

Project Owner's Certification for Owner-Managed Multifamily Housing Projects

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0305
(exp. 11/30/2016)

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to U.S. Department of Housing and Urban Development, Office of the Chief Data Officer, R, 451 7th St SW, Room 4176, Washington, DC 20410-5000 or email: PaperworkReductionActOffice@hud.gov. When providing comments, please refer to OMB Approval 2502-0305. Do not send completed forms to this address. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number. Owners of insured and assisted multifamily housing projects are required by HUD administrative guidelines as found in HUD Handbook 4381.5 REV-2, The Management Agent Handbook, to submit certain data for review by the local HUD office of approval of a new management agent. These requirements apply to insured multifamily projects or HUD-held mortgages and subsidized, non-insured projects that are not financed by State Agencies or the Rural Housing Service Agency.

| | | |
|--------------|--------------------|-------------------|
| Project name | FHA project number | Date (mm/dd/yyyy) |
| City, State | Section 8 number | |

Acting on behalf of _____,
the Project Owner, I make the following certifications and agreements
to the United States Department of Housing and Urban Development
(HUD) regarding management of the above project.

1. I certify that:

- a. I will comply with HUD requirements and contract obligations, execute an acceptable management agreement, and agree that no payments have been made to me (or agent thereof) in return for awarding the management contract; and, such payments will not be made in the future.
- b. No management agent will be hired without HUD's prior written approval. Changes in the fee will be implemented only in accordance with HUD's requirements.

(1) Fees:

- (a) _____% of residential income collected; (b) _____% of commercial income collected;
- (c) _____% of miscellaneous income collected (This percentage must not exceed the percentage in (1)(a) above).
- (d) Special Fees No Yes If yes, describe in paragraph 4 of Attachment 1.

(2) Calculation of Estimated Yield (See Attachment 1.)

- c. I will disburse management fees from project income only after:
 - (1) We have submitted this Certification to HUD;
 - (2) HUD has approved us to manage this project; **and**
 - (3) HUD has approved the management fee (if required).
- d. I understand that no fees may be earned or paid after HUD has terminated my management of the project.
- e. If HUD notifies me of an excessive management fee, I will within 30 days of HUD's notice either:

- (1) Reduce the compensation to an amount HUD determines to be reasonable and
- (2) Require the administrator to refund to the project all excessive fees collected, or
- (3) Appeal HUD's decision and abide by the results of the appeal process, making any required reductions and refunds within 30 days after the date of this decision letter on the appeal.

f. If HUD holds the residential management fee yield harmless under the transition provisions of Chapter 3, Section 4 of HUD Handbook 4381.5,

- (1) I understand that HUD will adjust the management fee percentage each time HUD approves a rent increase.
- (2) I agree to be bound by that percentage until the next rent increase or until HUD approves a different fee, pursuant to my request.

2. I will, if the project is subsidized by HUD, select and admit tenants, compute tenant rents and assistance payments, recertify tenants and carry out other subsidy contract administration responsibilities in accordance with HUD Handbook 4350.3 and other HUD instructions.

3. I agree to:

- a. Comply with this project's Regulatory Agreement, Mortgage & Mortgage Note, and any subsidy contract or Workout/Modification Agreement.

- b. Comply with HUD handbooks, notices or other policy directives that relate to the management of the project.

4. I agree to:

- a. Ensure that **all** expenses of the project are reasonable and necessary.
- b. Exert reasonable effort to maximize project income and to take advantage of discounts, rebates and similar money-saving techniques.
- c. Obtain contracts, materials, supplies and services, including the preparation of the annual audit, on terms most advantageous to the project.
- d. Credit the project with **all** discounts, rebates or commissions (including any sales or property tax relief granted by the state or local government) received.
- e. Obtain the necessary verbal or written cost estimates and document the reasons for accepting other than the lowest bid.
- f. Maintain copies of such documentation and make such documentation available for your inspection during normal business hours.
- g. Invest project funds that HUD policies require to be invested and take reasonable effort to invest other project funds .
- h. Comply with HUD requirements regarding payment and reasonableness of management fees and allocation of management costs between the management fee and the project account.
- i. Refrain from purchasing goods or services from entities that have identity-of-interest with us unless the costs are as low as or lower than arms-length, open-market purchases.

5. I certify that the types of insurance policies checked below are in force and will be maintained to the best of my ability at all times. Fidelity bonds and hazard insurance policies will name HUD as an additional payee in the event of a loss. Note: For any box not checked, attach an explanation as to why you cannot obtain that type of insurance. Such situations should be extremely rare.

- a. Fidelity bond or employee dishonesty coverage for
 - (1) all principals of the ownership entity and;
 - (2) all persons who participate directly or indirectly in the management and maintenance of the project and its assets, accounts and records. Coverage will be at least equal to the project's gross potential income for two (2) months.
- b. Hazard insurance coverage in an amount required by the projects Mortgage.
- c. Public liability coverage.

6. I agree to:

- a. Furnish a response to HUD's management review reports, physical inspection reports and written inquiries regarding the project's annual financial statements or monthly accounting reports within 30 days after receipt of the report or inquiry.
- b. Establish and maintain the project's accounts, books and records in accordance with:
 - (1) HUD's administrative requirements;
 - (2) generally accepted accounting principles; and
 - (3) in a condition that will facilitate audit.

7. I agree that:

- a. All records related to the operation of the project, regardless of where they are housed, shall be considered the property of the project.
- b. HUD, the General Accounting Office (GAO), and those agencies' representatives may inspect:

- (1) any records which relate to the project's purchase of goods or services;
- (2) the records of the owner and the agent; and,
- (3) the records of companies having an identity-of-interest with me.

c. The following clause will be included in any contract entered into with an identity-of-interest individual or business for the provision of goods or services to the project: "Upon request of HUD or (name of owner), (name of contractor or supplier) will make available to HUD, at a reasonable time and place, its records and records of identity-of-interest companies which relate to goods and services charged to the project. Records and information will be sufficient to permit HUD to determine the services performed, the dates the services were performed, the location at which the services were performed, the time consumed in providing the services, the charges made for materials, and the per-unit and total charges levied for said services." I agree to request such records within seven (7) days of receipt of HUD's request to do so.

8. I Understand that:

- a. HUD has the right to terminate this self-management arrangement for failure to comply with the provisions of this Certification, or other good cause, thirty days after HUD has mailed me a written notice of its desire to terminate my authority to manage the project.
- b. In the event of a default under the Mortgage, Note or Regulatory Agreement, HUD has the right to terminate my authority to manage the project immediately upon HUD's issuance of a notice of termination.
- c. If HUD exercises this right of termination, I agree to promptly select an agent that is acceptable to HUD.
- d. If there is a conflict between the Management Agreement & HUD's rights and requirements, HUD's rights & requirements will prevail.
- e. If my authority to manage the project is terminated, I agree to immediately turn over to the new agent all of the project's cash, trust accounts investments and records.

9. I agree to submit a new Management Certification to HUD before taking any of the following actions:

- a. Charge fees different from the percentage fees and any special fees specified in Paragraph 1 of this Certification:
- b. Permit an entity other than me to operate the project .
- c. Permit an entity other than me to collect a fee.

10. I agree to:

- a. Comply with all Federal, state, or local laws prohibiting discrimination against any persons on grounds of race, color, creed, familial status, handicap, sex or national origin, including Title VI of the Civil Rights Act of 1964, Fair Housing Act, Executive Order 11063 and all regulations implementing those laws.
- b. When the head or spouse is otherwise eligible, give families with children equal consideration for admission.
- c. Give handicapped persons priority for subsidized units that were built and equipped specifically for the handicapped.
- d. If the project receives any form of direct Federal financial assistance, comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975 and all regulations and administrative instructions implementing these laws. The owner understands that these laws and regulations prohibit discrimination against applicants or tenants who are handicapped or of a certain age.
- e. Furnish HUD's Office of Fair Housing and Equal Opportunity any reports and information required to monitor the project's compliance with HUD's fair housing and affirmative marketing requirements (including HUD Form 949, if applicable).
- f. Not discriminate against any employee, applicant for employment or contractor because of race, color, handicap, religion, sex or national origin.

g. Provide minorities, women and socially and economically disadvantaged firms equal opportunity to participate in the project's procurement and contracting activities.

h. If the project receives any form of direct Federal financial assistance, comply with Section 3 of the Housing and Urban Development Act of 1968 and its implementing regulations. I understand that this law and the regulations require the project to make training, employment and contracting opportunities available, to the greatest extent feasible, to lower-income project area residents and small businesses.

11. I certify that I have read and understand HUD's definition of "identity-of-interest" and that the statement(s) checked and information entered below are true. (Check box a or b.)

- a. No identity-of-interest exists among me and any individuals or companies that regularly do business with the project.
- b. Only those individuals and companies listed in Section 11a of the Management Entity Profile have an identity-of-interest with me.

12. I certify and agree:

- a. That the Management Entity Profile, dated (mm/dd/yyyy) _____, is true, accurate, and current as of the date of this Certification.
- b. To submit an updated profile whenever there is a significant change in the organization or operations of the management entity of the project.

13. The items checked below are attached:

- New Management Entity Profile
- Updated Management Entity Profile
- Attachment 1, Calculation of Estimated Yields from Proposed Management Fees
- Other (Specify) _____

Warnings:

There are fines and imprisonment—\$10,000/5years—for anyone who makes false, fictitious, or fraudulent statements or entries in any matter within the jurisdiction of the Federal Government (18 U.S.C 1001).

There are fines and imprisonment—\$250,000/5years—for anyone who misuses rents & proceeds in violation of HUD regulations relative to this project. This applies when the mortgage note is in default or when the project is in a nonsurplus cash position (12 U.S.C 1715z-9).

HUD may seek a "double damages" civil remedy for the use of assets or income in violation of any Regulatory Agreement or any applicable HUD regulations (12 U.S.C 1715z-4a).

HUD may seek additional civil money penalties to be paid by the mortgagor through personal funds for :

(1) Violation of an agreement with HUD to use nonproject funds for certain specified purposes as a condition of receiving transfers of physical assets, flexible subsidy loan, capital improvement loan, modification of mortgage terms or workout. The penalties could be as much as the HUD Secretary's loss at foreclosure sale or sale after foreclosure.

(2) Certain specific violations of the Regulatory Agreement, the penalties could be as much as \$25,000 per occurrence (12 U.S.C 1735f-15).

By Project Owner: Name

_____ title

_____ signature

_____ date (mm/dd/yyyy)

| | | |
|--------------|--------------------|-------------------|
| Project Name | FHA Project Number | Date (mm/dd/yyyy) |
|--------------|--------------------|-------------------|

HUD Field Office Use Only (Check all boxes that apply)

An up-front review of the management fee was: Required Not required

- The management fees quoted in paragraph 1a and explained in Attachment 1 of this Certification are approved.
- The management fees quoted in Paragraph 1a and explained in Attachment 1 of this Certification are **not** approved. The attached letter, dated (mm/dd/yyyy) _____, explains the reasons for this disapproval and sets forth the allowable management fees.
- The residential management fee **Percentage** is held harmless at _____%.
- The residential management fee **Yield** is held capped at \$_____PUPM. Each time you approve a rent increase, adjust the management fee **Percentage** to maintain this yield and enter the information required below.

| Effective Date (mm/dd/yyyy) of New Fee %* | Monthly Rent Potential | Collections % Assumed** | Adjusted Management Fee Percentage |
|---|------------------------|-------------------------|------------------------------------|
| | | | |
| | | | |
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| | | | |

* This should be the same date the rent increase is effective.
 ** 95% unless you approve a different percentage.

| | | | |
|---------------------------|-------------------|--|-------------------|
| By Project Manager | | By Supervisory Project Manager/Hub Director | |
| Signature | Date (mm/dd/yyyy) | Signature | Date (mm/dd/yyyy) |
| Name | | Name | |
| Title | | Title | |

Attachment 1—Calculation of Estimated Yields from Proposed Management Fees

| | | |
|--------------|--------------------|-------------------|
| Project Name | FHA Project Number | Date (mm/dd/yyyy) |
|--------------|--------------------|-------------------|

| | | |
|--|--------------------|---|
| 1. Residential Fee | | 2. Commercial Fee (Describe commercial space, how it is used and what services management provides.) |
| a. Monthly residential rent potential (from Part A of the most recent HUD-approved Rent Schedule) | \$ | |
| b. Line 1a times 0.95 * | \$ | |
| c. Percentage fee | % | |
| d. Monthly residential fee yield (Line 1b times 1c) | \$ | |
| e. Total number of residential units (include rent-free units.) | units | |
| f. Residential fee yield per unit per month (Line 1d divided by 1e.) | \$ PUPM | |
| * Note: Generally collections must be estimated at 95% of gross potential. If you use a lower percentage, attach an explanation for the collections percentage used. Make sure that any assumption of a lower collections base does not compensate the agent for services for which a special fee will be paid. | | a. Monthly commercial rent potential (from Part E of the most recent HUD-approved Rent Schedule) |
| b. Percentage fee | % | |
| c. Commercial fee yield | (Line 2a times 2b) | \$ |
| 3. Miscellaneous Fee | | |
| a. Percentage fee (not to exceed the residential income fee percentage in Line 1c) | | % |
| b. List any miscellaneous income on which HUD allows a fee to be taken, but on which you have agreed a fee will not be paid. | | |

4. Special Fees
 Show dollar amount(s), purpose(s) and time period(s) covered. Describe performance standards and target dates for accomplishment of special tasks. (Attach additional sheets, if needed.)