

MEMORANDUM NO. 09-03-03

TO: Section 8 Owners and Management Agents

FROM: Vona Johnson, Director *Vona*
Rental Housing Management

SUBJECT: Section 8 Housing Assistance Payment Contract and Rent Adjustments

DATE: March 17, 2009

There continues to be some confusion regarding Section 8 Contract Renewal and Rent Adjustments (Amend Rents). Following is information that applies to the submission of Section 8 Contract Renewals and Rent Adjustments during a multi-year contract. Please review and incorporate as applicable to your property(s). Please note that these procedures do not apply to properties that are still in their initial contract term but will apply once that term has expired and the property converts to MAHRA.

Renewal Options

For each Initial and Subsequent renewal, the renewal options should be reviewed to determine which option best fits the property's situation at that time and looking forward. We discourage copying requests from renewal to renewal as the property's situation changes throughout the life of the property. In addition, please check our webpage at www.sdhda.org under Owner\Manager\Forms, Manuals and Resources\Section 8 Forms, Manuals & Resources\Renewals/Rent Adjustments for the most current Renewal Worksheets, OCAF Worksheet and Budget Form for renewals and rent adjustments during the multi-year contract. For reference, the South Dakota OCAF percentage is also listed under this same area.

As a reminder, when submitting an Initial or Subsequent renewal under Option 4, the OCAF Worksheet and Budget Form must be submitted in order to conduct the "lesser of" test between the OCAF and Budget calculated allowable rents. The renewal will then be renewed using the "lesser of" the two rents. If the property was or is a FHA financed property, use the HUD Budget Form on our webpage. If the property is financed with 515 funding, the approved Rural Development budget must be submitted and used. When submitting an approved 515 budget, it is recommended that your RD representative indicates on the approved budget or by letter if the budget supports a rent increase and, if so, how much. Otherwise SDHDA will have to use the current rents which were entered into the budget to determine the "lesser of" rents. When completing the budget to be used to conduct the lesser of test, the budget should reflect what it would take to reasonably operate the property. Include increases



where they are anticipated. If you have an increase of five percent or more, include an explanation justifying the increase.

Contract terms can be more than one year. Another change is that Option 5 Preservation renewals can have multi-year contracts, not to exceed the lesser of 20 years or the remaining term of the recorded Use Agreement.

Some properties will need a Rent Comparability Study (RCS) either the current year or in the next couple of years. Plan ahead to get the studies conducted in time to ensure the contract renewal request is submitted to SDHDA 120 days prior to the contract expiration date. The RCS cannot be older than 180 days prior to the contract expiration date.

Rent Adjustments

When submitting a rent adjustment (amend rents) during a multi-year contract, the Contract Renewal Request Form and Worksheets do not have to be completed and submitted. Also the one year notice to the tenant of the owner's intent to renew the contract is not required. However, this notice is required to be sent one year before the multi-year contract expires, prior to the HAP anniversary date.

Debt Service

Below is more guidance as to what debt service to use when completing the OCAF Worksheet or a budget based request.

OCAF Rent Increases – use new debt service.

Budget Based Rent Increases – use the debt service on the original loan rather than the debt service on a new loan when computing budget-based rent increase requests for the Input Form. However on the Budget Form use the current principle and interest amounts.

Following are three exceptions to this policy:

- 1.) If an owner is using Chapter 15 of the Section 8 Renewal Guide to undertake a property transfer or capital repairs, they can submit a budget-based rent increase under Option 2 for costs associated with the transaction, including new debt, as long as the resulting rents will not exceed comparable rents.
- 2.) If an owner of a Section 236 project is proposing a budget-based rent increase for a decoupling transaction, new debt may be included in the calculation as long as the resulting Section 8 rents do not exceed market rent.

- 3) If the project went through HUD's Property Disposition (PD) process and a new Section 8 contract was placed on the property at the time of the PD sale (i.e., there was no Section 8 project-based contract on the property previously) then the Department will recognize the debt placed on the property at the time of the PD sale as the "original" debt on the property.

Utility Allowance

A utility allowance analysis should be completed each year to determine if the current allowance should be adjusted. If there is a change of 10% or more, the allowance should be changed to reflect the new amount. If this is the case, submit the analysis along with either the contract renewal or rent adjustment request. An analysis should include the prior year's usage history per unit and an average. To determine the average, take out the high and low usage amounts then figure the average amount per unit type. Vacant months should not be included in determining the average.

VJ:LD