U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

OFFICE OF HOUSING

AUG 28 2014

MEMORANDUM FOR: All Multifamily Hub Directors
All Multifamily Program Center Directors
All Multifamily Asset Management Staff
Office of General Counsel

FROM: Benjamin T. Metcalf, Deputy Assistant Secretary for Multifamily Housing Programs, HT

SUBJECT: Delegation of Waiver Authority for Certain Portions of the Section 8 Renewal Policy Guide

On February 22, 2010, the Department issued a memorandum allowing Section 8 Renewal Policy Guide (Guide) waiver requests from the field to encourage the preservation of the existing stock of affordable housing. (Attached) The Department plans on incorporating all of the five items listed below into the forthcoming Guide.

Under this memorandum, I am, as of the date of this letter, delegating the approval of five waivers to the Hub Director. We will respond to any waiver requests currently in Headquarters. This delegation is conditioned, however, on the Hub Director signing the attached checklist that must be included in the project file for each waiver granted. In addition, each month the Hub Director must submit a list of waivers granted in that month to the Director of the Office of Asset Management and Portfolio Oversight. Headquarters may request that the Hub Director send signed checklists to Headquarters for review once the monthly reports are submitted.

In order for your office to be able to make a determination as to the appropriateness of granting any or all of these five waivers, owners must provide the following information and your office must conclude that there is sufficient justification to grant the waiver request(s).

1.	The prohibition on for-profit participation in Chapter 15.	Evidence that the for-profit entity or its principals have the experience and are capable of undertaking the rehabilitation and/or long term management of the project.
2.	Section 15-8 of the Guide that requires the project manager/contract administrator (PM/CA) lower the comparable market rents in the Rent Comparability Study (RCS) to reflect any use restriction on the rents that can be charged.	Evidence that the market rents currently exceed the use restricted rents.

3.	Section 15-6.C.1. that post-rehabilitation rents for substantial rehabilitation be effective only after the rehabilitation is complete.	Evidence that the lender requires full debt service at closing and that the owner has agreed to sign Form HUD-93182.
4.	Section 15-5.B.2. that does not allow the early termination of pre-MAHRA contract.	Evidence that the owner is willing to renew the contract for 20 years under options One, Two, Three or Four, and is also agreeing to the terms of the Preservation Agreement (found in Form HUD Notice 2013-17) whereby the owner agrees to renew the contract for the remaining balance on the contract being terminated. Last, the owner must sign Form HUD-93184, "Rider to Original Section 8 Housing Assistance Payments Contract."
5.	Section 3-2.A. that a property score of 60 or above on its REAC physical inspection in order to be eligible for renewal under Mark-Up-To-Market (MUTM).	Evidence that the proposed scope of work will rectify the deficiencies identified in the REAC inspection and your offices determination that the work will in all likelihood increase any subsequent REAC score above 60.

If your office denies the waiver request, the owner cannot appeal that decision to Headquarters.

Any waiver not delegated, including any waiver of the HUD RCS, must still be submitted to Headquarters for approval following the instructions in the February 22, 2010, memorandum (See Attached). In addition to the requirements in the February 22, 2010, memorandum, any request for a waiver of the requirement for HUD to secure a third-party RCS as part of a MUTM renewal must provide a timeline (including, for example, the date the project must close and the date your office must have had the rent information from the appraiser in order to determine what the rents will be for the project) that justifies granting the waiver. You must also provide as part of the waiver request information that the inability to secure the RCS in a timely manner was not due to delays caused by the owner.

On August 7, 2014, the Department issued instructions that field offices can now accept, in lieu of the HUD RCS a lender's appraisal under certain conditions. (Attached) In cases where the lender's appraisal is used as a substitute for the HUD RCS, no waiver is required.

Attachments

PROJECT NAME _____ CONTRACT/PROJECT NUMBER _____

Select Waiver Granted ✓	Waiver Of	Certifications
	The prohibition on for-profit participation in Chapter 15.	The proposed for-profit owner has a strong history of providing affordable housing and has the experience to own and maintain the property.
	Section 15-8 of the Guide that requires the project manager/contract administrator (PM/CA) lower the comparable market rents in the RCS to reflect any use restriction on the rents that can be charged.	The project's underwriting requires market rents, not the use restricted rents, in order to facilitate the long term preservation of the project.
	Section 15-6.C.1. that post-rehabilitation rents for substantial rehabilitation be effective only after the rehabilitation is complete.	The program the lender is using to finance this transaction requires that full debt service be paid beginning at closing (examples are the Fannie Mae and Freddie Mac Mod Rehab Programs and HUD's 223(f) program). Further the owner has agreed to sign Form HUD-93182.
	Section 15-5.B.2. that does not allow the early termination of pre-MAHRA contract.	The owner will renew the Section 8 contract for 20 years under Option One, Two, Three or Four, and has agreed to the Preservation Exhibit, as contained in HUD Notice 2013-17, and has agreed to sign the Form HUD-93184 "Rider to Original Section 8 Housing Assistance Payments Contract".
	Section 3-2.A. that a property score of 60 or above on its REAC physical inspection in order to be eligible for renewal under MUTM.	The poor conditions that resulted in a REAC score of less than 60 will be corrected by transfer of the property to a new owner and/or completion of the rehabilitation.

I _____ (Hub Director) certify that the project has met the conditions checked above and have granted a waiver of the appropriate section of the Section 8 Renewal Policy Guide.

Signature _____ Date _____