Management & Occupancy Reviews are Back!

On December 4, 2015, HUD announced that it was considering reinstating a limited number of Management and Occupancy Reviews (MORs) on a temporary basis. As you know, contract administrators suspended MORs in 2011 due to litigations and protests on HUD’s rebid of Performance Based Contract Administrators (PBCA). HUD is currently preparing for rebid for contracts again, using a procurement process.

HUD explained in a letter to PBCAs that it realizes the MOR suspension has lasted too long, and it is important to resume conducting MORs. On March 2, 2016, IHFA was advised that a limited number of MORs will be reinstated in Idaho for properties based on their potential risk or troubled status. IHFA is waiting to hear from HUD the names and number of properties that will be conducted in 2016.

As soon as IHFA is notified with this information, property owners/agents will be contacted to discuss potential dates to conduct the audit.

Approval Required for Management Change

Several property owners have changed management agents recently without approval from HUD or IHFA. It has always been policy to request approval prior to making a change in management of a property. Projects that are still in their original HAP contract must contact IHFA for direction. Properties with contracts that have been renewed and are assigned to HUD, must contact the HUD project manager for guidance. It is important to follow these requirements to avoid a delay in management fees and HAP payments.

Arrest or Conviction?

In the past, HUD encouraged owner/agents to develop policies describing criminal activity and allowances for extenuating circumstances, such as the nature of the crime or the length of time since the activity.

In November, HUD published HSG Notice 2015-10 Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions. This Notice explains that an owner/agent must not use a tenant’s arrest record as the sole basis for terminating assistance or tenancy. Also, arrest records must not be the sole basis for rejecting an applicant. HUD has specified that the fact that an individual was arrested is not definitive evidence that he or she has engaged in criminal activity. Owners/agents must obtain supporting information to determine if, in fact, the applicant/tenant was convicted. HUD does explain acceptable ways to use an arrest record in the screening process.

Also, Tenant Selection Plans and House Rules must be modified to describe the screening criteria that may affect denial of tenancy and/or assistance for applicants and current tenants. The bottom line - this policy will most likely affect applicants and tenants at your property.
New Equal Access Regulation

HUD Secretary Shaun Donovan announced there are new federal protections intended to ensure that HUD’s core housing programs are open to all eligible persons regardless of sexual orientation, gender identity and marital status. In February 2015, HUD published Housing Notice 2015-01 Notice of Program Eligibility for HUD Assisted or Insured Housing Programs for All People Regardless of Sexual Orientation, Gender Identity or Marital Status as Required by HUD’s Equal Access Rule. Then in July 2015, HUD released Housing Notice 2015-06 Program Eligibility in Multifamily Assisted and Insured Housing Programs in Accordance with HUDS’s Equal Access Rule.

Now, the Federal Register has added these protections in 24 CFR 5.105. The new guidance describes new federal protections related to inquiries and eligibility requirements that must be implemented immediately.

In addition, HUD has indicated that the Tenant Selection Plan should include information about Equal Access. Although the notice does not say specifically that it must be included, it does state “HUD or a Contract Administrator may review an owner’s tenant selection plan or other policies and procedures to determine if it complies with the Equal Access Rule. Owner/agents may also want to remove any questions about gender identity from various forms and applications.

IHFA recommends that you read each of these notices and the Federal Register regulation to familiarize yourself with the Equal Access requirements.

Check your TRACS Messages

Owner/agents need to check their incoming HUD TRACS Messages for discrepancy reports. Fatal errors are for certifications that do not post in TRACS and must be corrected in order for the household to appear active in the property’s tenant count. Owner/Agents should keep a close eye on the HUD TRACS messages and reach out to IHFA’s Voucher Analyst to correct these issues. IHFA will grant a timeframe of one month for fatal errors to be corrected. If it is not corrected within that timeframe, IHFA could “hold” the voucher until the issues are corrected. At that time, the voucher will be released to HUD for payment.

Reminder of Utility Allowance Notice

When going through your annual rent amendment, you cannot process a rent or utility allowance (UA) change until you have the fully executed Rent Schedule back from the IHFA Contract Analyst. Also, when renewing your contract, you cannot process a rent or UA change until you have the fully executed contract and rent schedule back from IHFA.

There are still some issues with utility allowance calculations when submitting the annual contract renewal/amendment. Housing Notice 2015-04 Methodology for Completing a Multifamily Housing Utility Analysis, provided a new standard for calculating average utility consumption based on actual tenant usage. IHFA’s Contract Analyst, LaJean Wilson, sent an email on September 25, 2015 that highlighted the key changes.

Remember, view the sample size table in the notice to determine the number of units that need to be included in the sample.
The Social Security Administration announced in October that, with consumer prices down over the past year, Social Security and Supplemental Security Income benefits will not increase for 2016. In addition, Medicare premiums were not changed from the 2015 rates.

As part of the Section 8 Renewal Policy Guide published in August 2015, HUD provided instructions for comparing the median rents provided by the owner/agent with Census Bureau estimates. Should the rents in the owner’s rent comparability study (RCS) exceed 140% of the median zip code rents, HUD would obtain their own third party to create a RCS for comparison purposes.

In January of this year, HUD published the new median zip code rents. Users can find the new numbers under “What’s New” at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/mfhsec8. The file has two worksheets and instructions for determining the final rent. These numbers were effective for any RCS on or after February 11, 2016.

Housing Notice 2016-01 Passbook Savings Rate Effective February 1, 2016 was posted in January. The notice states that the 0.06% rate will remain unchanged from the rate used last year. The passbook savings rate is based on the national average provided by the Federal Deposit Insurance Corporation (FDIC).

HUD’s final guidance for the Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (VAWA) is expected any time. HUD Handbook 4350.3 Rev-1, Chg 4, Paragraph 4-4 states that the Tenant Selection Plan and House Rules must include policies and procedures covering VAWA protections. These documents, as well as rejection, termination and eviction notices will most likely be changing to include policies for emergency unit transfers and a more clear explanation of what documents will be affected.

IHFA strongly recommends updating the Tenant Selection Plan and House Rules for each property to include current guidance from the HUD 4350.3. Watch for future announcements explaining how HUD will want owners/agents to incorporate these new requirements.

HUD’s Rental Housing Integrity Improvement Project (RHIIP) announced that regularly scheduled computer matching with HHS for March 2016 will not occur as scheduled. This means the EIV system will not be updated with new hire, wage, or unemployment benefit information. Our last monthly match and the quarterly match both occurred on February 29, 2016. There will be a gap regarding the March 2016 match. Owner/agents should perform third party verifications as done previous to the implementation of EIV for these income sources until notice is sent from HUD advising computer matching with HHS has resumed. Social Security income information will not be affected. Please document the tenant files that have been affected by this outage.

HUD released Housing Notice 2015-12 Amendment to the Definition of Tuition to help owner/agents with determining income for students in Section 8 programs. The new direction states that owners/agents must include amounts of educational financial assistance in excess of tuition and other required fees and charges. For further guidance, please read the notice for more information and examples.