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U.S. Department of Housing and Urban Development
San Francisco Regional Office - Region IX
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MEMORANDUM FOR: Owners, Management Agents and Project Managers

FROM: Tom Azumbrado, Director, San Francisco Multifamily Hub

A handwritten signature in black ink, appearing to be "Tom Azumbrado", written over the "FROM" line.

SUBJECT: Clarification of HUD Policy Concerning Utility Allowance Regulations

The purpose of this memorandum is to provide clarification regarding utility allowance adjustments. HUD regulations require that all properties with utility allowances be analyzed annually at the time of annual rent adjustments and/or contract renewals, regardless of the type of rent increase requested. The results of that analysis are provided to HUD/PBCA for review and approval. The adjustment may result in an increase or decrease from the current utility allowances.

Effective October 1, 2011, utility analyses will be required unless the rent adjustment and/or contract renewal has already been submitted and is in process. Failure to provide the utility analysis will result in HUD/PBCA withholding the rent adjustment until receipt of the utility analysis and all required documentation. HUD will no longer accept a certification by an owner indicating that a utility analysis has been conducted with no change in the amount of the utility allowance. In addition, HUD will no longer accept PHA schedules of utility amounts.

Since tenants may not have copies of old utility bills, owners/agents may obtain a resident's utility usage information by submitting the appropriate "Authorization to Receive Customer Information" form signed by the resident to the appropriate utility company.

Note that a decrease in the tenant's utility allowance does not constitute a change in the amount a tenant is statutorily required to pay as rent (known as "total tenant payment"). However, it will increase the amount the tenant pays monthly (the "tenant rent"). If the utility analysis results in a decrease in the utility allowance, tenant notification in accordance with 24 CFR §245.405(a) and §245.410 is required. This notice must be made at least 30 days prior to submitting the request for a utility allowance decrease to HUD for approval and must provide the tenants with the right to participate in and comment on the proposed decrease in utility allowances.

Because an adjustment to utility allowances does not constitute a change in rents under MAHRA, adjustments must be requested by an owner any time changes in utility rates result in an increase of 10 percent or more from the most recently approved utility allowance.

HUD Policy Concerning Utility Allowance Regulations

HUD Handbook 4350.3, REV-1, CHG-3, Chapter 7, paragraph 7-18.C. states: “Owners must implement changes in utility allowances within 75 days of approval by HUD or the Contract Administrator.”

Annual Cost Analysis Requirements

Until guidance regarding the methodology of utility allowance and energy efficiency goals is received from Headquarters, Owners must submit the following:

- Supporting documentation (billing statements, data from the utility provider, etc.) must be for a 12 month consecutive period.
- Include each unit type (i.e., 1 BR, 2 BR, etc.) receiving Section 8 subsidy
- Include 10% of all unit types – no less than 3 units per unit type or more than 20 units per unit type.
- Data must not be more than eighteen (18) months from the contract anniversary date (i.e., for a rent adjustment effective 10/1/11, the oldest acceptable data would be for the period 5/1/10-4/30/11)
- Data collected must be for the same time frame for each unit
- Units that have experienced a vacancy must be excluded from the analysis

Any discrepancies between the owner’s calculations and HUD/PBCA calculations will be communicated with the owner in writing. HUD/PBCA will set the utility allowance in accordance with their calculations and the documentation provided. The owner may submit an appeal of HUD’s determination providing additional information to support their position that the utility amount(s) should be set differently.

If you have questions regarding this policy please contact your HUD Project Manager.