



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

January 17, 2007

**MEMORANDUM FOR:** All Multifamily Hub Directors  
All Multifamily Program Center Directors  
All Multifamily Operations Officers  
All Directors of Project Management

A handwritten signature in black ink that reads "Beverly J. Miller".

**FROM:** Beverly J. Miller, Director, Office of Asset Management, HTG

**SUBJECT:** Critical Findings – Modification To Previous Participation  
Review and Approval Process

To provide better, more efficient service to the Department's clients, the review and approval of previous participation critical findings, in cases where staff and managers have not also entered noncompliance flags into APPS, will immediately be assigned to the Program Centers. Please read the entire text of this memorandum and assure staff responsible for processing E2530's receives a copy.

There will be a conference call to discuss the content of the memorandum.

**Background**

APPS was designed to "match" a) events of noncompliance and poor performance recorded in HUD systems and information provided by participants with b) APPS flag entry and resolution. The interface between APPS and REMS provides a single portal (APPS) to evaluate the portfolio of a participant by any office. The design was meant to assure all HUD employees have complete information about the relative success of participants in meeting their regulatory and contractual obligations and the status of actions taken by participants to correct known noncompliance and performance issues.

We find, however, that many noncompliance/poor performance events exist in HUD systems and/or are known from participant certifications. Whether action has been taken or resolution reached is unknown, at least not without significant research being undertaken. Simply put, while events of noncompliance are clearly shown in HUD systems and/or disclosed by participants, noncompliance flags and subsequent

resolutions are not systematically used by Hubs and Program Centers. This slows the participant risk evaluation process, as the evaluator must perform significant additional research to determine the status of each known noncompliance event.

The APPS design assumes most events of noncompliance result in a flag and there will be relatively few cases where one would not see the entire noncompliance sequence;

1. A noncompliance event is observed (unsatisfactory management review or low physical assessment score, for example);
2. Noncompliance flag is recorded;
3. Action is taken to correct noncompliance; and
4. Flag resolution is recorded when noncompliance has been corrected.

For example, it is common practice to carry the last management review rating in REMS on record until the next review is completed. If noncompliance flags are not entered at the issuance of the review and then later resolved, then only the single office where the review was performed can easily “see” whether the unsatisfactory elements in the review have been addressed. This lack of information forces all other field offices to trigger a review by HQ. This is not efficient and does not maximize the knowledge base available to field personnel.

## What Are the Changes in Process?

**First**, for the foreseeable future “critical findings”, not including APPS Participant Flags (a.k.a. Flags), will be reclassified in APPS. The Program Center Director, Operations Officer and/or Director of Project Management<sup>1</sup> are designated to decide whether to approve, or send to HQ, participant Previous Participation Certificates (E2530) in each case where no critical findings exist. These managers are responsible to judge the risk to HUD if the participants are approved to proceed with new business noted in a specific transaction in their jurisdiction. As participants are approved, the approving manager must insert in the APPS comments area their reasons for approval.

Critical Findings are discussed in Chapter 9 of the HUD users guide. See also Attachment 1, describing common critical findings.

**Second**, in order to make maximum use of the technology and assure more complete knowledge on participant performance for all offices and personnel engaged in asset development and management, supervisors and managers in the field offices must assure that staff is using the tools available as efficiently as possible. To that end, supervisors and managers in all field offices will:

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<sup>1</sup> The Hub Director, not typically involved in routinely processing APPS certificates, has the same responsibility and authority.

1. Assure all staff in asset development and management have access to, are aware of and use APPS routinely in evaluating participant performance;
2. Require the Project Manager to make a written recommendation to their manager in each event where s/he believes a noncompliance event should not result in a flag; or
3. Assure that, upon observation of noncompliance with HUD regulations, contracts, agreements, operating procedures, etc., said noncompliance is recorded in APPS concurrently with notice to the participant; and
4. Assure that noncompliance flags recorded in APPS are resolved concurrently with the notice to the participant that HUD is satisfied with the corrective actions taken.

If there are questions regarding this memorandum, call the participation analyst assigned to your office at 202-708-1320.

Attachment

## Attachment 1

### What Are Critical Findings And How Are They Related to APPS Participant Flags?

Critical findings include 1) all events of noncompliance and/or performance issues shown in HUD systems and 2) those elements within a participant's Previous Participation Certificate (PPC) disclosure and certification that indicate noncompliance or performance below established norms. APPS Participant Flags include those critical findings where the staff or managers in the field office added a flag in APPS (a subset of the critical finding universe)

Critical Findings include:

- An Unacceptable Physical Assessment (Currently Indicated As An Inspection Score Below 60 Points);
- A Below Average Or Unsatisfactory Management Review Rating;
- A Financial (Mortgage/Direct Loan) Default<sup>2</sup>;
- A Mortgage Assignment<sup>3</sup>;
- A Foreclosure<sup>4</sup>;
- A GSA Excluded Party Listing Name Match;
- A Default Under A HAP Contract;
- A Notice Of Contract Or Regulatory Violation Issued By HUD;
- A Notice Of Civil Money Penalties;
- Any Regulatory Agreement Violation Or Breach;
- A Felony Indictment Or Conviction;
- A Debarment, Suspension Or Temporary Denial To Participate<sup>5</sup>;
- Any HAP Contract Violation Or Breach;
- MF FASS Findings That Relate To Regulatory Performance And Compliance;

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<sup>2</sup> All defaults must be recorded as a flag in APPS at the time the default occurs; the participant is to be notified. When a default is cured, the flag must be resolved.

<sup>3</sup> All mortgage assignments must be recorded as flags in APPS at the time a mortgage assignment is made; the participant is to be notified. The field office must also enter a flag denoting the notice of election to assign a mortgage is received; notice to the participant is required.

<sup>4</sup> All foreclosures must be recorded as flags in APPS when the sale is scheduled; the participant is to be notified.

<sup>5</sup> These events must be recorded as flags in APPS and the participant notified.

- Any “No” Answer On A PPC Certification;
- A Conditional Participation Approval or a Participation Denial; and/or
- Other Significant Event Of Noncompliance Or Nonperformance.