

Managing Your HUD Elderly/Disabled Property

Sections 202 and 811 Programs

Linda Cluck, September 2, 2010

Denver Hub Six State Region

- Colorado
- Montana
- North Dakota
- South Dakota
- Utah
- Wyoming





Section 202 (“SH”) Direct Loans

- Low interest loans to develop housing for the elderly or disabled.
- The program was discontinued after 1976; however, existing 202 SH loans are still serviced in accordance with original loan and rental restrictions.

Section 202 Program

Supportive housing for low
and very-low income persons
62 years of age and older.



Section 202/Direct-Market Rate Loans for Elderly or Disabled

- Long-term direct loans were made to nonprofit sponsors to finance rental or cooperative housing for occupancy by elderly or disabled.
- Section 8 funds are made available for 100% of the Section 202 units for the elderly.



Section 202/Direct-Market Rate Loans for Elderly or Disabled continued

- Beginning in 1989, rental assistance was provided for 100% of the units for the disabled.
- This program is no longer active (for new financing).



Direct Loans with PACs

- Between 1988 and 1991, direct loans were made to properties for disabled persons under 202 without Section 8, using Project Assistance Contracts (PACs).
- We have very few of these in our Region.



Capital Advances continued

- No debt service on projects funded through the Capital Advance Program. Bottom line – There is a mortgage but it is not amortized – no Note.
- However, if the owner fails to comply with the program requirements so that a default is declared, the mortgage becomes due and payable immediately at the current market interest rate.



Capital Advances

- Beginning in 1991, advances rather than direct loans are provided to eligible private non-profit sponsors to develop rental housing with supportive services for the elderly and disabled.
- Advance is interest free and repayment is not required so long as the housing remains available for very-low income elderly or disabled persons for at least 40 years.



Eligible Activities for Capital Advances

- New Construction
- Rehabilitation
- Acquisition (with or without rehabilitation)
- Mixed use



Types of Rent Subsidy Assistance

- Some of the 202 SHs do not have any rent subsidy assistance.
- Rent Supplement: Tenant contribution toward rent is 30% of their gross adjusted income; term is tied with the mortgage
- Some Rent Supp converted to Loan Management Set Aside.



Types of Rent Subsidy Assistance continued

- Housing Assistance Payments (HAP) Contract for 202/8s. Mortgage payments are offset by the HAP payments; tenant contribution is 30% of their gross adjusted income
- PACs – Similar to HAP (assistance payment is gross rent minus tenant contribution; offsets mortgage payments). Tenant contribution is 30 percent of gross adjusted income.



Types of Rent Subsidy Assistance continued

- PRAC will cover the difference between the HUD approved operating costs of the project and the tenants' contributions toward rent (30 percent of their adjusted monthly income)

Section 811 Program

The Department of Housing and Urban Development (HUD) provides funding for the development and operation of supportive housing for very-low income persons with disabilities who are at least 18 years old.



Types of Assistance

- Capital advances to cover the cost of developing housing
- Project Rental Assistance Contract (PRAC) funds will cover the difference between the HUD approved operating costs of the project and the tenant's contributions toward rent (30 percent of their adjusted monthly income)



Supportive Services

- Sponsor must assure that Supportive Services are identified and available. Services will not be paid for by the Capital Advance or the PRAC rents



Eligible Grantees

- Nonprofit organizations with a Section 501(c)(3) tax exemption ruling from the Internal Revenue Service.



Eligible Residents

- Household comprised of one or more very low-income persons, at least one of whom is 18 years of age and has a physical or developmental disability or chronic mental illness which:
 - Is long-continued and indefinite duration
 - Substantially impedes person's ability to live independently; and
 - Could be improved by more suitable housing conditions



Eligible Activities

- New Construction
- Rehabilitation
- Acquisition (with or without rehabilitation)



Types of Housing

Independent living projects

Dwelling units in multifamily housing developments,
condominium and cooperative housing

Small group homes.

- **Group Homes**: A single family residential structure for two to six persons. (An additional one or two-bedroom unit is allowed for a resident manager)
- **Independent Living Facilities**: A project with a minimum of five (5) individual apartment units; not necessarily in one structure. The facility may house no more than fourteen (14) individuals. (An additional one or two-bedroom unit is allowed for a resident manager)



Relevant Business Agreements

- Regulatory Agreement
- Section 8 HAP
 - for SHs, LMSA
 - 202/8s: New Construction (most) or Sub Rehab (24 CFR Part 885)
- PAC
- PRAC
- Rent Supp
- Use Agreement. All Capital Advance 202s and 811s will have a Capital Advance Use Agreement.



Management issues to keep in mind:

- Reserve for Replacement (RFR) and residual receipts – under owner’s control, deposited into private banks (not Headquarters accounts). All releases subject to HUD’s prior written approval.
- Some older properties may not have a “single asset entity” owner requirement (depends on age of property). Could change if refinance is done with FHA insurance.



Management issues continued:

- All AFS submissions are subject to A-133, and/or owner certified submissions may be accepted. No submissions other than electronic (REAC/FASS) are acceptable.
- There are special prepayment requirements . These are in notices H 02-16 and 04-21.
- The notices only apply to direct loans. Capital advances may not be prepaid.



Rental Rate Increases

- Old SHs: Budget based. If Rent Supp, would also be determined by Rent Supp. If prepaid, would be determined by use agreement. If S8 units, contract would determine for those units.
- 202/8s aka EHs: Budget based until expire under MAHRA. Then would generally be Option 4 – budget or OCAF.
- 202/811 Capital Advances with PRAC: Budget based. Restrictions on increases in first year of operations.



Annual Budgets?

- Regulatory Agreements for most cases require submission of annual budgets, but this requirement is subject to waiver (Notice H 99-13). Prior to S8 expiration, must submit budget in order to receive rent increase.
- 202/811s with PRAC must submit budget in order for HUD to offer a PRAC renewal, even if no rent increase is requested (Notice H 2002-17). (Also do not use S8 contract renewal request forms).



Budget Format/Preparation

- If a rent increase is requested, must follow all requirements of HUD Handbook 4350.1, Chapter 7. This includes:
 - Required tenant notices
 - Form HUD-92547-A, Budget Worksheet
 - All required narratives and supporting documentation
 - If Reserve for Replacement deposit increase is included, analysis that supports the increase



Project and Program Eligibility

- Income Limits – 4350.3, chapt. 3, 3-6 D.
- Program Eligibility (i.e., elderly and/or disabled) – 4350.3 chapt. 3, Figure 3-6).
- Requests for waivers – refer to 4350.3, 3-20 G.
NOTE: Waivers for capital advance properties must all be sent to HQS for approval, and are only receiving very limited approval these days, due to statutory issues.



Eligibility issues to keep in mind:

- Some old 202 SHs may not be subject to income limits. Must review business agreements/dates.
- 202s designed for elderly (be they SHs or EHs) may or may not have to accept disabled applicants who are not 62 or older, and do not need mobility features. Refer to the handbook guidance.
- 202s designed for disabled and 811s may limit applicants to a certain type of disabled population, but are not required to do so. 811s cannot accept applicants 62 and older who do not have a verifiable disability meeting the program definition in Figure 3-6.

Leasing and Occupancy



Occupancy Issues

- 4350.3 rules apply to all 202s and 811s:
 - Application and wait list requirements
 - AFHMP requirements
 - Verification and calculation of income
 - TRACS and EIV



Occupancy Issues (cont'd)

- 202/Section 8s, and 202s/811s with PRACs have specific model leases. 202 SHs can use “family lease.”
 - Must not alter leases in any way.
- Student Rule (4350.3, 3-13 A) only applies to Section 8 (not SH, Rent Supp, 202/811s with PAC or PRAC). Student requirements for those properties except SH are in 4350.3, 3-13 B.



Occupancy Issues (cont'd)

- Citizenship requirements do not apply to 202s/811s PRACs (but SSN verification does apply).
- Violence Against Women Act (VAWA – Notice H 08-07) does not apply to 202s/811s PRACs.



Specific to PRAC properties

- Different special claims requirements (vacancy claims).
- PRAC residents – TTP not limited by PRAC rent – only by 30 percent of income. If TTP exceeds the operating rent, entire TTP is collected.
- Minimum rent requirement does not apply to PRACs, PACs, or Rent Supp (4350.3, 5-26 D).



Other Occupancy Issues

- 202/8s and 202/811 PRACs cannot charge late fees, or bounced check fees.
- Other selection criteria and screening apply (i.e., criminal background, prohibition against accepting applicants subject to lifetime sex offender registry).
- All 202 and 811 properties must allow pets. (4350.3, chapter 6, 6-10 and Exhibits 6-4 and 6-5).
- Live-In Aides: Special requirements for family members, for 202/8s and 202s with PRACs (4350.3, 7-4 E).



Contract Administration

- PBCAs administer Section 8 contracts.
- PACs and PRACs are all HUD-administered. HUD is directly responsible for all management reviews, physical inspections, assistance payments, rent adjustments and contract renewals.
- Very critical to participate in preoccupancy conferences for new properties coming on line.
- Experienced professional management and updated training is also critical.