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New York State Office
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Bookletter # 1
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MEMORANDUM FOR: All Owners, Agents and Contract Administrators within the HUD New York State Office Jurisdiction

Teresa M. Bainton

FROM: Teresa Bainton, Director, New York Multifamily Hub, 2AH

SUBJECT: **MANAGEMENT FEE POLICY**

The HUD New York State Office has completed an analysis of current management fee data obtained from all the HUD Loan programs under the jurisdiction of the New York State Office. By utilizing this data and in conjunction with the requirements in Handbook 4381.5 REV-2, *The Management Agent Handbook*, we have revised the management fee policy of the HUD New York State Office. This new policy will be effective September 1, 2011.

Management fees paid at projects subject to the requirements of HUD Handbook 4381.5 REV-2 will continue to be able to charge front-line management related expenses (office supplies, office salaries, advertising, fidelity bonds, etc.) to the developments in accordance with the Handbook and Figure 6-2 (attached). HUD will continue to check the reasonableness of these expenditures.

For any Management Certifications submitted for HUD approval on or after September 1, 2011, the maximum acceptable residential fee yield that the HUD New York Office will approve will be capped, so as not to exceed \$58 per unit per month (PUPM). **This means that as of the effective date of this Bookletter, when a project receives a rent increase, the fee percentage will have to be adjusted to maintain the \$58 PUPM yield cap.**

Managing agents will continue to be allowed to collect a fee of up to 4.5% of commercial income collected and a miscellaneous income fee, not to exceed the residential fee percentage.

In addition, the HUD New York State Office will consider the allowance of certain add-on fees on a case-by-case basis. Add-on fees are a flat dollar per unit fee paid to agents managing projects with long-term project characteristics/conditions that require additional management effort beyond the activities covered by the residential management fee. A schedule of these fees is as follows:

Non-profit ownership: \$1.50 PUPM

Scattered site: \$1.50 PUPM

Subsidy Mix: \$2.00 PUPM (Where 20 % or more of project's units are not project-based Section 8)

Project with Low Income Housing Tax Credits (LIHTC): \$2.25 PUPM

Note: A project receiving a fee for administering LIHTC units, cannot receive an additional add-on fee for "subsidy mix." So, for example, for a 236 project with 100% Section 8, the management agent would be entitled to a fee of \$58 plus an add-on fee of \$2.00 PUPM. If that project also had LIHTC, then the agent would only be entitled to an additional \$2.25 PUPM (the LIHTC add-on fee).

Instructions on where to list the add-on fees on the HUD-9839 can be found in par. 3.7 a.(4) a. of the HUD Handbook 4381.5 REV-2.

Owner Submission: To initiate a change in the management fee percentage, the owner and agent must submit a new Management Certification form HUD-9839-A, B or C showing the revised management fee(s). Project owners of owner-managed multifamily housing developments must submit form HUD-9839-A. Project owners of multifamily housing developments managed by identity-of-interests or independent management agents must submit form HUD-9839-B. Lastly, project owners/borrowers of elderly housing developments managed by administrators must submit form HUD-9839-C.

- (1) For developments subject to up-front reviews, the fee can be changed only after the HUD New York State Office has given written approval of the fee. In addition to criteria 1, 2 and 3 of Figure 3-5 under the "UP-FRONT REVIEW" Column, the following developments will also be subject to up-front reviews:
 - All developments which received a failing score on their most recent REAC Physical Inspection, or an "Unsatisfactory" rating on their most recent Management Review.
 - All developments which were required to, but failed to submit audited annual financial statements in any one of their last three fiscal years.
- (2) Owners of developments subject to after-the-fact reviews may negotiate and implement the revised fees with in-place agents without HUD approval, as long as the fee complies with the reasonableness standards described in Section 3: Assessing Reasonableness of Management Fees, of HUD Handbook 4381.5 REV-2 and does not exceed the \$58 PUPM cap (plus any of the add-on fees allowed by this Bookletter). A new Management Certification must be submitted before the revised fee can be charged. The HUD New York State Office may review these fees at any time, but will usually perform a review in conjunction with other servicing activities.
- (3) For developments not subject to HUD review, owners may negotiate fees and revise fees without HUD review or approval, unless the project is in default under a mortgage or other approved payment program or HUD determines a review is necessary to protect its interests. However, the owner/agent must provide the HUD New York State Office with a copy of any new Management Certification, regardless of the need for HUD approval.

Our office will review and re-evaluate the maximum PUPM cap every two years, to ensure that the reasonableness of the management fees charged in our jurisdictional area is maintained.

If you have any questions, you may call your local HUD field office representative assigned to your development(s).