
MEMORANDUM

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IDAHO HOUSING AND FINANCE ASSOCIATION

To: Section 8 owners and management agents

From: IHFA compliance staff

Subject: EIV review during the MOR process

Date: January 6, 2009

COMMENTS:

On December 16, and 17, 2008 IHFA attended a Webinar conducted by HUD staff regarding EIV assignment, usage and compliance. It was two days of training presented via webcast, and went over, in detail, the ins and outs of the EIV system. For those of you that were unable to attend this training, the materials and presentation can be viewed/downloaded at the following link: <http://www.hud.gov/webcasts/archives/>. IHFA encourages all of you to view this cast to ensure that you have the most current information/documentation in relation to EIV requirements.

One of the topics discussed during this training was what the state Contract Administrator (IHFA) will be required to review when on site to conduct the MOR. Attached please find the RHIIP guide pages that discuss our requirements at MOR as well as what will be listed as a finding, and what will be an observation. (Some things are only observations until EIV becomes mandatory, which we have been told will be sometime in 2009) Please review this information and ensure that this information is available when IHFA is on site for your review.

We understand that EIV contains a whole new layer of compliance issues that must be addressed and IHFA will continue to share any additional information that we obtain in relation to HUD's requirements.

Thanks- IHFA Compliance Staff



3. Monitoring O/A's EIV Compliance

- a. As part of the MOR, a review of the O/A's compliance with accessing and using the EIV system will be conducted. The reviewer should review the following:
- Required EIV Coordinator and EIV User approval documents
 - O/A's policies and procedures for use of the EIV data
 - Validity of tenant consent forms
 - Use of EIV data
 - Security of the EIV data and reports
 - Retaining and destroying the EIV data and reports

NOTE: Since use of EIV is not yet mandatory for use by O/As, the reviewer will only conduct this review when the O/A being reviewed is using the EIV data at the time of recertification.

Until such time as use of the EIV system is made mandatory for O/As, CAs must not write a Finding or Observation when the O/A does not have access to EIV. The CA also must not provide EIV reports to the O/A requiring the O/A take action on information contained in an EIV report. O/As do not have the authority to have access to EIV data or use EIV information until they apply for, receive approval and are given access to the EIV system.

(1) Review of EIV Coordinator and EIV User Documents

- (a) When identifying the documents that should be made available by the O/A during the review by completing and enclosing with the written confirmation letter the checklist in Addendum C of form HUD-9834 (Attachment 7-C), the reviewer should check the box beside "Other" and add:
- EIV Owner Approval Letters
 - List of EIV Coordinator(s) and EIV User(s) who currently have access to the EIV system
 - EIV Coordinator Access Authorization Form(s) (CAAFs)
 - Security Awareness Training Questionnaire for EIV Coordinator form(s) for each approved EIV Coordinator
 - EIV User Access Authorization Form(s) (UAAFs)

- Security Awareness Training Questionnaire for EIV User form(s) for each approved EIV User
- (b) The reviewer will ensure that owner approval letters have been received for all projects or contracts assigned for access.
- (c) The reviewer will make sure there is a current approved CAAF on file for each person designated by the owner as an EIV Coordinator and a current approved UAAF for each person designated by the EIV Coordinator as an EIV User who are on the list of individuals who currently have access to the EIV system. If there are CAAFs or UAAs for individuals who either no longer need access to the system or who are no longer employed at the project being reviewed, the reviewer will make sure that the access has been expired or terminated for these individuals.

NOTE: There will not be Recertification CAAs in existence for those EIV Coordinators who were recertified prior to December 21, 2007.

- (d) The reviewer will check to see that there is a current completed and signed Security Awareness Training Questionnaire for each approved EIV Coordinator and each approved EIV User and that the Questionnaires were completed prior to approval and access being granted to the EIV system.

NOTE: There will not be Security Awareness Training Questionnaires for approvals or recertifications effective prior to May 12, 2008, the effective date of the requirement for completion of the Questionnaire.

- (e) If the reviewer finds that the O/A does not have an owner approval letter for an assigned project or contract or the O/A does not have approved CAAs, UAAs, or Security Awareness Training Questionnaires on file, the reviewer should include this information on form HUD-9834, Section E, *Leasing and Occupancy*, sub-section 18, *Tenant File Security*, Question 18.b. *Is access to tenant file information limited to only authorized staff?* and/or Question 18.c *Who is authorized to have access to tenant files?* When this occurs, the reviewer will include this as an **Observation** (except for missing CAAs for recertification prior to December 21, 2007) on the written report sent to the owner. The reviewer shall also notify the Director of the Housing Assistance Policy Division at HUD Headquarters by sending an email to the address below that contains the person's name and M-ID and describes the missing authorization documentation for further review and possible removal of EIV access for any unauthorized EIV user.

mfeiv_alert@hud.gov

(2) O/A's Policies and Procedures

O/As need to have policies and procedures in place for using the EIV data at the time of recertification. O/As who choose to use the EIV data other than at the

time of recertification must have policies and procedures in place to ensure that applicants and tenants are treated in a nondiscriminatory manner. For example, if the O/A uses the Existing Tenant Search for determining whether an applicant is receiving assistance, the O/A must have a policy in place to require that the search be used for all applicants. If an O/A uses the EIV data to check for income of new admissions 90 days after admission, the O/A must have a policy in place to require all new admissions be checked for unreported income. The reviewer must ensure that the O/A's policies and procedures have been updated to include use of the EIV data.

If the reviewer finds that the O/A using EIV data has not implemented changes to his/her policies and procedures to incorporate use of the EIV data, the reviewer should include this information on form HUD-9834 in Section G, *General Management Practices*, Question c, *How does the owner/agent implement HUD changes to policies and procedures?* The reviewer will include this as a **Finding** on the written report and encourage the O/A to update his/her policies and procedures.

(3) Tenant Consent Forms

Before accessing EIV employment and income information on a tenant, the O/A must have a current signed consent form on file from the tenant. As part of the Tenant File Review the reviewer checks to see that there are current, signed HUD-9887(s), Notice and Consent for the Release of Information to HUD and to a PHA, consent forms signed by members of the tenant family who are at least 18 years of age and each family head and spouse regardless of age. (See **Attachment 6**, Question A.8)

When accessing the EIV system, O/As affirm that there is a valid form HUD-9887 on file for tenants whose employment and income information they are accessing and CAs (PBCAs and TCAs) affirm they will verify that O/As have a valid form HUD-9887 on file for tenants whose employment and income they have accessed when preparing for the MOR. HUD staff must follow the same requirements affirmed to by the PBCAs and TCAs.

If the reviewer finds that the O/A does not have current, signed forms HUD-9887 in the tenant files, this will be recorded on the Tenant File Review Worksheet, Section A, Question 8, *Have the HUD-9887/9887-A Consent Forms been signed by head, spouse, co-head regardless of age and family members at least 18 years or age? and should also be noted on the form HUD-9834, Section E, Leasing and Occupancy, sub-section 19, Summary of Tenant File Review, Question a.ii, Do the files contain all documentation as required in Handbook 4350.3 REV-1?*

When this occurs the reviewer will include this as a **Finding** on the written report sent to the owner identifying a TCD for curing this deficiency.

(4) Use of EIV data

As part of the tenant file review the CA will monitor the O/A's use of EIV data at the time of recertification of the tenant(s)/household(s) income. EIV data may be used for validating a tenant's employment source and using tenant provided documentation, e.g., 4-6 most recent check stubs, for determining the tenant's income and may also be used for determining a tenant(s) income from SS/SSI benefits. The reviewer will check the tenant files to ensure they contain the applicable EIV reports and supporting documentation and any documentation to support EIV discrepancy resolutions. The reviewer will also determine whether or not the O/A is properly verifying income disputed by the tenant and resolving income discrepancies in accordance with Chapters 5 and 8 of Handbook 4350.3 REV-1, *Occupancy Requirements of Subsidized Multifamily Housing Programs*, and Notice H 2008-03, *Enterprise Income Discrepancies*. Both the Handbook and the Notice are posted at: www.hudclips.org.

If the reviewer finds that the O/A is not verifying income, determining rents and resolving income discrepancies in accordance with the Handbook and Notice requirements, this should be noted on the form HUD-9834, Addendum A, *Tenant File Review* worksheet and Section E, *Leasing and Occupancy*, sub-section 19, *Summary of Tenant File Review*, Question d, *Certification/Recertification* Activities, and written as a **Finding(s)** on the written report to the owner.

(5) Security of the EIV data and reports

Personal information contained in the EIV system, e.g., tenant(s) name, date of birth, social security number, are covered by the Privacy Act. Therefore, it is important that the O/A have security measures in place to protect access to the tenant files limiting/restricting access to authorized staff only and that the EIV information and reports are only accessed and used by persons who have a need to know or use the information for recertification purposes.

HUD only has authorization to disclose EIV data to O/As. The EIV data and reports cannot be used to certify/recertify tenants under the Low Income Housing Tax Credit (LIHTC) program or the Rural Housing Services (RHS) Section 515 program and the data may not be disclosed to State agency or RHS staff monitoring the LIHTC and Section 515 programs.

If the reviewer finds that the O/A is not maintaining reports in a secure place and restricting use of the EIV data and reports to those O/A staff members requiring access to the data, the reviewer should note this on the form HUD-9834, Section E, *Leasing and Occupancy*, Question 18.a., *Are the files locked and secured in a confidential manner?* and Question 18.c., *Is access to tenant file information limited to only authorized staff?* and write-up a **Finding(s)** on the written report

to the owner. Wrongful disclosure or use of the EIV data can result in civil and criminal penalties.

The reviewer may wish to use the EIV Security Checklist, **Attachment 11**, to assist in determining the O/A's compliance with security of the EIV data and reports.

(6) Retention of EIV Data and Reports

Retention of EIV data:

- Social Security benefit report – term of tenancy plus 3 years
- NDNH New hires (W-4), wage, unemployment compensation – 2 years
- Tenant has both SS/SSI benefits and employment or wage information – 2 years
- O/As have the discretion where they can separate the NDNH from the household summary and SS/SSI benefit information to destroy the NDNH information and retain the household summary and SS/SSI benefit information for the term of tenancy plus 3 years.
- All documentation received from the tenant to supplement the EIV data for use in verifying his/her income plus any third party verifications received must continue to be retained for the term of tenancy plus 3 years.
- The O/A should document the file (including the date) when NDNH data used for verification purposes is destroyed.

If the reviewer finds that the O/A is not following HUD's record retention requirements, this should be noted on the form HUD-9834, Section E, *Leasing and Occupancy*, sub-section 18, *Tenant File Security*, Question d, *Is the owner/agent maintaining tenant files according to HUD's document retention requirement?* and Question e, *Is the owner/agent properly disposing of tenant records (shred, burn, pulverize, etc.)?* and should be written-up as a **Finding(s)** on the written report to the owner.

b. Documenting EIV Compliance Observations and Findings

EIV compliance **Observations** will be included on the report to the owner noting that failure to correct deficiencies noted in the Observation may lead to Findings on future reports. EIV **Findings** will be documented in accordance with the instructions in F.2 for recording and documenting income and rent determination errors and findings.