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## Chapter 2 Asset Management Life Cycle

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### 2.1 Purpose

A. This Chapter serves as an introduction to the *Multifamily Asset Management and Project Servicing Handbook* (HUD Handbook 4350.1) (*Asset Management Handbook*), a comprehensive guide that outlines Multifamily Housing (MFH) program requirements and core asset management activities.

B. MFH endeavored to structure the *Asset Management Handbook* to reflect the various phases in the asset management lifecycle, which is a series of onboarding, servicing, and monitoring actions that ensure mission success for MFH.

### 2.2 Background

A. The *Asset Management Handbook* describes HUD's oversight of Federal Housing Administration (FHA)-insured and/or HUD-assisted multifamily properties and the role that MFH Account Executives (AEs) and other stakeholders play in ensuring that MFH is owned and managed in compliance with MFH program requirements. This chapter provides an overview of the asset management lifecycle for MFH properties and summarizes key asset management concepts that will be covered in the ensuing chapters.

### 2.3 Applicability

A. The *Asset Management Handbook* is used by MFH AEs, Owners, Agents, and other stakeholders of FHA-insured and/or HUD-assisted MFH properties.

### 2.4 Terms Used in this Chapter

A. Asset management. A broad set of actions, enforcement tools, and processes used to monitor the administrative, financial, and physical condition of MFH properties and ensure compliance with governing statutes, regulations, and business agreements.

B. Multifamily housing. A property with a least 5 housing units that is owned by a nonprofit, public, or private entity.

C. Federal Housing Administration (FHA). A part of HUD that provides mortgage insurance on loans made by FHA-approved lenders for single-family homes, multifamily properties, residential care facilities, and hospitals throughout the United States and its territories. FHA-insured loans allow borrowers access to affordable credit while reducing default risk for approved lenders.<sup>1</sup>

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<sup>1</sup> For discussion of lender participation in and servicing of FHA multifamily mortgage insurance programs, please refer to the *Multifamily Accelerated Processing (MAP) Guide* (HUD Handbook 4430.G).

## 2.5 Office of Multifamily Housing

**A.** MFH is one of seven offices headed by a Deputy Assistant Secretary (DAS) within the Office of Housing. The other offices are Finance and Budget; Healthcare Programs; Housing Counseling; Operations; Risk Management and Regulatory Affairs; and Single-Family Housing. MFH is responsible for the overall administration, development, direction, and management of HUD's MFH programs (described in Chapter 1).

**B.** MFH's operational and oversight goals include the following:

1. Maintaining and preserving affordable housing for HUD residents;
2. Protecting FHA's insurance funds;
3. Ensuring that MFH projects are owned and managed in compliance with HUD's rules and regulations; and
4. Administering rental assistance contracts and grant funds.

**C.** In carrying out its mission, MFH works with a wide array of stakeholders, including:

1. Public and private (not-for-profit and for-profit) Owners;
2. Mortgagors;
3. Mortgagees/Lenders;
4. Contract Administrators, including Performance-Based Contract Administrators (PBCAs) and Traditional Contract Administrators (TCAs);<sup>2</sup>
5. Management Agents;
6. MFH tenants; and
7. State and Local Housing Agencies and Housing Finance Agencies.

## 2.6 Office of Asset Management

**A.** The Office of Asset Management (OAM) is one of six Headquarters offices headed by a Director within MFH. OAM supports MFH's mission through the development of policy; oversight of MFH program participants, including lenders; support of field servicing activities; and management of relationships with stakeholders.

**B.** Two other Headquarters offices report to the DAS for the Office of Multifamily Housing and are relevant to the *Asset Management Handbook*:<sup>3</sup>

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<sup>2</sup> State Housing Finance Agencies administer contracts under the Section 811 Project Rental Assistance program described in Chapter 21.

<sup>3</sup> The Office of Field Support and Operations, Program Administration Office, and Program Systems Management Office are the three other MFH Headquarters offices.

1. Office of Multifamily Production (Production). Production administers FHA mortgage insurance programs, providing mortgage insurance for loans made by FHA-approved lenders. A multifamily property receiving an FHA-insured loan becomes subject to oversight by asset management staff.
2. The Office of Recapitalization (Recap). Recap is a transactional office that administers major preservation programs, including the Green and Resilient Retrofit Program (GRRP), Mark-to-Market Program (M2M), and the Rental Assistance Demonstration (RAD). Once a project completes a preservation transaction in Recap, it will typically become subject to oversight by asset management staff.

C. Field office staff also report to the DAS of MFH. Specifically, five Regional Center Directors (located in the Midwest, Northeast, Southeast, Southwest, and West) report directly to the DAS of MFH, and seven Regional Satellite Offices report to the five Regional Center Directors. Collectively, MFH field staff are responsible for the management of assets within their jurisdictions.

## 2.7 The Multifamily Portfolio

A. HUD's Multifamily portfolio consists of properties that are insured, assisted, or otherwise subject to MFH business agreements, as described below:

1. Properties with a mortgage insured by the FHA;
2. Properties subject to a contract for project-based rental assistance funded by HUD;
3. Properties with both an FHA-insured mortgage and a rental assistance contract

B. Properties with a Use Agreement and/or other preservation agreements that ensure the long-term affordability of the project also fall under HUD's portfolio.

C. A variety of structure types are included in MFH's portfolio. Most structures are apartment buildings or townhomes. Group homes, single-family homes, and mobile home parks constitute a small percentage of the portfolio.

## 2.8 Asset Management Functions

A. Examples of functions performed by MFH asset management staff include the following:

1. Monitoring owner compliance with grant and capital advance agreements and administering rental assistance contracts.
2. Administering preservation, FHA insurance programs, and other programs, as authorized by Congress.
3. Monitoring and assessing the performance of the insured and/or assisted portfolio.
4. Assessing and mitigating risk at both the asset and portfolio level by gathering and analyzing data and designating additional monitoring resources to the riskiest assets.

5. Taking enforcement actions against Owners who fail to comply with program requirements.

## 2.9 Overview of Asset Management Handbook

**A.** This section provides an overview of the *Asset Management Handbook*. It serves as a primer on the various asset management topics covered in the handbook.

### 2.9.1 Introduction and Transfer to Asset Management

**A.** As a general matter, projects enter the asset management portfolio via participation in FHA insurance programs, MFH preservation programs, and/or via new funding awards.

1. For FHA-insured projects, asset management staff work closely with Production staff, who are responsible for underwriting loans and ensuring the viability of a project during new construction or rehabilitation. After final closing, Production staff hand off the project to asset management, providing business agreements, controlling documents, and any other files pertaining to the project.
2. Some projects going through a preservation transaction are likewise handed off to asset management staff following closing (e.g., RAD conversions from Public Housing to Project-Based Section 8). Again, business agreements, etc., are provided to asset management staff.
3. Projects that receive awards of competitively allocated funding under the Section 202 or 811 programs likewise fall under asset management oversight following closing. These projects are also typically assisted under rental assistance contracts. Both the grant awards and the rental assistance contracts are controlling documents.

**B.** Projects assisted under Section 8 project-based rental assistance (PBRA) Housing Assistance Payments (HAP) Contracts also fall under asset management's purview. New PBRA HAP Contracts are rare; however, projects with existing contracts come under new ownership from time to time, and asset management staff ensure that the new Owner assumes responsibility for all applicable controlling documents (the Section 8 PBRA HAP Contract, any use agreement, etc.).

**C.** Many borrowers, Owners, and Agents have long-standing business relationships with HUD; others are new and thus subject to a robust onboarding process known as a Previous Participation Review. The purpose of this Previous Participation Review is to assess the likelihood that HUD's business partners will honor their contractual, financial, and legal obligations to HUD.

**D.** HUD's partners and stakeholders must understand MFH programs and the laws, regulations, and business agreements that govern the ownership and management of MFH projects. Any individual or entity seeking to conduct business with HUD must be familiar with:

1. MFH's asset management structure, including MFH's organizational hierarchy and the various teams, divisions, and offices responsible for executing asset management functions;
2. The rules and requirements applicable to MFH programs and business agreements;
3. Core asset management systems, including but not limited to:

- a. Tenant Rental Assistance Certification System (TRACS);
  - b. Active Partners Performance System (APPS);
  - c. Financial Assessment Subsystem – Multifamily Housing (FASS); and
  - d. Salesforce
4. HUD’s record retention policies and procedures.

### 2.9.2 Initial Servicing

**A.** During the initial servicing phase, AEs perform actions that are generally intended to ensure that Owners comply with HUD development, occupancy, and other requirements.

**B.** In order to safeguard a project’s financial and physical wellbeing, many MFH programs require certain types of asset accounts to be established at project inception.<sup>4</sup> Asset accounts can be broken down into three broad categories:

1. Reserve for Replacement accounts, in which funds are set aside that the Owner can draw upon to fund extraordinary maintenance, repair, and replacement of building components that wear out more rapidly than the building itself.
2. Residual Receipts Accounts, which provide a source of funds for project purposes when operating funds are temporarily inadequate to meet the needs of the project.
3. Other Escrow accounts, which are generally held by the lender/servicer. These accounts may be funded in several ways depending on the program requirements, the borrower’s financial condition, and the expectations of underwriters. Generally, escrow accounts other than the Reserve for Replacement and Residual Receipts accounts are administered by Production staff and are not therefore subject to asset management oversight following closing. Such accounts include:
  - a. Working Capital Escrow;
  - b. Debt Service Reserve;
  - c. Initial Operating Deficit Escrow;
  - d. Deferred Repair Escrow; and
  - e. General Operating Reserve Accounts.

### 2.9.3 Ongoing Servicing

**A.** Asset management staff in both the Field and Headquarters, and Contract Administrators if applicable, are responsible for ensuring that projects comply with business agreements and regulatory requirements and that Owners provide decent, safe, and sanitary housing. Sound project management requires consistent oversight, involving activities such as assessing property-specific financial,

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<sup>4</sup> In general, when a project is subject to both an FHA-insured mortgage and a MFH rental assistance contract, the more stringent requirements prevail.

management, physical, and other important information; adjusting rents and renewing contracts in accordance with policies and procedures; modifying contracts; servicing insured loans and processing loan transactions; overseeing and vetting changes in ownership; administering several supportive services programs; and safeguarding tenants and assets during emergencies through the provision of emergency and disaster assistance.

**B. Examples of specific ongoing servicing activities performed by asset management staff include:**

1. Performing monitoring activities to assess compliance with affordability provisions, civil rights and fair housing requirements, financial requirements, insurance requirements, occupancy standards, physical condition standards, resident participation and rights, the Violence Against Women Act (VAWA), and other activities. For example, AEs and Contract Administrators conduct routine Management and Occupancy Reviews (MORs), which involve tenant file reviews and onsite visits that assist Owners in complying with HUD rules and regulations.
2. For its portfolio of assisted properties, asset management staff and Contract Administrators process rent adjustments, utility allowance adjustments, recertifications of resident incomes, and contract renewals. Such adjustments and renewals ultimately depend on the statute and regulation; in some cases, Owner discretion factors in.
3. If authorized by the applicable program statutes and regulations, MFH asset management staff may approve Owner requests to modify rental assistance contracts. For example:
  - a. Combining contracts. Section 8 Housing Assistance Payments (HAP) contracts may be combined by mutual agreement between the Owner and MFH.
  - b. Bifurcation. An Owner may request to divide a single HAP contract into two or more HAP contracts.
  - c. Unit conversions. With HUD approval, units may be converted from residential to commercial use in order to satisfy market demands and ensure the successful leasing of an insured and/or assisted project.
  - d. Transfers of budget authority. Under Section 8(bb) of the U.S. Housing Act of 1937 (the Act),<sup>5</sup> if a Section 8 PBRA HAP Contract is terminated or expires and is not renewed, the Secretary must transfer any remaining budget authority to another contract. MFH staff may agree to the early termination of Section 8 PBRA HAP Contract if requested by an Owner for the purpose of transferring budget authority under 8(bb).
  - e. Transferring assistance, debt, and use restrictions. An Owner may request to transfer assistance, debt, and/or affordability restrictions from one property to another.
4. HUD executes several loan actions, including:
  - a. Partial release of security. With HUD's written approval, an Owner may release parts of an FHA-insured property (e.g., land, buildings) to external parties.

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<sup>5</sup> 42 U.S.C § 1437f(bb)

- b. Interest rate reduction (IRR). Through the IRR process, the interest rate on a mortgage note is reduced, allowing the mortgagor to achieve debt-service savings without going through a full refinance of the mortgage.
  - c. Loan prepayments, lockouts, and penalties. As prescribed in law and regulation, HUD may allow for the prepayment of a Section 202 Direct Loan and other types of loans.
  - d. Servicing of HUD-held loans. When a mortgagor defaults, asset management staff take actions to protect HUD's interests and tenants.
5. Throughout a project's lifecycle, ownership and/or interests in a project may change, such as through a Transfer of Ownership Interest (TOI)<sup>6</sup> or a full assignment of a HAP contract. MFH vets new Owners to assess the likelihood that they will be responsible business partners.
  6. Millions of low-income families receive housing through MFH programs. In some cases, such families also receive access to supportive services. As appropriate, asset management staff monitor funding for and compliance with such supportive services programs. Examples of such programs include:
    - a. The MFH Service Coordinator Program, through which senior residents and residents with disabilities are assisted with their activities of daily living;
    - b. The Assisted Living Conversion Program (ACLP), which enables elderly residents to age in place; and
    - c. The Family Self-Sufficiency (FSS) Program, which provides a financial incentive for residents to increase their earnings and build assets over time.

### 2.9.4 Enforcement

**A.** Through a variety of business agreements (e.g., Regulatory Agreements, rental assistance contracts, use agreements), Owners of HUD-assisted properties are contractually obligated to follow MFH program requirements. When HUD partners violate such agreements, MFH may take an enforcement action. Such actions include:

- a. Increasing project oversight;
- b. Abatement of payments under a rental assistance contract;
- c. Issuing a Notice of Default (NODs) and/or Notice of Violations (NOVs);
- d. Suspension and/or debarment, which would prohibit Owners/Agents from being a participant in or principal to a federal agency transaction, including transactions related to MFH programs, as provided in 2 CFR part 180; and/or
- e. Issuance of civil money penalties (CMPs)

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<sup>6</sup> This process was previously called a Transfer of Physical Assets (TPA).



**B.** In enforcement cases, MFH partners with the Departmental Enforcement Center (DEC) and the Office of Program Enforcement (OPE), both within the Office of General Counsel, to seek redress for violations of program requirements.

### 2.9.5 End of Program Participation

**A.** Asset management staff encourage Owners to renew rental assistance contracts with HUD, as one of HUD's primary goals is to preserve affordable housing. In some cases, Owners may opt out of renewal, or HUD may terminate its relationship with the Owner when there is a severe infraction of HUD program requirements. For example, if the Owner of an FHA-insured project defaults on the mortgage or violates a business agreement, asset management staff may refer the project to the Property Disposition team, which is authorized to pursue a note sale or foreclosure to protect HUD's financial interest. Asset management staff also work closely with the DEC, which is authorized to recommend various enforcement actions when an Owner fails to uphold their obligations to HUD. When it comes to defaults or noncompliance with HUD agreements, termination and foreclosure are usually last resort options.

**B.** Often, in lieu of ending their participation in a MFH program, as permitted, an Owner will elect to refinance or recapitalize. Usually, Owners interested in refinancing will consult with Production, which offers a number of competitive refinancing projects that can result in lower debt service. Owners interested in recapitalization can request increased contract rents or apply for grant funding through programs such as the Green and Resilient Retrofit Program (GRRP), which is administered by Recap. A refinancing or recapitalization transaction may entail a new owner entity, in which case the proposed new Owner entity will be vetted by asset management staff.

**C.** Asset management staff have access to tools to preserve rental assistance and assist tenants when Owners elect, as permitted, to terminate their participation in HUD programs. For example:

1. In cases where an Owner opts out of a PBRA HAP Contract, asset management staff seek to preserve the assistance via a Section 8(bb) transfer.

**D.** When project-based rental assistance has expired or terminated (see Chapter 52), HUD (through the Office of Public and Indian Housing) provides eligible tenants with Tenant Protection Vouchers (TPVs).