OHCS

2012

OREGON HOUSING & COMMUNITY SERVICES

MOBILE HOME PARKS PRESERVATION PROGRAM

Program Compliance Manual

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INTRODUCTION

The Mobile Home Parks Purchase Program (MHPP) is designed to assist qualified tenants' associations, tenants association supported non-profit organizations and Facility Purchase Associations (all hereafter known as Associations) with financing predevelopment costs associated with purchasing a manufactured dwelling park (mobile home park). These funds provide qualified organizations with an affordable alternative for financing the initial costs organizations incur prior to purchasing a park.

As a condition of receiving the benefits of the MHPP financing, the association agreed to reserve a percentage of units in the project for income-qualified residents. This percentage is referred to as a "set-aside". This "set-aside" agreed to by the association will continue for a period of time described in the Loan Documents, and other documents that contain the various commitments of the Association.

In addition to restricting income on placements to properties, associations also agree to maintain compliance with various OHCS requirements for the program. These requirements were originally set not only to achieve affordability for lower-income Oregonians, but also to ensure that projects are financially solvent and do not pose a risk to the Agency.

This Compliance Procedures Manual (the "Manual") was designed to supply associations, management agents, and other staff involved in management and operations, with a working knowledge of state compliance requirements for projects that received financing from the Department under the Mobile Home Parks Purchase Program. It is intended to be a "working manual" - easy to use and an aid to Association and agents in determining how to best achieve compliance with the program's requirements during the "Period of Affordability" (generally 20 years).

Loan Documents - For purposes of simplicity, use of this term in the manual shall include one, or all of the following documents:

- Loan Agreement
- Grant Agreement
- Trust Deed
- Project Use Agreement
- Trust Deed Note or Note
- Regulatory Agreement
- Housing Council write-up
- Any other documents **associated** with the loan/grant to the Association for the project.

INCOME RESTRICTIONS

INCOME RESTRICTIONS

MHPP financed properties are required to restrict income on the "set-aside" units. The income restrictions are based on income data that HUD collects and publishes annually for each county in the U.S. The county that projects are located in affects the "set-aside" income limits. Some counties in Oregon have very high, or very low average income levels, from which the limits for the "set-aside" units are calculated, as a percentage of the "Area Median Income" (AMI). Therefore, projects in different counties may have different limits. The applicable income limits can be found on our web site at http://www.ohcs.oregon.gov/OHCS/HPM.

- A minimum of **80%** of units must be occupied by or reserved for occupancy by households whose gross annual income is below **60%** of area median income adjusted for family size. This is the "set-aside" for the park.
- **Homeowner Certification of Income must be obtained at move-in only;**
- Calculation for imputed asset income to determine gross income for eligibility purposes uses 2% of net family assets (explained further in "Qualifying Tenants" section of the manual).
- Association must file an annual Certification of Continuing Program Compliance to the Department

CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE

One of the requirements in place for projects financed by MHPP program funds is the annual submission of the required "OHCS Owner Certification of Continuing Program Compliance"

Each Association has chosen to participate in the MHPP Program to take advantage of a grant or lower interest rates. In exchange for these benefits, certain requirements must be met by the Association that will benefit qualified low-income homeowners. Some of the requirements relate to the maintenance of the elected minimum set-aside requirement, maintaining accessible documentation and verification of each low-income homeowner. *Although an Association may have a managing agent acting on his or her behalf, the Association is ultimately responsible for ensuring compliance with all applicable programs and their regulations and rules**. Some of the responsibilities and requirements include:***

- At the time of funding, maintain and achieve the income set-asides promised (**80%** of initial residents below **60**% of area median income);
- Submit initially to the Department, a Homeowner Income Certification form for each homeowner in the park to be included in the set-aside;
- Submit annually, to the Department, a certification of continuing compliance with the requirements of the MHPP Program;
- Comply with applicable Fair Housing laws;
- Allow the Department to inspect the books and records pertaining to the income of low or moderate income residents at any reasonable time;

- Provide to the Department, prior to occupancy, a Homeowner Income Certification for the new household for A**NY** change in ownership;
- Provide copies of the consultant's and management agent's contracts demonstrating appropriate ongoing technical assistance through the term of the affordability period.

MANAGEMENT AGENT AND ON-SITE PERSONNEL

The management agent and on-site personnel are responsible to the Association for implementing the MHPP Program requirements. Anyone who is authorized to lease/ sell mobile home spaces to applicants should be thoroughly familiar with and follow all applicable federal and state laws, rules, and regulations governing mobile home parks and landlord tenant laws.

The management agent must provide information requested by OHCS and submit, on behalf of the borrower, all required reports and documentation in a timely manner.

Management agents should ensure that homeowner occupancy information remains confidential but is accessible to authorized representatives of OHCS.

ADMINISTRATION AND RECORD KEEPING

Record-keeping is vital to maintaining compliance with regulations and requirements. These requirements include:

ON-SITE RECORD-KEEPING:

As set forth in the documents, all records concerning the property must be kept in a separate secure area, and in a reasonable condition to allow for proper audit. The records must be maintained as required by OHCS, and, upon appropriate notice, representatives of OHCS may examine or photocopy documents pertaining to the property during regular business hours.

Borrowers must keep a file for each mobile home space on site. Each file must contain at a minimum the following:

- A questionnaire that lists all household members and ask for income and asset information;
- Required Homeowner Income Certification Form
- Back-up verification for resident income/asset calculation

Note: All resident files must be maintained for at least six (6) years after the date the homeowner moves out.

OHCS ON-SITE REVIEWS

COOPERATION WITH OHCS DURING ON-SITE REVIEWS

Throughout the Affordability Period OHCS Compliance staff may conduct periodic on-site reviews of the records in order to evaluate the Association's compliance with the applicable Documents.

RESIDENT FILE REVIEW

The Compliance Officer will review initial and subsequent set-aside files. The files should contain completed Income and Asset questionnaire, with appropriate third party income/asset verification to validate information shown on the form, OR alternative information obtained to verify income.

Regulations for MHPP financed projects state that determination of annual income of individuals must be made in a manner consistent with HUD Section 8 income definitions and guidelines. HUD Handbook 4350.3 REV-1 "Occupancy Requirements of Subsidized Multifamily Housing Program" contains the HUD requirements for Section 8, which are applicable in determining resident income and income from assets for the MHPP Program**.**

INCOME RESTRICTIONS

Before admitting new residents to a MHPP Property, income and assets are verified in order to determine whether the resident will qualify for residence under the project's income restrictions as outlined in the Loan Documents. Following are brief general restrictions**:**

- **80%** of the units must be occupied solely by households or individuals with incomes not exceeding **60%** of AMI (county-based figure) at placement. This amount is adjusted for household size. Parks utilizing MDPP funds must agree to a **minimum of 20 years of affordability.**
- If at any time before the expiration of the affordability period, the Department determines that a recipient of moneys from the MDPP Fund is not in compliance with the applicable requirements, the recipient shall take corrective actions immediately. If the recipient does not make corrective action within the reasonable time, the Department will invoke remedies up to and including repayment of the MHPP funds.

ASSOCIATION/AGENT RESPONSIBILITIES:

Every Association must ensure that eligible residents are placed in their mobile home parks. The most important contributors to correct eligibility determinations are:

- Up-front, complete explanation by the Association Representative/Agent of the requirements
- Correct information provided by the family
- Effective owner verification and interpretation of the information provided

APPLICANT/HOMEOWNER RESPONSIBILITIES:

The applicant/homeowner is required to provide complete and accurate information on an initial questionnaire. The applicant/homeowner must:

- Know what information is needed
- Be willing to disclose the information
- Be given the opportunity to disclose appropriate information

GUIDELINES FOR INTERVIEWING:

OHCS does not specify the interview method the Association or their Agents should use. Two methods are typical:

- Applicant/resident completes forms before coming to the interview
- The interviewer completes forms while interviewing the family

APPLICANT/RESIDENT COMPLETES FORMS:

The Association Representative or their Agent (interviewer) gives or mails the required forms to the applicant or homeowner with instructions for their completion. They bring the forms to the interview and the interviewer and household representative review the information together.

Advantages:

- Saves interview time because forms have been completed in advance.
- Information is provided in the applicant's own handwriting.

Disadvantages:

- Interviewer often reviews the forms but does not ask all of the primary questions that should be asked. They may not explore all questions to the necessary depth.
- Because they are filling out the forms alone, the applicants/residents may not understand what some or all of the questions mean.

INTERVIEWER COMPLETES FORMS:

The interviewer begins with a blank application or recertification form. The interviewer asks all of the questions and records the answers.

Advantages:

- The interviewer has the opportunity to explain what information is needed before the individual responds.
- The interviewer is better able to determine if the applicant/resident understands what is being asked.

Disadvantages:

- It requires an interviewer knowledgeable in all requirements because each question must be asked by the interviewer and the answer recorded.

INCOME AND ASSET VERIFICATION

All regular sources of income including asset income must be verified. ***Verification must be received by management prior to the completion of Homeowners Income Certification and the actual move-in date (or conversion)***. Verifications must contain complete and detailed information.

EFFECTIVE TERM OF VERIFICATION

Third-party verifications of income are valid for 120 days. After 120 days, the information is outdated and must be re-verified.

METHODS OF VERIFICATION

Written Verification

Any request for written income verification sent to a third party must:

1. State the reason for the request;
2. Include a release statement signed and dated by the applicant; and
3. Provide a section for the third-party source to disclose the requested information. The signature of the third party source, their job title (if applicable), phone number and date must be included.

- Income verification requests must be sent directly to and returned by the source, not through the applicant. It is suggested that a self-addressed, stamped envelope be included with the request for verification.
- Verifications may be hand-carried by the applicant only if reasonable attempts to mail or fax the request(s) for verification to the third-party have failed. When using this method, the file should be documented with a phone verification indicating the name and title of the person contacted and confirmation the information received by hand-carry method is accurate.
- The Association Representative or Agent should review and check verifications for accuracy and completeness.

Documents Supplied By the Applicant/Resident

Households may supply documentation sufficient to verify income and assets (i.e., copy of Social Security Award letters, Income Tax filings, W-2s, etc.) In this case, management should copy all documents and retain the copies in the homeowner file along with the Homeowners Income Certification Form.

ASSETS

Because many elderly residents have a variety of assets, the following explanation is provided for help in the determination of eligibility. The Handbook 4350.3 exhibit also contains a more lengthy explanation.

ASSET INCLUSIONS AND EXCLUSIONS

Assets are items of value, other than necessary personal items. Income from assets is added to regular income to determine the eligibility of a household. Asset information (total value and any income) must be obtained from the applicant/homeowner. OHCS can supply a sample form "Asset Valuation Worksheet" form if requested.

If an applicant declares a combined total net asset value of $5,000 or more, the greater of the actual income from assets or the imputed income of the total value of the assets must be added to regular income. (See HUD Handbook 4350.3 for more detail on imputed income.)

Assets include:

- Cash held in savings accounts, checking accounts, and safety deposit boxes. For savings accounts, use the current balance to determine the value. For checking accounts, use the average balance for the last six months.
- The principal value of any trust available to the household. Do not include irrevocable trusts or trusts that no family member can control.
- Equity in real estate, rental property, and other capital investments. Include the current market value less any unpaid balance on loans secured by the real property and less any reasonable costs that would be incurred in selling the asset (prepayment penalties, broker fees, etc.).
- Stocks, bonds, treasury bills, certificates of deposit, money market funds, etc.
- Individual retirement accounts (IRA) and Keogh accounts, as well as 401K accounts to which the individual has access. If the individual is withdrawing from an IRA or Keogh account, determine the amount of the asset by using the average balance of the account for the previous six months. Do not count the withdrawals as income.
- Retirement, pension funds, and annuities;
    1. While the person is employed, include only amounts the individual can withdraw without retiring or terminating employment; and
    2. At retirement or termination of employment, if benefits will be received in a lump sum, include benefits in net family assets. If benefits are paid in periodic payments, include the benefit amount in annual income. Do not count any remaining amounts in the account as an asset.
- Lump sum receipts including inheritances, capital gains, one-time lottery winnings, insurance settlements, or other claims and the delayed receipt of Social Security or SSI benefits.
- Personal property held as an investment such as gems, antique cars, coin collections, etc.

- Cash value of life insurance policies available to the individual before death. Term life insurance is not included as an asset because it has no cash value to the individual before death.
- A mortgage or deed of trust held by an applicant/homeowner. Payments are usually received as one combined figure of principal and interest. Separate the principal and interest portions (by using an amortization schedule) and include only the interest for the future 12 months as income. Determine the amount of the loan outstanding at the end of the 12-month period following certification and include that amount as the asset value.

Note: Assets owned by more than one person should be prorated according to the percentage of ownership.

Assets do not include:

- Necessary personal property such as clothing, furniture, automobiles, personal jewelry, etc.
- Vehicles specially equipped for the handicapped.
- Interest in Indian Trust Land.
- Value of term life insurance.
- Equity in a cooperative unit in which the family lives.
- Assets that are a part of an active business ("business" does not include rental properties that are held as investments and not a main occupation).
- Assets held in the applicant's/homeowner's name but are actually owned by someone else, such as;
    1. Assets and earned income that is accrued or paid to the benefit of someone else; or
    2. A situation wherein another person is responsible for income taxes incurred on income generated by the asset(s); or
    3. An applicant/homeowner is responsible for disbursing someone else's money, such as in the case of having Power of Attorney, but the money is not his/hers and no benefit is received.

    - Assets that are not accessible to and provide no income to the applicant.

SALE OR DISPOSITION OF ASSETS

At the time of application all adult members of the household must declare any assets sold for less than fair market value in the past two years before the effective date of the Certification. If there is more than $1,000 difference between the amount received for the asset and the fair market value, then include in asset value the entire difference. If there is less than $1,000 difference, do not count it.

Example: Six months before move-in, an applicant sold his house to his nephew for $5,000. The house could have been sold on the open market for $60,000. The difference between the value and the sale price is more than $1,000. Include $55,000 as the asset value. This "disposed of" asset must be counted for 2 years.

Note: Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, or divorce or separation settlement are **not** to be included in the fair market value determination. However, if an individual is still the owner of record of property, include as an asset the value of the individual's share of the property.

DETERMINING THE VALUE OF AN ASSET

When computing asset value, use the cash value of the assets. The cash value is the amount an individual would receive if the asset(s) were converted to cash. Expenses which may be deducted from the value include:

- Penalties for withdrawing funds before maturity;
- Broker and/or legal fees assessed to sell or convert the asset to cash; and
- Settlement costs for real estate transactions.

DETERMINING INCOME FROM ASSETS

When the value of net family assets is less than $5,000, add to the total verified income the amount of actual income from the asset(s). When assets are $5,000 or more, add to the total verified income ***the greater of***:

1. The actual income from assets; or
2. The imputed income from assets based on the passbook rate established by HUD (currently 2%).

Example: An applicant has $6,400 in assets. Actual income from assets has been verified at $168. Imputed income from assets is calculated at $128 ($6,400 x .02 = $128). Use the greater amount, or in this case $168, to add to annual income.

TRANSFER OF OWNERSHIP

The MHPP Program requires the set-aside to be maintained for 20 years. If a homeowner in one of the set-aside units decides to transfer ownership, the Association must review the number of lower-income residents to determine if the buyer must meet the requirements of the set-aside.