

The Chicago Hub Journal



May 2005

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The Chicago Journal
IS A QUARTERLY NEWSLETTER
CREATED BY THE STAFF OF THE
CHICAGO MULTIFAMILY HUB

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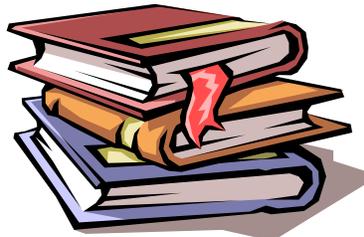
US DEPT OF HUD
ATTN: GEORGE GILMORE
77 W. JACKSON BLVD., SUITE 2301
CHICAGO, IL 60604
OR VIA E-MAIL AT:
george_r_gilmore@hud.gov

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Housing News Update

The below article can be found in the Rental Housing Integrity Improvement Project Newsletter, which located on the HUD web at www.hud.gov.

Change One to HUD Handbook 4350.3 REV-1 Issued



Change one is the first of several changes to Handbook 4350.3- REV-1 2003, Occupancy Requirements of Subsidized Multifamily Housing Programs, that will be made to clarify information and provide edits to the Handbook issued June 12, 2003.

Change number one, which modified parts of Chapters two, three, four and the glossary, was released on August 26, 2004. The main topics of change are to (1) provide new guidance on verification of the eligibility of students as head or co-head of a household; (2) to clarify guidance on the restriction on assistance to non-citizens; (3) incorporate guidance from Notice H 2002-22 on screening for drug-related and other criminal activity, and (4) incorporate guidance from Notice H 2003-23 on the OMB mandated changes to ethnicity and race categories. Other minor changes were made to add clarification, correct errors in references, and correct typos.

- The new guidance on the **eligibility of a student as head or co-head of a household** details how eligibility must be verified. The requirements include: Establishing a household separate from parents or guardian or meeting. The U.S. Department of Education definition of an independent student; Verification that the student is not being claimed as a dependent on parent's income tax returns; and a certification from the parent or guardian of the amount of support being provided to the student even if the amount is zero.
- The **clarification on assistance to non-citizens** was to ensure guidance was in agreement with the regulations. The guidance is to clarify that temporary deferral of termination of assistance is no longer available to families that include both eligible and ineligible members. The explanation of prohibition against delay of assistance is expanded to clarify that at least one family member must be determined to be eligible before the family is offered assistance.
- The **guidance on screening for drug-related and other criminal activity** has been expanded to fully incorporate policy guidance from HUD Notice H 2002-22 that was issued after the revised Handbook 4350.3 REV-1 was completed. Additions include that owners must define in their tenant selection plan the length of time prior to admission that an applicant must not have engaged

in criminal activity in order to be eligible for assistance. Also, owners must require documentation to support the reconsideration of the decision to deny admission based on drug or other criminal activity.

- Guidance has been added to explain that applicants and tenants must be given the opportunity to self-certify to their **race and ethnicity**. Owners must not make a determination of race and ethnicity if the tenant or applicant chooses not to self-certify. The form, including the new ethnic and racial categories provided for this certification, is added as a new exhibit. Change number one and the transmittal that details all changes to the Handbook are available on HUDCLIPS at www.hudclips.org

HUD's Lead Safe Housing Rule

By: George Gilmore, Senior Project Manager

There is a growing realization of the association between housing and an individual's health. In fact, "the government has taken criminal action against owners who know about lead paint and fail to take action." In addition, HUD's Lead Safe Housing Rule requires owners of **certain properties** to implement specific steps that will deal with lead based paint and lead contaminants. HUD's goal is to eliminate childhood lead poisoning in every insured and/or assisted property, particularly where children under the age of six reside. For that reason, HUD's Office of Healthy Homes and Lead Hazard Control (OHHLHC) has taken the lead in this effort.



Below is a brief overview of information for owners and agents regarding HUD's Lead Based Paint Rule:

- The Lead Safe Housing Rule is contained in 24 CFR 35 and became effective on September 15, 2000. For copies of the rule or general questions, please call 800-424-LEAD. For additional questions pertaining to the rule, please call the Office of Healthy Homes and Lead Hazard Control (OHHLHC) at 202-755-1785 extension 104 or the respective project manager. You may also forward your questions via e-mail to lead.regulations@hud.gov. To download the rule and other materials, please go to www.hud.gov/lea.
- The rule requires lead hazard evaluations and controls depending on the type of housing assistance;
- The major multifamily projects applicable to this rule are: (1) new applications for mortgage insurance that are currently in the development stage; (2) HUD- owned and Mortgagee-in-Possession (MIP) properties; (3) projects that receive project-based rental assistance;
- Projects receiving more than \$5,000 per unit per year of project based rental assistance and constructed before 1960, were required to have an Inspection/Risk Assessment (IRA) on or before September 17, 2001.

Projects constructed after 1959 and before 1978 were required to have an IRA by September 15, 2003;

- Projects receiving up to \$5,000 per unit per year were required to have a visual assessment by September 15, 2000. An individual with state certified credentials should review the visual assessment. Additionally, paint stabilization and ongoing lead based paint maintenance procedures must be implemented;
- Lead based paint or lead hazards that are identified in the IRA must be mitigated within twelve (12) months from the date of the IRA;
- If children under the age of 6 reside in the property, an owner must mitigate the lead based paint/lead hazards within ninety days from the date of the IRA;
- Owners are required to certify the mitigation of the lead based paint/lead hazard in a report format. The certification/report must be on the owner's letterhead and signed by a state certified inspector and the owner.
- Owners are responsible for submitting all of the appropriate certifications and/or reports to the local HUD office in a timely fashion; and
- Owners who are not in compliance with the rule and/or the applicable guidelines will be immediately referred to HUD's Office of Healthy Homes and Lead Hazard Control (OHHLHC) and the Departmental Enforcement Center for further action.

If you have any questions concerning HUD's Lead Based Paint Rule, you

should contact the appropriate HUD project manager.

HUD's Real Estate Assessment Center



By: Kenneth F. Hannon, Director,
Business Relationships and Special
Initiatives Division

The Real Estate Assessment Center (REAC) was established in 1998. It is a support organization, which provides certain services to Program Offices of HUD. In the case of Multifamily Housing, REAC conducts all physical inspections using a uniform, objective approach, to physical inspections. REAC also provides financial analysis assistance to staff within the Office of Multifamily Housing. Between the physical inspections and the financial analysis, the Office of Housing is better able to service its portfolio of approximately 30,000 properties to ensure the provision of healthy rental housing.

Over 100,000 inspections have been done since the inception of REAC (all insured properties are inspected by the mortgagee but the inspection is processed, analyzed, quality checked and released to the owner by REAC). Results of the first year of inspections revealed an average score of 66 on a scale of 100. The average score then increased to 77. Our analysis of the results of the most recent inspection revealed an average score of 85.

In June 2002 the Housing Commissioner, John Weicher, instituted the Under 60 protocol, which concentrated the Office of Housing's focus on those properties that continue to receive scores, which indicate the property, is in

unacceptable physical condition. In many cases, when Housing reviews the inspection history, we find there is a pattern of poor management over the years. The information gathered by REAC, Housing and the Departmental Enforcement Center allows Housing to pinpoint those properties that require the most attention. At the end of fiscal year 2003 there were 200 properties that fell into the seriously troubled category, which, according to the present protocol, requires the Field Office to concentrate their efforts and to develop a permanent solution to the problem. These properties are tracked and receive Headquarters attention and oversight. A Headquarters Loan Committee has been established to review each Field Office recommendation on properties that have a second score of less than 60 and for which a Notice of Violation has been issued by The Departmental Enforcement Center (DEC). With the establishment of the Under 60 protocol, building on the work of Housing, REAC and the DEC, the Department is now better equipped to effectively manage its portfolio of HUD insured and subsidized properties. The Multifamily Housing Industry has been involved, working with the Office of Housing, with the establishment of REAC and its protocols since the inception. The industry has been a helpful partner in helping our cause of improving the nations rental housing stock.

Non & Late Submission of Audited Financial Statements



The Departmental Enforcement Center (DEC), in coordination with

the Real Estate Assessment Center (REAC), receives electronic referrals of multifamily projects where the owner has failed to properly submit annual financial statements (AFS).

The DEC has assigned an enforcement analyst (EA) to each "AFS non-filer" referral. All DEC Offices (Washington DC, Atlanta, Chicago, Fort Worth, Los Angeles, and New York) have EAs working on these matters.

The EA is responsible for assessing the reason the owner did not file properly and for obtaining compliance. The EA contacts the owner and/or the owner's representative(s), which may include, but is not limited to, accountants and management agents.

The EA also obtains regulatory and contractual documents related to the ownership. These documents are reviewed and used in determining and verifying the owner's AFS filing requirements.

After filing compliance is achieved and/or the owner agrees to file the report, the EA will determine if a civil money penalty should be pursued. Civil money penalties will also be pursued if an owner does not agree to file. If an appropriate settlement cannot be reached or compliance cannot be achieved, the EA forwards the non-filer folder to legal counsel with a recommendation for the issuance a complaint for civil money penalty, pursuant to 12 U.S.C. § 1735f-15(c)(1)(B)(x).

Failure to properly submit the AFS is a basis for an assessment of a monetary penalty. Penalties assessed must be paid with non-project funds. *Use of project funds for penalties assessed on the ownership is prohibited.* Currently, an administrative law judge may impose penalties up to \$32,500 for each violation.

The DEC's primary goal is to obtain owner compliance with the electronic AFS filing requirements.

FINANCIAL REPORTING PRIMER

By: Michael Farrell, Project Manager

With the beginning of the New Year, we begin another season of financial reporting to HUD.

Most properties that are insured and/or subsidized by HUD are required to submit annual audited financial statements. This requirement is usually included in the project's business agreements, which include but may not be limited to:

- The Regulatory Agreement;
- The Use Agreement;
- The Mortgage Agreement and
- The Housing Assistance Payment (HAP) Contract

It is important to note that it is the responsibility of the **ownership entity** (not the auditors) to file accurate and timely financial statements with HUD. The auditors' role is to conduct and report the results of their audit in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Government Auditing Standards (GAGAS). The Summary of Financial Reporting and Auditing Guidance for HUD Multifamily Program Participants and Independent Auditors, dated February 2003, and published by the Real Estate Assessment Center (REAC) provides specific guidance on financial reporting and auditing requirements.

The due date for submission of financial statements is also extremely important. Depending on the type of ownership structure, financial statements are due:

- For profit motivated and limited distribution owners, audited annual financial statements are due 90 days after the fiscal year ending date;
- For non-profit owners with less than \$500,000 in annual federal awards, owner certified financial statements are due 90 days after the fiscal year ending date;
- For non-profit owners with \$500,000 or more in annual federal awards, owner certified financial statements are due 90 days after the fiscal year ending date, and audited annual financial statements are due 9 months after the fiscal year ending date.
- Computation of Management Fees (HUD Handbook 4381.5 REV-2, The Management Agent Handbook);
- Reserve for Replacement deposits (Regulatory Agreement/Business Agreements); and
- Repayment of Related Party/Owner advances (HUD Handbook 4370.2 REV-1 Financial Operations and Accounting Procedures for Insured Multifamily Projects)

HUD does allow a ten-day grace period for the late submission of annual financial statements. If an ownership entity is more than 10 days late in its submission of the annual financial statements, the owner will be flagged in the Active Partners Performance System (APPS). In addition, the owner will be referred to the Department Enforcement Center (DEC) for further action. All annual financial statements will be reviewed during the year for compliance or financial stability issues. Owners will be notified of any issues resulting from this review.

The most common areas with recurring errors and the appropriate references that can assist owners in avoiding these errors are identified below:

- Computation of Surplus Cash, Distributions and Residual Receipts (Industry User Guide for the Financial Assessment Subsystem - Multifamily Housing, FASSUB 6.0).

All of the references cited above can be accessed through the HUD website at www.hud.gov. If you have any questions or problems with the submission of your annual financial statements, you should call the assigned project manager for guidance and/or assistance.

In addition to the financial reporting requirements discussed above, the following requirements for the assignment of HAP contracts also apply. When a buyer purchases a noninsured property and is assigned an existing HAP contract, the buyer must agree to amend the contract to allow physical inspections by HUD and require full financial reporting in accordance with 24 CFR Part 5. The financial reporting requirements for the new owner begins on the date that the HAP contract is assigned. The assignee (buyer) is responsible for filing the AFS from the date of the HAP assignment through the end of the buyer's fiscal year.

These requirements also apply to prepayment of a HUD insured mortgage combined with assignment of an existing HAP contract.

DID YOU KNOW?



On February 3, 2005, the Local Initiatives Support Corporation (LISC) hosted its Eleventh Annual Chicago Neighborhood Development Awards. The theme for this year's event was *The City that Works Hard & Plays Harder*. The ceremony took place at the Chicago Hilton and Towers in Chicago, Illinois.

“The awards were established to bring visibility to community based development in the Chicago metropolitan area.

By bringing together business, government, real estate, non-profit and philanthropic leaders, the sponsor (LISC) hopes to increase interaction and cooperation that will strengthen and expand neighborhood based development activities.”

These were six specific awards that prominent individuals within the housing industry received. We are pleased to announce that **Edward J. Hinsberger, Director, Chicago Multifamily Hub**, was nominated to accept the prestigious Friends of the Neighborhood Award.



Owners and Managers Benefit by Opening Neighborhood Networks Centers



The bottom line for housing owners and managing agents in HUD housing communities is that opening a Neighborhood Networks center is a **great** investment.

Starting a Neighborhood Networks center can:

- Make properties more competitive, which can attract new residents, lower vacancy rates, and stabilize the tenancy.
- Decrease security and upkeep costs by giving residents a greater sense of pride and a greater stake in the overall well - being of the community.
- Help owners and managers build lasting, mutually beneficial relationships with residents and the local partners that work with the center.

Owners and managers tell how Neighborhood Networks make a difference:



- **Enhances Marketing and Corporate Profile.** Interstate Reality Management (IRMC) has 22 Neighborhood Networks centers among its more than 180 properties in 18 states. Jacqueline Jones, director of social services at IRMC, says, “ As a management company, having a Neighborhood Networks center enhances our ability to market our properties and our corporate profile.”

- **Increases Self-Sufficiency.**

CommonBond Communities in St. Paul, Minnesota, a non-profit owner with 12 Neighborhood Networks centers, moved 80 families from assisted to market-rate housing and 20 families into first-time homeownership.

- **Reduces Security Risks.**

Bill Sullivan, Chief Executive Officer at Rocky Mountain Mutual Housing Association, reports a dramatic turnaround at the Joint Activity Center in Denver. “We’ve reduced the vandalism down to nothing. We don’t even have a security budget at this complex with 626 units. Unbelievable! We had a security budget of \$100,000 a year when we came into the property,” Sullivan says.

- **Increases Sense of Community Among Residents.**

Lutheran Social Services (LSS) of Jamestown, New York, manages five affordable housing developments with 176 senior residents. Sharon Hamilton of LSS says that having a Neighborhood Networks center on its properties “gives the residents a feeling of inclusion in the technological world...and enhances their quality of life.”

HUD funds and other options for funding new centers

Here are some facts for owners and managers: Chapter 9 of HUD Handbook 4381.5, *The Management Agent Handbook*, describes potential sources of HUD funds for Neighborhood Networks centers:

- Using project funds and the Residual Receipts Account.
- Increasing the amount of the owner’s equity investment in the property.
- Borrowing from the Reserve for Replacement Account.
- Projects that meet certain requirements may be granted a budget based rent increase (contact the respective project manager for more details).
- Requesting a special adjustment rent increase.
- Retaining excess income.

In addition to help from HUD, owners and managers can find support from other sources, such as:

- Other federal, state, and local grants.
- Foundation grants.
- Donations from individuals.
- Corporate contributions.
- Fundraising events.

- User fees.
- Business development profits.
- In-kind donations.
- Partners.

Additional options are available to Neighborhood Networks centers that have 501 (c) (3) status, including tax deductions for donors and tax exemption for the incorporated nonprofit organization. Call the Neighborhood Networks Information Center at (888) 312-2743 for additional information or to learn how to begin the process to seek 501 (c) (3) status.

Planning for a successful center

Success is grounded in good planning. Develop a business plan based on your vision for the center. To create a center, you should follow five basic steps:



1. **Involve residents in the planning process.** Residents who help plan the center often become invested in its success. Enlist resident participation to organize a steering committee.
2. **Conduct an assessment.** Have residents identify their educational and employment needs, interests, and talents using interviews and surveys. Residents can also take an inventory of neighborhood institutions that could be center partners and build a list of other partners that could bring additional resources to the center.
3. **Design programs.** Using the data collected, the steering committee can make informed decisions about program areas and local partners that best suit the group’s interests, such as adult education, job preparation, job placement, business development, and after-school and senior programs.
4. **Identify the center operational needs.** Determine staff needed and space, computer hardware and software, insurance, furniture, telephone lines, security, and financial requirements.

Prepare a budget, including project income and operating expenses.

5. **Draft a business plan.** Identify financial plans and day-to-day management of the center, including the programs and activities to be offered. The business plan must be submitted to and approved by the local HUD office for funding purposes.

To help Neighborhood Networks centers develop an effective business plan, HUD has created the Strategic Tracking and Reporting Tool (START). It is an online business plan development tool that enables Neighborhood Networks centers to track every facet of their development.

For more information contact:

GEORGE GILMORE
US Department of HUD
312-353-6236 extension: 2141
CHICAGO, IL 60604
OR VIA E-MAIL AT:
george_r._gilmore@hud.gov

For Your Information (FYI)



- On Wednesday May 18, through Friday May 20, 2005, the Illinois Service Coordinators will conduct their annual Spring Training Seminar. This year's meeting will be held at the Holiday Inn Select Conference Hotel, located in Decatur Illinois. Specific details concerning the conference will be mailed to each site where a service coordinator is on staff. We encourage each Service Coordinator to participate in the conference. Last year's conference was a tremendous success and we anticipate the same for this year's event. HUD's Service Coordinator program is one of the best programs that we administer. Since its inception, we have noted improvement in the quality of the lives for the resident population that we serve. For additional information, you should contact **Darletta Baugh, Branch Chief at (312) 353-6236 extension 2160.**
- In previous years, HUD has permitted grantees of **HUD's Service Coordinator and Congregate Housing Grant** programs to request extensions of their respective grants of up to one year. In addition, HUD has allowed grantees to request an increase in grant funds of up to 5% over the preceding year's expenses. In fiscal year 2005, a grantee may continue to request an extension of the grant period of up to one year. Conversely, a grantee's request

for an increase in grant funds cannot **exceed 3%** of the previous year's expenses.

- **HUD Client Information and Policy Systems (HUDCLIPS)** contains full text searchable databases concerning HUD Handbooks, Notices, Mortgage Letters, Code of Federal Regulations, Federal Registers and more. HUDCLIPS can provide you with free, fast and easy access to information and resources. HUDCLIPS is user friendly and designed to appeal to computer novices and experts. More than 11,000 housing professionals are already using the HUDCLIPS. You too can access HUDCLIPS at www.hudclips.org.
- **Senior Crimestoppers** is a nationally acclaimed preventative crime program that currently supports over 6,500 senior housing developments within the United States. "The program tracks all incidents and as of September of 2004, the crime incident reduction rate in HUD senior housing was 93.47%." You may call **Donna Derryberry** at 877- 232-0859 to find out how your facility can become a part of Senior Crimestoppers or you can go online at www.seniorcrimestoppers.org.
- "Lead exposure causes reduced IQ, learning disabilities, developmental delays, reduced height, impaired hearing and a host of other health problems in young children. **Children, particularly those that are under the age of six,** are at the greatest risk of lead poisoning because their hand to mouth activities allows them to ingest lead dust, the most common exposure pathway into the body. Studies indicate that low-income, inner-city children suffer disproportionately from elevated blood-lead levels because they generally live in older, distressed housing with deteriorated paint and high levels of lead dust. Nearly 450,000 of the 22 million children under the age of six have blood-lead levels high enough to impair their ability to think, concentrate and learn." Please join us in helping to put an end to childhood lead poisoning.
- Neighborhood Networks will celebrate its 10th anniversary this year. Please join HUD in observing **Neighborhood Networks 10th anniversary at its National Training Conference, which will be held June 29 – July 1 2005, in Lake Buena Vista, Florida.** To learn more about HUD's Neighborhood Networks initiative and its 10th Anniversary National Training Conference, visit the Neighborhood Networks web site at www.neighborhoodnetworks.org or call toll free at 888-312-2743
- A Notice of Funding Availability (NOFA) regarding HUD's Section 202/811, Service Coordinator and Assisted Living Conversion programs was published in the Federal Register on March 21, 2005. All applications

pertaining to this NOFA must be submitted electronically. However, on a case-by-case basis, HUD may grant a waiver to this requirement. The necessary information to apply and to make your submission will be in the NOFA and/or available at <http://www.grants.gov>.

The application deadline date for each program is:

- Section 811 - May 24, 2005;
- Section 202 - May 31, 2005;
- Assisted Living Conversion - June 22, 2005; and
- Service Coordinator - June 24, 2005.

The Performance Based Contract Administrator for the State of Illinois

By: *Sara Pyrsson, Contract Administrator
Oversight Monitor*

The Department has contracted with Georgia HAP Administrators, Inc. to be the Performance Based Contract Administrator (PBCA) for Illinois. On September 1, 2004, Georgia HAP was given 413 Section 8 contracts to administer; on December 1, 2004, they received an additional 42 Section 8 contracts. Georgia HAP will eventually receive all HUD administered Section 8 contracts.

Georgia HAP Administrators, Inc. is responsible for the following tasks as they relate to the Section 8 contracts in their portfolio:

1. Establish resident baseline data;
2. Review Monthly HAP Vouchers and Special Claims;
3. Response to discrepancies on monthly HAP vouchers;
4. Disburse monthly housing assistance payments to owners;
5. Notify HUD for owner's decision to opt out of the Section 8 contract;
6. Rent Adjustments;
7. Utility allowance analysis;
8. Renewal of the HAP Contract;
9. Resident inquiries and/or complaints for life and non-life threatening issues;
10. General resident and/or community complaints;
11. Follow up on REAC EH&S findings;
12. Advise HUD and process any abatement actions;
13. Recommend Section 8 contract terminations to HUD and
14. Conduct Management and Fair Housing Reviews

HUD staff is still responsible for all items that pertain to the HUD mortgage and all Section 8 contracts they still administer. HUD staff is responsible for the following:

1. Approve Management Certifications;
2. Requests for changes in managing agents;

3. Reserve for Replacements requests, suspensions and releases;
4. Residual Receipts requests;
5. General Operating Reserve requests;
6. Monthly Accounting Reports;
7. Annual Financial Statements (submitting through the FASS System) including responses to findings;
8. Transfer of Physical Asset Package;
9. Requests for Partial Releases of Security/Partial Payment of Claim;
10. Neighborhood Networks Plans;
11. NOFA Applications (i.e. Drug Elimination, Safe Neighborhood Grant Service Coordinator and 202/811);
12. Monthly Vouchers on any funded NOFA Grant (i.e. Service Coordinator, Assisted Living Conversion);
13. Monitoring Service Coordinators;
14. Assignment of HAP contracts to owner;
15. Process debt service special claims;
16. Process foreclosure packages;
17. Approve neighborhood networks;
18. Monitor use agreements;
19. Process bond refunds;
20. Liaison with HUD Centers (DEC, OAHP, REAC);
21. Coordinate with the PBCA to secure vouchers on contract terminations;
22. Lead based paint monitoring;
23. Process statutory waiver requests and
24. HUD model lease revisions

If you are unsure of whom you should contact you may always call the HUD project manager and they will direct you to the proper individual. Additional information regarding the Performance Based initiative may be found on the web at: <http://www.hud.gov/offices/hsg/mfh/rfp/sec8rfp.cfm>

Georgia HAP Administrators, Inc. web site can be found at: <http://www.ghaca.org/>

Ensuring the Right Benefits Go to the Right Persons

Rental Housing Integrity Improvement Project (RHIIP)

By: *George Gilmore, Senior Project Manager*

HUD has implemented the Rental Housing Integrity Improvement Project (RHIIP) to ensure that funds, which are made available for rental assistance, actually support the individuals and families who need it the most. RHIIP is an initiative that can only be achieved by working together. In fact, HUD's Office of Multifamily Housing must work with its partners i.e. residents, property owners, management

agents and contract administrators to make sure that eligible residents receive the rental assistance that they deserve. With this in mind, HUD and its partners have significant roles and/or responsibilities that can smooth the progress of RHIIP. Below are a few examples of the different tasks that must be achieved.

HUD's Office of Multifamily Housing:

- Update Handbook 4350.3 Rev-1 (Occupancy Requirements of Subsidized Multifamily Housing Programs) to provide accurate and current information;
- Issue the "Rent and Income Determination Quality Control Monitoring Guide", which will provide technical guidance and tools to assist contract administrators in improving their monitoring activities and bringing about the correction of errors in rent;
- Provide fact sheets for residents that answer the question "How Your Rent is Determined";
- Provide training to HUD staff and contract administrators that will help them understand how income and rents are determined and how to perform quality control monitoring;
- Distribute information to owners, managers and contract administrators regarding the Automation Rule and help them understand the requirements for providing current and correct tenant information to the Tenant Rental Assistance Certification System (TRACS) and
- Develop a system to track errors that are discovered during the monitoring process.

Residents:

- During the certification and/or recertification periods, residents must provide current and accurate information to property managers;
- Provide documents to support the information provided;
- Consent to the release of information by a third party for verification;
- Report any changes in income, benefits and/or family composition to property managers and
- Understand and follow the rules and regulations that govern the assisted apartment.

Owners, Management Agents and On-site Managers:

- Know the rules and regulations that govern how to determine income and how to calculate the appropriate rent;

- Make certain that all staff members are properly trained on the rules and regulations and how to apply them correctly;
- Ensure that Handbook 4350.3 Rev-1 and other relevant information are readily accessible for all staff members. You can order or view a copy of the handbook at www.hudclips.org;
- Verify resident information through the use of third party sources;
- Perform certifications and/or recertification timely and promptly submit all tenant information into the Tenant Rental Assistance Certification System (TRACS);
- Maintain complete and comprehensive files on all assisted residents and secure all of their confidential information;
- Institute quality control procedures to make sure that resident data files and HUD systems are correct;
- Establish meticulous interview procedures that will enable you to identify all sources of income and other resident information;
- Fully cooperate with any reviews that are performed by HUD or the contract administrator and
- Contact your local HUD office or contract administrator if you have any questions pertaining to income determination or rent calculation.

"The U.S. Department of Housing and Urban Development (HUD) includes in its mission a commitment to increasing access to affordable housing." The Office of Multifamily Housing Programs helps the Department achieve this goal by providing rental assistance and **"Ensuring the Right Benefits Go to the Right Persons."** With this in mind, there are significant roles and/or responsibilities for all of us to accomplish. So, we must work together in order to achieve success.

For more information concerning the Rental Housing Integrity Improvement Project, please visit www.hud.gov/offices/hsg/mfh/rhiip/mfhrhiip.cfm or contact Kathy Merritt, RHIIP Multifamily Help Desk Coordinator, at (312) 353-6236 extension 2022.

HUD Multifamily Housing's Automation Rule



1. What is the Automation Rule?

The Automation Rule requires owners of subsidized multifamily projects to submit accurate data for housing assistance payments through the Tenant Rental Assistance Certification System (TRACS). Data for certification,

recertification, and subsidy billing for multifamily subsidized housing projects must be correct and transmitted electronically in order for HUD payments to be made. These requirements are mandated by 24 CFR 208.108, the text of which can be found on HUDCLIPS at www.hudclips.org under Title 24-Code of Federal Regulations-2002.

2. To whom does the Automation Rule apply?

The Automation Rule applies to project owners and performance based and non-performance based contract administrators who manage assistance contracts for the programs described below.

3. Which HUD programs are covered under the Automation Rule?

The following programs are covered under this regulation:

- Section 236 Interest Reduction and Rental Assistance Payment (RAP) programs
- Most Section 8 Project-Based Assistance programs (exception: Section 8 Moderate Rehabilitation program, Project Based Certificate program, and Project-Based Voucher program)
- Section 221 (d) (3) Below-Market Interest Rate (BMIR) program
- Section 101 Rent Supplement program
- Section 202 Supportive Housing for the Elderly or Disabled with Section 8 Assistance (Section 202/8)
- Section 202 for Persons with Disabilities with Section 162 Assistance- Project Assistance Contracts (Section 202 PACS)
- Section 202 Supportive Housing for the Elderly with Project Rental Assistance Contracts (Section 202 PRACs)
- Section 811 Supportive Housing for Persons with Disabilities with Project Rental Assistance Contracts (Section 811 PRACs)

4. Why is the Rule so important?

Adherence to this Rule is so important because it will enable the Department to substantially reduce the number and amount of rental assistance errors. In 2002, the amount of improper payments (both overpayments and underpayments) for housing subsidy programs totaled \$3.28 billion. This amount represented 17 percent of HUD's program spending. Many errors were caused by inadequate computer and/or quality control procedures. These safeguards are necessary to ensure payments are calculated, rechecked, and disbursed reliably and accurately. Enforcement of the Automation Rule is a critical component of the Rental Housing Integrity Improvement Project (RHIP), the Secretary's initiative to significantly reduce subsidy payment errors.

5. When will owners be required to be in compliance with the Rule?

Owners must **now** be in compliance with the Automation Rule.

6. How do I comply with the requirements of the Automation Rule?

Owners of subsidized multifamily projects must submit their tenant data and voucher data electronically. Project owners who currently prepare the certification, recertification, and subsidy billing forms manually must either obtain the necessary hardware and software or sign service contracts to enable them to submit the required information electronically.

HUD will check each month's voucher request for payment and compare it with TRACs tenant data to determine the project's compliance percentage.

7. What is the compliance percentage?

The compliance percentage is the ratio of active certifications to the regular units billed each month on the voucher. Active certifications, which are listed on TRACs On-line Query under "Voucher Detail and Summary", are the most current TRACs certification records for the unit. The query does not include units where the tenants moved out or had their assistance terminated. The "Regular Units Billed" can be found on the current voucher submitted to HUD.

TRACs calculates the compliance percentage using this formula:

$$(\text{Active certifications} / \text{regular units billed}) * 100$$

The goal is to have 100 percent compliance.

Examples:

Property ABC has active certifications totaling 100 in TRACs and regular units billed totaling 100.

$$100 / 100 = 1$$

$$1 * 100 = 100\% \text{ compliance}$$

Property XYZ has active certifications totaling 45 in TRACs and regular units billed totaling 100.

$$45 / 100 = .45$$

.45 * 100 = 45%, which means the property does not have sufficient tenant data to support a monthly voucher for 100 tenants.

The compliance percentage has been added to the TRACs Internet Query. This field indicates the level of compliance attained by a particular contract. A list of the certifications

used for this calculation may be downloaded using the TRACs Internet Voucher Detail and Summary Reports.

8. Who has access to TRACs and its queries and reports?

Owners, management agents, and public housing agencies, including contract administrators, may obtain access to TRACs and its queries and reports to monitor the compliance percentage for their rental assistance contracts.

An authorized user ID is required to access TRACs and its online query functions. Qualified owners, agents and housing agencies can obtain an authorized user ID by calling 1-888-245-4860 or by visiting the HUD Real Estate Assessment Center (REAC) web site at:

<http://www.hud.gov/offices/reac/online/reasyst.cfm>

9. What is the noncompliance broadcast message posted on the TRACs website?

The noncompliance broadcast message alerts those submitting vouchers-owners, service bureaus, managers, contract administrators-that TRACs will notify them monthly concerning the status of vouchers in their portfolio. The message will inform them of the contract/project number(s) of vouchers that are noncompliant and when possible suspension of subsidy payment will occur.

10. What happens to voucher payment requests that are noncompliant?

Noncompliant requests for voucher payments will generate a broadcast notification message that appears as an email on the TRACs system. Owners/ agents will be given an opportunity to provide sufficient data for those vouchers that are noncompliant. Those with a high percentage of noncompliant vouchers will be subject to suspension- that is, not receive housing assistance payments from HUD-until the number of tenant certification in TRACs meets an acceptable level to substantiate payment of the suspended vouchers. Owners/agents have 120 days to respond to a TRACs notice of noncompliance, after which time payments may be subject to suspension. **If payments have been suspended for more than 90 days, the case will be referred to the Enforcement Center for appropriate action.**

11. Who can I call for further assistance regarding the Automation Rule?

For further information and additional information regarding this information, please contact the TRACs help desk at 1/800-767-7588.

Look What's Changed in Section 202 Loan Refinancing

By Kathy McMahon, Chief, Project Management

In November 2004, the Department amended Notice H2002-16. Underwriting Guidelines for Refinancing of Section 202 and 202/8 direct loan prepayments changed when HUD issued Notice H 04-21. The primary purpose of Notice H 04-21 is to provide revised underwriting guidelines for processing FHA multifamily mortgage insurance in the refinance of Section 202 direct loans. Below are highlights of the changes:

- The primary change is to permit the rents to be underwritten at contract (Section 8 or other rental subsidies) rental rates. Previously, rents had to be underwritten at the lower of contract rental rates or market rates;
- Under this change you may assume that any current property tax exemption or proposed property tax exemption may be extended for the term of the refinanced loan, provided that the owner is a nonprofit organization that has been or will be granted exemption by local or state government from property taxes for the term of the loan;
- Another change is with regard to meal services. Since 1991 HUD regulations prohibit central kitchens and the provision of food service in elderly insured housing projects. The new Notice allows the HUB Director to permit meals to be served in refinanced Section 202 projects if: meals were provided prior to 1991 and have been continuously provided since then; income and expenses from the meal service are not included in the underwriting of the refinancing; and the meals program has proved self sustaining;
- The mortgagor will not be permitted an equity takeout under this Notice. In the case of a purchase transaction, the seller will be limited to an equity take out of the lesser of the purchase price or the unassisted market value of the property; and
- Other changes have to do with developer's fees and surplus distribution. The maximum developer's fee shall be the lesser of 15 percent of the acceptable development cost as defined by the respective State LIHTC program, or the maximum fee allowed each State's LIHTC program. If LIHTC is not used as a source of equity the limitation on maximum developer's fee is also 15 percent of acceptable development costs.

The maximum annual distribution from surplus cash as defined by the regulatory agreement that may be taken is 6 percent of the owner's equity that was paid at the refinancing

of the project. Other government funds will not be considered owner's equity. LIHTC equity is not other Government funds.

The goal of these revisions is to make FHA mortgage insurance financing more available to sponsors of Section 202 projects. The Department feels that without these changes, very few refinancing of Section 202 and 202/8 will be able to be completed. See Notice H 04-21 for a full explanation of these changes.

HUD's Monitoring of Use Agreements

By: *Janet Hanks, Senior Project Manager*

HUD has hired a contractor, Owusu & Company, to review projects subject to Use Agreements in order to determine whether the owners are in compliance with their agreements. The company will be contacting owners of projects with existing Use Agreements to schedule a review of the property. The review will consist of the following activities:

- Verification that the Use Agreement has been recorded.
- A review of tenant files to ensure compliance with tenant income and eligibility requirements.
- A physical tour of the project and individual units to determine whether the project and the units are decent, safe and sanitary.
- A determination that the restricted units are dispersed throughout the property.
- Interviews with tenants to determine their satisfaction with management and rental services.

Active Partners Performance Systems (APPS)

By: *Debra Head, Senior Project Manager*

The Active Partners Performance System (APPS) was developed to automate the submission and review of the Housing and Urban Development (HUD) Previous Participation Certification Process (Form 2530). The HUD-2530 form starts the approval process for Industry entities that would take part in a HUD project. The HUD-2530 contains data pertaining to principal participations in Multifamily Housing projects, including their previous participation with HUD and other housing agencies. An approved Previous Participation Certification is a must for

approval of various applications to do business with HUD. Information originating from the Previous Participation Certification process will support Project Management and Development activities, the Real Estate Assessment Center and Enforcement Center activities.

In order for individuals or corporate entities to “participate” or play a part in a multifamily housing property, they must have HUD’s approval. Applicants apply for HUD’s approval by submitting a HUD-2530 (Previous Participation Certification) form to the Field Office responsible for overseeing the specific property. Applicants must submit a 2530 when:

- Something related to their involvement in a property changes, for example, they have applied to refinance or rehabilitate the property, or have a change in their organization structure that must be disclosed to HUD or,
- They want to play a part in a property in which they already participate and want to assume an additional role, or
- They want to play a part in a property in which they do not currently participate.

HUD reviews each 2530 submitted and determine the applicant’s suitability to participate in light of their record in carrying out past financial, legal and contractual obligations in a satisfactory and timely manner. Most 2530 decisions are made in the local Field Office. The Field Office forwards 2530s with significant prior participation problems to Headquarters for review and disposition.

Housing is designing and building APPS to satisfy four major objectives. These objectives and how APPS will meet them are:

- **Automate the 2530 processes** – APPS will allow Industry to enter submissions and check on status of submissions via the Internet, and will enable HUD staff to review submission on-line.
- **Reduce the significant paperwork burden and preparation time for 2530s** – APPS will maintain the recurring Industry information, such as principals in each organization, and will incorporate it automatically into the 2530 Submissions, enabling Industry to create a submission in a few mouse clicks.
- **Enable HUD to know which individuals and Standardize the 2530 processes nationwide** – APPS will track submissions through each phase of their life cycle, check the 2530 applicants and their principals against appropriate information sources and present the conclusion automatically to the HUD reviewer.

- **Organizations are playing or have sought to play a role in multifamily properties** – APPS will maintain a history of 2530 submissions, the principals in each Industry entity and any violations in their business agreements, physical conditions and financial responsibilities.

on the MMA program can be found at the Department of Health and Human Services (DHHS) website at: [http:// www.cms.gov](http://www.cms.gov).

Medicare Prescription Drug, Improvement and Modernization Act of 2003

Signed into law on December 8, 2003, the Medicare Prescription Drug Improvement, and Modernization Act (MMA) provides for the issuance of prescription drug discount cards and transitional prescription drug assistance to HUD-program participants and applicants who are receiving Medicare and have enrolled in the Medicare Prescription Drug Discount Card and Transitional Assistance programs.

HUD has issued a Notice H 04-11 to (1) explain the statutory requirements of the Act; (2) provide guidance for implements; and (3) present examples for determining annual and adjusted income for purposes of calculating rent or assistance. This Notice, which was released on July 15, 2004, applies to all Public Housing Agencies, Owners, and Management Agents (POAs) operating HUD-assisted properties.

Beneficiaries of the Medicare Prescription Drug Discount Card and Transitional Assistance (\$600 subsidy), beginning June 1, 2004, are not to have their housing income determinations, assistance, or rents affected in any way by the MMA benefits. For HUD program participants or applicants who are receiving Medicare, POAs must verify whether they have enrolled in the prescription drug discount program.

When calculating annual income for persons receiving these benefits, POAs are to exclude any benefits or assistance received from the prescription drug discount card or the transitional assistance. Additionally, the full cost of the prescription drugs before the application of the negotiated discount is to be included as a medical expense deduction. The prescription drug discount card program enrollment fee is also an eligible medical expense deduction, unless paid by Medicare.

For a complete discussion on stated requirements, Notice H 04-11 can be found on HUDCLIPS at <http://www.hudclips.org>. Additional information

Revised Policy Concerning Pension Plans

HUD Issues Notice H 05-08

HUD Handbook 4381.5 REV-2, The Management Agent Handbook, is the model tool used to monitor procedures authorized by HUD for all matters pertaining to the management of HUD projects. Nonetheless, HUD's auditing process and/or procedures regarding qualified retirement plans are dissimilar with other governmental agencies such as the Employee Retirement Income Security Act (ERISA). Additionally, several concerns from the housing industry prompted HUD to review its present policies and their relationship with other governmental branches. As a result, on February 25, 2005, the Office of Asset Management issued a change to HUD Handbook 4381.5 RV-2 Chapter 6.38 e (2)(c), "Retirement Accounts for Front-Line Staff."

Notice H 05-08 revises outstanding program guidance, handbooks and instructions and should be implemented by all HUD offices in the very near future. The revisions correspond with the provisions of ERISA and should assist owners/agents in attracting and/or retaining knowledgeable professionals to work in insured and/or assisted multifamily housing industry.

Significant issues in the notice are:

- An increase in maximum contributions to pension accounts from five percent to ten percent maximum; and
- A decrease the number of hours an employee must work to be considered full time for pension purposes.

Question regarding Notice 05-08 should be directed to Roland Diggs at (202) 708-1320 extension 2601. You may also obtain a copy of the notice by accessing HUDCLIPS at www.hud.gov.



Successful Loan Sale

The Department help successful sale of mortgages in its March 16, 2005, Multifamily and Healthcare loan Sale 2005-1. Closings occurred on March 31. Here are some statistics:

Number of Loans Offered: 49- UPB of \$397,078,527

33-Multifamily Projects

12-Assisted Living

1-Nursing Homes

3-Assisted Living/Nursing Home

- Number Sold: 49
- Total Gross Proceeds: \$225,090,521
- Overall Sales Price: 64.2%
- Total Bidders: 20
- **Total Successful Bidders: 7**

The Department sells both multifamily and single family mortgages to the private sector to liquidate its inventory of HUD-held mortgage loans and to generate budget savings. In addition, reducing the HUD-held mortgage inventory reduces the burden on staff. As the burden is lifted, multifamily asset management staff can better focus on their primary function of overseeing the physical, financial, and operating condition of the privately -held multifamily projects mission of providing affordable housing. Our goal is to hold two sales each year. The next sale of subsidized loans is being planned for August 2005. Visit HUD's Multifamily and Healthcare Loan Sale website at:

www.hud.gov/offices/hsg/comp/asset/mfam/mhls.cfm

