MANAGEMENT FEE POLICY

Contents

Purpose of the Management Fee

This policy provides guidance regarding the management fees paid to management agents for the administration of Authority-financed housing developments that are not subject to a HUD-insured loan or a loan from USDA-Rural Development. Management fees are paid to compensate the management company for services performed that are necessary to manage, operate, and maintain Authority-financed developments on a day-to-day basis in accordance with the Authority-approved Management Agreement and sound property management practices. Any other services or costs that are not identified in the policy as payable from development operations should be paid out of the management agent's fund or from allowable distributions or other owner funds.

Maximum Management Fee

The management fee and premium management fee amounts (defined in a separate policy) are the sole compensation that a management agent is entitled to receive from development operations. This limitation does not apply to those expenses described below that may be reimbursed directly from development operations. The amount of the management fee should be negotiated between the development's owner and management agent, but the Authority establishes a maximum fee amount for both the management and the premium management fees annually with the release of the budget policy update.

Calculation of Management Fee

The maximum management and premium management fees are calculated annually on a "per unit per year" basis (PUPY) for all units, ***including manager units***. The maximum PUPY rate for each fee type is adjusted annually based on the change in the Consumer's Price Index (CPI-U) for the Midwest region's May report posted around June 15th each year on the Bureau of Labor Statistics website. The maximum fees can be found on the 450 - Attachment 2 – Annual Fees form attached to the Budget Guide Policy.

Management Fee Effective Dates

Management fees are chargeable for the period beginning on the effective date identified in Section 14.1 (Term of Agreement) of the Authority-approved Management Agreement, except in the case of new construction or rehabilitation. If the development is newly constructed or undergoing a substantial rehabilitation during which the development is unoccupied, payment for services will be deemed to begin with respect to any unit as of the 1st of the month that the Authority issues its Permission to Occupy.

The management fees may be adjusted each new budget year, effective January 1, provided a Fee Addendum to Management Agreement or a new Management Agreement is executed by the owner and agent and approved by the Authority. Revised addenda/agreements should be submitted as part of the budget process. Refer to the budget policy for more details about submitting Fee Addenda and Management Agreement updates.

Payment and Priority of Management Fees

The management fee equals a PUPY amount payable in twelve equal monthly payments on the first day of each month. Unpaid management fees must be reported on the Monthly Income and Expense (MIE) reports under the Aging of Accounts Payables.

The Management Agreement outlines the priority of payments from development operations in Section 5m (Expense Management). Management fees may not be paid until **all** mortgage loans, other loans, and any escrow payments have been made. If the management agent is an identity-of-interest agent, management fees may not be paid if there are vendor payables in excess of 90 days that are owed to non-identity-of-interest vendors. If identity-of-interest management fees are paid in violation of this policy, the management agent must provide an explanation of why the fees were paid prior to non-identity of interest payables. Explanations will be reviewed on a case-by-case basis by the assigned Asset Manager. Absent compelling circumstances, the management fee may be required to be repaid or a warning letter may be issued.

Management fees may, however, be paid to a non-identity-of-interest management agent as an ordinary account payable, whether or not other vendor payables are outstanding. Identity of Interest vendors are defined in the Identity of Interest Rule (450 – attachment 3) attached to this policy.

Violations of the Management Fee Policy

The Asset Management Division will notify both the owner and the agent of any violations of the Management Fee Policy. Violations must be corrected promptly, or they may cause a default under the management agreement and/or Authority's loan documents. If the violation has not been corrected within the Authority-approved time frame, the Authority may withhold or suspend management fees, or in some circumstances, terminate the agent. This process is outlined in the Management Agreement under Section 15.4 (Material Default) and includes the following steps:

1. *Notice of Violation* **–** A notice of violation letter will be sent to the management agent identifying the violation. The management agent will have 30 days from the date of the violation letter to reimburse the development's operating account for the disallowed expense and provide the Authority with verification of the reimbursement. If the management agent believes the expenses should not have been disallowed, a written communication protesting the violation must be submitted to the assigned Asset Manager within 10 days.

2. *Warning Letter* **–** If the management agent does not satisfactorily respond to the Notice of Violation, a warning letter will notify the management agent that a material default will be declared in 30 days if the violation is not corrected. A material default will result in denial of the premium management fee and possible further action by the Authority.

3. *Declaration of Material Default* – If the violation is not corrected within 30 days of the warning letter, the Asset Management Division will generate a material default letter for issuance by an Authorized Officer of the Authority to the management agent, with a copy to the owner. This letter will be sent by certified mail.

Central Office Expenses and the Use of Central Office Employees

In general, the expenses of operating and staffing a central office are borne by the management agent and are not costs that may be charged to a development. Some costs, however, such as computers and on-site staff located at a particular development site, may be paid from development operations (DO). "Central Office Employees" (COE) are employees who provide centralized services to the basic operation of the management agent and not at one or more selected development sites, and who receive all or portion of their wages and/or benefits from the management fee. Unless approved by the Authority, all COE compensation must be paid from the management fee.

COE and Temporary Assignments

A COE may, however, be used to temporarily replace an on-site staff person. If a temporary replacement period exceeds 3 months, the management agent must provide the assigned Asset Manager with the:

- Anticipated return date of the on-site staff person.
- An action plan to resolve the temporary replacement situation.

In the event a COE is assigned to replace an on-site staff person temporarily, the billing rate for COE services cannot exceed the actual compensation rate paid to the COE for central office duties, but may exceed the replaced on-site staff person's salary amount. All expenses for the temporary use of COEs must be recorded on the COE Expenses (4c) line item on the Monthly Income and Expense reports. The billing rate for the services can only include the following items:

- Salary.
- Fringe benefits (i.e. health insurance, pension plans, etc.).
- Employer payroll taxes.
- Worker's compensation.
- Reimbursement for travel expenses for COEs (based on the actual mileage from the central office/home base to the development and return. The mileage rate for travel cannot exceed the standard mileage rate published by the IRS.

Central Office Expenses Paid From Management Fees (MF)

The following central office expenses must be paid from the management fee amount unless **prior** Authority-approval has been granted for reimbursement from the development operation account:

Central Office Employees (MF)

Salaries, fringe benefits, recruiting, hiring and training costs for the following employees:

1. Executive management staff that serve as overall policy and decision-making authorities.
2. Accountants, bookkeeping staff, clerical staff, and contractual employees.
3. Property management staff that monitor and oversee the development operations by visiting the development, supervising, analyzing and evaluating staff performance by reviewing resident files, office procedures and the physical condition of the development for compliance with company standards and federal/state requirements.
4. Employer payroll taxes and pension plans for central office staff, as well as the cost of auditing the pension plans and the cost of unemployment tax audits.

Central Office Responsibilities and Contractual Services (MF)

All costs associated with the following items:

1. Recruiting, selecting, testing, hiring, initial/ongoing training, and supervising of COE, including any contractual services related to the above.
2. Recruiting, selecting, testing, hiring, initial/ongoing training, and supervising of on-site staff, including any contractual services related to the above.
3. Bid negotiations, bulk buying, issuance and oversight of purchase orders and contracts unless approved in advance by an authorized representative of MSHDA in writing.
4. Ensuring the development is staffed during normal business hours.
5. Any training of the central office and on-site staff performed by management agent staff.
6. Training development staff for skills not directly related to job performance.
7. Updating employee manuals, forms, policies, and procedures.
8. The cost of resident file audits by a COE or contractor.
9. Telephone charges, cellular phones and pagers.
10. Travel to the development, meals, and entertainment and hotel rooms of supervisory and central office staff.
11. All central office and site employee perks, such as gifts, parties, flowers, club memberships (unless the items are disclosed and approved by MSHDA as part of the development's on-site payroll line item).
12. Calculating security deposit interest and processing resident security deposit refund checks.
13. Preparing and processing checks.
14. Using consultants or technical experts to provide advice or make recommendations to the management agent in carrying out their responsibilities regarding advice on financial investments, insurance coverage, pension planning, marketing or product research.
15. Preparing utility allowance information and grant applications.

16. Correspondence regarding physical inspections, annual certified audit, budget, resident complaints, and general correspondence from central office staff.
17. Completing applications for new vendors.
18. All association/membership dues or fees for COEs and all political contributions.
19. Management agent's office building\space costs.

Accounting and Bookkeeping Costs (MF)

Establishment and operation of an accounting/bookkeeping system and internal management control procedures. All costs associated with preparation and processing of the following items:

1. Payroll, including check disbursements, processing or service fees for writing payroll checks, payroll tax returns, 1099 generation, etc.
2. Oversight/monitoring and approval of program compliance, even if done by a contractor. i.e. Subsidy billings, TRACS, special claims, Excess Income reports, etc.
3. Preparing Mortgage payments.
4. Preparing Monthly Income and Expense (MIE) reports and any other special financial reports, processing invoices, including check disbursements and the resolution of invoice discrepancies.
5. Maintenance of subsidiary ledgers for accounts receivables/payables, bank reconciliations, monthly journal entry preparation, and general ledger review and analysis.
6. Initial and ongoing training of COE and on-site staff on accounting systems and accounting software.
7. Development budgets, including rent increases and utility allowance requests.
8. Annual certified audit and pre-closing audit work papers; and
9. Reserve/escrow draws.

Computer Related Costs (MF)

Central office computer hardware and software, maintenance, computer technician and support staff and training costs.

Penalties, Loss of Income and Lawsuit Damages (MF)

Penalties and losses of income resulting from management agent performance, including lawsuit damages and all costs associated with the following items:

1. Damages relating to employee or resident discrimination not covered by an insurance policy.
2. Losses of rental income, increases in operating expenses, or financial deficits resulting from the management agent's failure to perform any and all of the duties necessary for the proper management and marketing of the development.
3. Penalties and late charges as outlined in the management agreement.

Development Operating Account (DO) Expenses

The following expenses may be paid from the development's operating account:

On-Site Staff (DO)

All costs associated with the following items:

1. Salaries, fringe benefits and commissions, advertising, background/criminal and credit checks for on-site staff. E.g. administrative, maintenance, janitorial, marketing, security and on-site contractual employees.
2. Employer payroll taxes and MSHDA-approved pension plans for on-site staff, as well as the cost of auditing the pension plans and the cost of unemployment tax audits.

Computer Related Costs (DO)

Computer hardware and software located at a specific development and related computer maintenance costs.

Identity of Interest Vendors (DO)

Services or supplies provided by identity of interest vendors of the management agent or owner can be reimbursed from the development's operating account if each expenditure is accounted for with a MSHDA-approved Identity of Interest vendor invoice and the reasonable charges are for necessary site-specific operating expenses. Reasonable charges are defined as costs that do not exceed ordinary amounts paid for such services or supplies from non-Identity of Interest vendors.

Other Eligible Development Expenses (DO)

All costs associated with the following items:

1. Ongoing and specialized training courses performed by vendors other than the management company relating to TRACS, Tax Credits, ADA, Fair Housing, and HUD/MSHDA-approved programs for on-site employees.
2. Processing Notices to Quit and Lease termination notices.
3. Employee or resident discrimination insurance premiums and worker's compensation costs.
4. Travel expenses incurred by on-site development staff in performing development related responsibilities, such as making bank deposits, meeting with contractors, and attending trainings.
5. Miscellaneous development office expenses, i.e. envelopes, postage, copy paper, computer supplies, development checks, and record storage.
6. Day-to-day development operations, e.g. advertising; on-site telephone and internet charges; utilities; maintenance and grounds inspections (conducted by development staff); HVAC, electrical, and plumbing inspections; general building and grounds maintenance, including contracts.
7. Legal expenses related to resident evictions, debt collections, etc.
8. Using consultants or technical experts to provide advice or make recommendations in highly technical areas, such as the correction of structural/engineering problems, or health/safety issues.
9. Using a consultant to evaluate site staff marketing skills and performance.
10. State-Certified Appraiser visits to perform Market Rent Comparisons for Section 8 rent increases.
11. Allowable fees, e.g. management fees, premium management fees, annual certified audit fees, ***tax credit monitoring and inspection fees***, and trustee bond fees.

12. Debt service; real property taxes, PILOT, and assessments; hazard, liability, umbrella, and boiler insurance premiums; fidelity bond premiums; development vehicle and equipment insurance premiums; replacement reserve deposits and any other deposits to reserves required by the Regulatory Agreement.
13. Other development taxes, e.g. business taxes.
14. Allowable distributions.
15. Interest expenses for the repayment of MSHDA-approved loans and/or owner advances.
16. Bank card fees, so residents can pay rent with a credit card; and
17. Directors' and Officers' Insurance policy for non-profit owned developments.

Expenses Paid From Agent or Owner Funds

This section addresses development-related expenses that **must be** paid by the owner (or agent) and cannot be paid from DO. Expenses that are generally considered an ownership expense include (but are not limited to):

1. Structuring mortgage modifications, workouts and sale transactions, including legal fees.
2. Cost certifications prepared following the construction or rehabilitation of the development and related fees.
3. Preservation transaction costs, such as the appraisal, drawings and specifications, Capital Needs Assessments, and other related transaction costs.
4. Legal fees related to changing or other issues with management agents and reviewing legal documents, such as the management agreement.
5. Legal fees, court costs and settlements incurred in connection with the defense of litigation initiated by current or former residents in connection with their tenancy or the investigation of fair housing or other regulatory violations by the agent or owner;
6. The issuance or renewal Letters of Credit required in connection with the Authority's loan(s).

In addition to those listed above, other unusual expenses that are not part of the normal operation of the development may be disallowed by the Authority and will be required to be paid from owner (or agent) funds.

Attachments (Refer to 450 Budget Policy)

450 – Attachment 2 – Annual Fees
450 – Attachment 3 – Identity of Interest Rule