refinanced once with FHA insured loan.

- Refinanced twice with FHA insured loan—loses exception status and can no longer renew under Option 4.
Chapter 7 - Option Five – Demo or Preservation Projects

- Portfolio Reengineering
- Demonstration Projects
- Preservation Projects

“Raising the Bar in Compliance”
Chapter 7 – Demo Use & Preservation Projects

- Demo Use Agreements Or Preservation Use Agreements.

- Owners can request extension of Use Agreements to facilitate a refinancing transaction.

- Only 188 properties still under these programs.

- Each Plan of Action is structured differently.

- Project Specific Rents – Now adjusted by OCAF annually.

- If Project is being sold- owner may request Option 3 Referral to RECAP for debt restructuring.
Chapter 8 - Option Six – Opt Outs
Chapter 8- Processing Instructions (Section 8-3)

- Families rent cannot increase… except at annual recertification.

- Short-term contact if notice is not provided.
Chapter 9 - Rent Comparability Studies

Rent Comparability Study

On
ABC Village Apartments
100 Main Street
Smithville, State

Date of Report
April 15, 2000

Prepared For
ABC Village Associates
P.O. Box 2255
Smithville, State 55555-2255

Prepared By
Appraisal Services International
123 Allen Street, Suite 456
Smithville, State 55555
Chapter 9 - Applicability  (Section 9-2)

- All Rent Comparability Studies

- Not applicable to FHA appraisals unless it is being used as a substitute for the HUD required RCS.
Chapter 9 - HUD/CA RCS Reviews (Section 9-17)

- Must use the new HUD Required checklist.
- State certified general appraiser oversees RCS processing.
Chapter 9 - Procedures when rents exceed 140% of median (Section 9-23)

- Median rent table posted to website
  c8
- HUD procures RCS
- Final rents determined
- No need for FOIA for HUD RCS
Chapter 9 - Using FHA Appraisal for HUD RCS (Section 9-23)

- Lender Ordered MAP Appraisal
- Paid by lender
- Follow Chapter 9
- Use HUD-92273-S8
- Appeals to lender
- AE still compare and determine rents
Chapter 11 – Tenant Issues
Chapter 11 - Definitions (Section 11-1)

- Expanded Definitions of vouchers:
  - Regular Housing Choice Voucher- holder can choose any housing that meets the program requirements.
  - Enhanced Voucher- families affected by certain types of housing conversions called “eligibility events”.
Chapter 11 - Tenant Protections
(Section 11-3)

- Importance of Process: care must be taken to make sure the process is completed correctly and information made clear.

- Right to Remain

- Tenant-based Eligibility

- Processing Delays
Must make reasonable efforts*
Outreach in a manner that will reach persons with disabilities found in 24 CFR 8.6.

Attempt special communications systems (e.g. TTY or materials on tape or in Braille).
Chapter 12 - Physical Condition of the Property
REAC or mortgagee inspection.

HUD may decline to renew, abate or terminate a contract based on the physical condition of the property.
Chapter 12 - E, H, & S Deficiency Notice (Section 12-2)

- EH&S deficiency notice or REAC score impact renewal decision.

- Notice 2015-02- Required Actions for Multifamily Housing Projects Receiving Failing Scores from HUD’s REAC – HUD must take certain steps.

- Certain barriers to accessibility may constitute EH&S deficiencies.

- EH&S Deficiencies – Owner requirements.
Chapter 13 - HUD’s Refusal to Renew
Chapter 13 - HUD’s Refusal to Renew (Section 13-1)

- Material adverse financial or managerial actions.

- On project or other projects.

- Owner or purchase failure to follow MAHRA after receipt of notice and opportunity to cure.

- List of adverse actions in section B.
Chapter 13 - HUD’s Decision Not to Renew (Section 12-3)

- If more than 120 days remain on the contract:
  - Notify owner
  - Begin obtaining vouchers
  - Monitor processing
Chapter 13 - Owner’s Appeal
(Section 13-3)

- AE to notify owner in writing reasons for refusal to renew.
- Owner has 30 days to respond.
- Step by step process outlined – short term contract, vouchers, etc.
Chapter 13 - Tenant Notification
(Section 13-4)

- HUD Notification required
- HUD must notify all tenants
New Chapter – 16

“Old Regulation”
State Housing Finance Agency Projects – Owner Options upon Full Prepayment of Original, Permanent Financing*

“Raising the Bar in Compliance”
Old reg Nov 1975 Version of HUD 52645A

Terminates upon prepayment
Chapter 16 - Owner Options (Section 16-2)

Three Options

- Extend to end of contract
- Renew under MAHRA
- Opt Out
Website references

- **Section 8 Renewal Policy Guidebook w/ Transmittal (issued 8/7/15)**

- **Section 8 Expiring Contracts website**

- **Notice H 2013-17 - Prepayment and Refinance of Section 202 Direct Loans**

- **24 CFR 8.6**
QUESTIONS
Please send follow up questions to:

kim.lance@nhcinc.org
(770) 939-3939 ext. 2011

www.nhcinc.org
Thank You …

For attending the 2016 Owner/Agent Meeting

www.nhcinc.org

Mailing Address:
1975 Lakeside Parkway, Suite 310
Tucker, Georgia 30084

The PowerPoint slides will be posted on NHC’s website by 3/18/16.