

CHAPTER 10. REPORTING LOSSES AND ACCIDENTS TO INSURERS

NOTE: Read the insurance policy. All policies have conditions regarding the reporting of losses.

10-1. PROPERTY INSURANCE AND FLOOD INSURANCE LOSS REPORTS.

- a. In the event of an insured incident under the insurance contract, the HAs should first take whatever steps that are reasonable to minimize the amount of damage and protect the property from further damage, including such obvious steps as extinguishing a fire and storing property removed from a damaged building to protect it from theft or exposure to weather.
- b. As soon as practical, a HA should notify its insurance carrier and/or the agent or broker of the incident. This initial report may be verbal but it should be followed by a written notification with copies retained in the HA's file. This report should contain the location of the loss, a description of the property involved, the date, hour, cause and extent of damage.

10-2. ADJUSTING PROCEDURES.

Upon filing the loss report with the insurance company the HA subsequently will be contacted by a representative of the insurance company assigned to adjust the claim. This person may be either an employee of the insurance company or an independent adjuster retained by the insurance company under contract. This person will review the claim and determine the amount of loss. The HAs should cooperate with this individual in order to expedite this process, but should remember that the adjuster is the representative of the insurance company and not an independent arbitrator of the claim. The adjuster will determine the amount of settlement to be offered by the insurance company based on the extent of damage. The decision of the adjuster is not binding on a HA and may be appealed if the settlement is felt unjust.

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10-3. PROOF OF LOSS.

- a. The Proof of Loss is the formal statement required from the insured and transmitted to the insurance company outlining the facts surrounding the loss. The insurance contracts place the burden of preparing this statement on the insured although the claims adjuster generally assists in this process.
- b. Most policies require that a Proof of Loss must be submitted to the insurance company within 60 days after the loss unless an extension of this time limit is received, in writing, from the insurance company. Upon

receipt of the completed Proof of Loss, the insurance company is required to respond to the insured within a reasonable time to either settle the claim or to provide its response to the claim made by the insured.

#### 10-4. DISPUTES.

In the event a HA does not agree with the settlement offered by an insurance company, it should request that the claim be submitted to arbitration. The insurance company and the HA agree upon an independent arbitrator who will evaluate and appraise the property and the extent of damage. This procedure is used only if the insurance company and the HA cannot agree on a settlement amount. Arbitration is subject to the terms of the insurance policy and any state or Tribal law requirements.

#### 10-5. RECONSTRUCTION AND RESTORATION.

Section 13(B) of the ACC requires a HA, to the extent that insurance proceeds permit, to promptly restore, reconstruct and/or repair any damaged or destroyed property of a project, except with written approval of HUD to the contrary.

#### 10-6. PUBLIC LIABILITY INSURANCE LOSS REPORTS.

Public Liability (CGL and automobile) insurance contracts require prompt reporting of any incident that can reasonably be expected to result in claims. A HA should make note of the time, cause, date and details of such incidents and forward the information in writing to the insurance carrier or agent. If injuries have been suffered by a third party, the

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agent/broker should be notified by telephone. The HA should not try to determine fault or liability. No demand should be honored and no settlement offered without the knowledge of the insurance carrier. The HA should maintain a file on all incidents showing the pertinent information and shall cooperate with the insurance company in gathering information needed to settle or defend the claim.

#### 10-7. WORKERS' COMPENSATION INSURANCE LOSS REPORTS.

- a. In order to comply with workers' compensation statutes, the HA should obtain from their workers' compensation insurance carriers the proper claim reporting forms and a description of the procedures to be used to report claims to both the insurance carrier and the State Compensation Authority, as applicable.
- b. Each HA should maintain a file covering all compensation losses and detailing the nature, extent, and circumstances of the claims.

- c. Employees should be instructed to provide all applicable records regarding their injury or sickness, including doctor reports, hospital records and personal expenses related to the claim. These materials should be forwarded to the insurance company with copies retained in the HA files.

#### 10-8. BURGLARY, ROBBERY, OR THEFT REPORTS.

The insurance agent/broker should be notified as soon as possible of all losses of funds or damage to property resulting from burglary, robbery, theft, or attempted threat, including the date and hour of loss, complete details concerning the loss, and the action taken by the HA with respect to the notification of law enforcement agencies.

#### 10-9. BOILER EXPLOSION REPORTS.

Boiler policies provide for an immediate report of steam boiler explosions to be sent to the boiler insurance carrier. If a fire ensues, a report is required by the fire carrier. If a third party is injured, then a report must be made to the CGL carrier.

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#### 10-10. EMPLOYEE DISHONESTY LOSS REPORTS.

- a. The insurance carrier may, under the terms of the policy, deny liability for a loss if notice of the discovery is not given to the insurance company within a reasonable time. For this reason, it is important that the insurance company be given notice immediately upon discovery of any loss of funds or property where there is suspicion of larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, or any other act of fraud or dishonesty on the part of a HA employee. Refer to the form itself for the complete reporting requirements.
- b. In the event a HA or HUD field office becomes aware of a dishonest or fraudulent act on the part of any employee(s) or official(s), they should send written notice immediately to (1) the insurance company; and, (2) the HUD Field Office Directors, Public Housing Divisions or Administrators, Offices of Native American Programs. The Field Office Directors must thereupon notify the Office of the Inspector General of the incident and follow up with the HA to assure that the written notice has been sent to the insurance company. It is essential that the HA comply with the contract terms concerning reporting claims and filing Proof of Loss forms unless specifically instructed otherwise in writing by the Regional Office of Inspector General.

- c. The initial notice of loss should not be delayed pending the preparation of any audit proceedings or criminal investigations. The initial notice should outline the details of the incident to as great an extent as possible. The insurance company will provide the HA with appropriate forms to be used to file the formal Proof of Loss. This Proof of Loss form includes audit findings and other conclusive evidence of a loss. The formal Proof of Loss, prepared after the initial notice, is the proper document for filing audit findings. In the event circumstances are such that the reporting timetable cannot be adhered to, the HA should request an extension, in writing, from the insurance company before expiration of the reporting period.

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The HA should arrange for an audit of the records, files and other material related to the incident after filing the initial written notice of a loss. The information obtained by the auditor should be used to assist in filing the Proof of Loss with the insurance company and also shall be made available to law enforcement agencies investigating the matter.

#### 10-11. APPROVAL OF DISPOSITION OF LIABILITY INSURANCE CLAIMS.

Each HA must obtain HUD approval of its proposed disposition of a liability insurance claim when (1) the claim is filed, if the HA does not have liability insurance coverage, or (2) a claim, by itself or taken together with all other outstanding claims against the HA exceeds (i) its liability insurance coverage, or (ii) the amount available to pay liability claims from any self-insurance reserve fund the HA maintains.

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