
CHAPTER 10. HUD-HELD SERVICING

SECTION 1. INTRODUCTION

- 10-1. GENERAL. This chapter sets forth policies and procedures applicable to the servicing of multifamily housing projects with HUD-Held mortgages under all sections of the National Housing Act. Consistent with these procedures is HUD's policy of assuring the restoration and maintenance of decent, safe, and sanitary housing as well as limiting losses to the insurance fund. The objectives of servicing HUD-Held projects are:
- A. Curing financial defaults and physical deficiencies after assignment by working with the mortgagor to maximize monthly remittance of payments, and if necessary, by providing mortgage relief, consistent with the long-term viability of the project and the financial interests of the government.
 - B. Encouraging the mortgagor to infuse funds, when necessary.
 - C. Ensuring that the mortgagor provides adequate management.
 - D. Preventing foreclosure where possible, thus, reducing the potential for further operating outlays from the insurance fund and the need for additional rent subsidies.
- 10-2. DEFINITION OF A HUD-HELD MORTGAGE. For the purposes of this Chapter, a HUD-held mortgage is described as follows:
- A. A mortgage originated and insured under any multifamily section of the National Housing Act, or formerly coinsured loans, endorsed for full insurance, which has defaulted and been assigned to HUD.
 - B. Section 221(d)(3) and Section 221(d)(4) projects (including 221(d)(5), also known as BMIR) assigned pursuant to the provisions of Section 221(g)(4).
 - C. Any mortgage originated through a direct loan to a non-profit mortgagor/sponsor pursuant to Section

202 or a capital advance mortgage pursuant to Section 811 of the National Affordable Housing Act or Section 202. The capital advance note and mortgage bear no interest and repayment is not required so long as the housing remains available for very low-income elderly persons or very low-income persons with disabilities (whichever is applicable).

- D. A Purchase Money Mortgage (PMM), created when HUD sells an acquired property and takes back a mortgage from the purchaser to refinance the sale.

10-3. TYPES OF DEFAULTS. The mortgagee assigns a mortgage to HUD and receives mortgage insurance benefits as a result of the following defaults:

- A. Monetary Default - Failure of the mortgagor to pay any installment payment due, including payments due under any operating loss loan on any mortgage insured by HUD. The delinquency must have continued for 30 days.
- B. Mortgage Covenant Default - Failure by the mortgagor to perform any covenant due under the provisions of the mortgage.
- C. Technical Default - Failure by the mortgagor to perform any covenant due under the provisions of the Regulatory Agreement. Assignment based on technical defaults must be approved by HUD.

10-4. HUD'S RIGHT TO REQUIRE ACCELERATION OF THE DEBT. Upon receipt of notice of violation of any mortgage or Regulatory Agreement provision, HUD may require, in some cases, the mortgagee to accelerate the mortgage and elect to assign.

SECTION 2. ASSIGNMENT OF MORTGAGE

10-5. GENERAL. One of the goals of HUD is the prevention of mortgage assignments and protection of the insurance funds. Cooperation among HUD, mortgagees and mortgagors is of paramount importance in accomplishing this goal. However, should the assignment take place, there are four courses of action available to HUD as assignee of a defaulted mortgage: 1) to hold the mortgage in default, 2) require the mortgagor to bring

the mortgage current, 3) place mortgage under a workout agreement, or 4) place the mortgage in foreclosure. If a mortgage is assigned and it is determined that the mortgagor is unacceptable i.e., has failed to comply with regulations, the Regulatory Agreement and/or any subsidy contract terms, and/or has improperly used project income, the mortgage should be considered for foreclosure. In addition, HUD will impose the appropriate administrative sanctions.

10-6. ELECTION TO ASSIGN. The mortgagee may work with the owner to reinstate the mortgage consistent with instructions in Chapter 11 of this Handbook, or elect to foreclose and take ownership of the property. If a mortgagee submits an election to assign, the owner must be notified of HUD requirements as mortgagee. The Field Office is encouraged to give the mortgagor an opportunity to reinstate the mortgage. Conversely, the Field Office should begin foreclosure proceedings of the property if the full cooperation of the mortgagor cannot be anticipated, or the prospect for ultimate reinstatement is remote.

- A. PROJECT OWNER'S ROLE. Upon assignment, HUD becomes the mortgagee. Mortgage installments must be made on time (the first day of the month) in accordance with the monthly billings issued by HUD. Failure of the mortgagor to submit timely monthly installments could result in the immediate commencement of foreclosure proceedings.

- B. HUD'S ROLE. HUD, as the mortgagee for all HUD-Held mortgages, has a responsibility to collect the debt. HUD intends to collect that debt in its entirety through monthly installments, workout arrangements, restructuring the debt, selling the mortgage, or foreclosure. If the loan is formerly coinsured, the Housing Management Director may utilize the services of Headquarter's management contractor by requesting the Headquarter's Government Technical Representative (GTR) to place the loan in the contractors' work order. Refer to Chapter 18 in this Handbook for role and services provided by contractor.

- 1. Notification to Owner. A letter must be sent to the owner within 10 working days from the date the Field Office receives:

- a. the mortgagee's election to assign the mortgage. See Appendix 1 for a sample letter, or
 - b. notice that the mortgage has been assigned. See Appendix 2a and 2b for sample letters.
2. The Loan Management Branch Chief must be sure the following actions are taken:
 - a. If the assigned mortgage cannot be brought current immediately, the owner must submit a written reinstatement plan in accordance with guidelines in Chapter 11 of this Handbook. A reinstatement plan is a list of all actions that will be necessary to bring the mortgage current and stabilize project operations.
 - b. All reinstatement plans must address any physical or regulatory deficiencies present at the project and should be covered in a Management Improvement and Operating Plan (MIO Plan).
 - c. If the mortgagor does not develop an acceptable plan or bring the mortgage current, the Director, Housing Management Division must immediately forward a foreclosure recommendation to the Regional Housing Director.
3. Complete Financial Analysis must be performed in accordance with HUD Handbook 4370.1. Additionally, the Loan Management Branch Chief shall have a complete financial analysis made to:
 - a. Determine what, if any, diversions or misuse of funds have taken place in violation of provisions of the Section 8 HAP contract, Regulatory Agreement, or other HUD guidelines.
 - b. If a mortgage is assigned during the first three years after endorsement, determine whether liabilities existed at

the time the mortgage was endorsed for insurance; or if claims were subsequently made by contractors, sponsors, or others, in conflict with the mortgagor's certification that the project was absent of outstanding obligations.

- c. Determine what, if any, miscellaneous assets may be available to satisfy any claims HUD may establish against the mortgagor or sponsors, including any judgments resulting from a transfer of physical assets (TPA), Flexible Subsidy, secondary financing, workout agreement, or arising out of failure to satisfy any guaranty obligation.
 - d. Determine the miscellaneous assets to be conveyed to HUD with the tender of title to the project.
4. On-site Reviews and Inventory of Personal Property. In accordance with instructions in Chapter 6 of this Handbook, a management review and physical inspection of the project must be completed immediately after assignment, or must have been completed within a year prior to the assignment. An inventory of all personal property at the project, except that owned by tenants, should be completed. The inventory should identify the owner(s) of the personal property. Any obligations against such property must be reported, thus making the inventory useful in determining the existence of corporate assets that may be proceeded against in satisfaction of a deficiency judgment. The on-site reviews and property inventory will assist the Field Office in determining:
- a. the possible existence of waste, fraud, and/or mismanagement;
 - b. the approximate cost of repairs necessary for rehabilitation of the project; and

- c. the presence of all equipment covered by Chattel or real estate mortgages, or that which should have been so covered, as well as other property used in the maintenance and operation of the project.

SECTION 3. REINSTATING DEFAULTED MORTGAGES

10-7. GENERAL. HUD Field Office Loan Management/Asset Management Branch staff will evaluate each HM-Held mortgage to determine whether reinstatement is feasible. Before HUD will consider reinstating the loan, other than bringing the mortgage current immediately, the mortgagor must prove to HUD that the reinstatement plan is in the best interest of the Department, the tenants, and the project. For a plan to be considered, it must comply with the requirements in Paragraph 10-9 below.

10-8. OWNER RESPONSIBILITIES AFTER ASSIGNMENT.

- A. The owner must pay all reasonable and necessary project operating expenses and each month remit all remaining net cash to the lock box operated by the Multifamily Notes Branch until a written reinstatement plan is executed. The project name and number should be clearly stated and the check should be sent to:

Multifamily Payment Processing Center
Post Office Box 70764
Chicago, IL 60673

- B. The owner will submit Monthly Accounting Reports, Forms HUD-93480, 93481 and 93482, a plan for mortgage reinstatement in accordance with Chapter 11 of this Handbook, and a plan for property improvement, where needed. Copies of the HUD Forms should be enclosed with the letter sent to the owner.
- C. The owner will submit to the Field Office within 30 days from the date of the letter a plan for mortgage reinstatement in accordance with Chapter 11 of this Handbook and property improvement, where needed. The letter must state that HUD

expects to have a written reinstatement plan in effect within 90 days following mortgage assignment.

10-9. OWNER REQUESTS FOR RELIEF. The owner's request for relief must be in writing and must state the basis for needing the relief sought. The Loan Management/Asset Management Branch staff is responsible for determining the cause of default and that reinstatement is not beyond the realm of reasonable possibility. The owner must be able and willing to:

- A. Demonstrate that default is not a result of any deliberate or voluntary action.
- B. Restore to the project any funds or assets improperly withdrawn, distributed or disbursed.
- C. Correct any conditions constituting violations of the Regulatory Agreement or Section 8 HAP Contract.
- D. Provide and maintain management acceptable to HUD.
- E. Correct any physical deficiencies and make general upgrading repairs or whatever extensive renovation the project may require.
- F. Make additional funds available, where necessary.

SECTION 4. GENERAL SERVICING REQUIREMENTS

10-10. GENERAL. While emphasis must be placed on servicing HUD-Held mortgages which are in default, mortgages current under the terms of the mortgage require the same monitoring that insured mortgages receive. Assistance should be given project owners in their efforts to achieve sound operations. However, the responsibility for liquidation of the mortgage debt rests with the property owner, not with HUD. The Director, Housing Management Division and Loan Management Branch Chief in each respective Field Office have direct responsibility for servicing HUD-Held mortgages. The project owners should be informed that all inquiries concerning operation of the project are to be addressed to the Field Office staff.

10-11. MONTHLY ACCOUNTING REPORTS. Upon receipt of a notice of election to assign a mortgage, Monthly Accounting Reports, Forms HUD-93479, 93480, and 93481, including project net cash, must be submitted by the project owner. These reports will assist in determining the owner's compliance with HUD requirements and the terms of any workout arrangement requested, identifying diversions of project assets and assessing owner's performance. The monthly accounting reports should be analyzed upon receipt by the Loan Management Branch staff. Detailed procedures for review and analysis of monthly accounting reports are contained in HUD Handbook 4370.1. Loan Management/Asset Management staff should also review the Statement of Multifamily Mortgage Account & Notice of Mortgage Payment Due (Form HUD 2771) to be sure the owner is submitting the required monthly payments. If the owner is not submitting the required monthly payments or is in violation of any financial commitment, the Loan Servicer/Asset Manager must contact the project owner and inform him/her of the importance of timely and accurate payments. If the owner fails to respond, the Loan Servicer/Asset Manager and Supervising Loan Servicer or Loan Management Branch Chief must develop a plan of corrective action and contact the owner with the necessary requirements.

10-12. FINANCIAL STATEMENTS. Annual audited financial statements must be prepared, submitted, and reviewed in accordance with instructions in HUD Handbooks 4370.1 and 4370.2.

10-13. HAZARD INSURANCE. Unlike procedures for insured mortgages, HUD, as the mortgage holder, does not escrow hazard insurance premiums. Project owners must establish an insurance escrow account in accordance with Chapter 21 of this Handbook in order to assure an adequate balance when the premiums are due. This should include any deductible amount required by the insurance carrier.

10-14. TAXES. HUD bills project owners for real estate taxes in an amount sufficient to have adequate escrow balances to pay taxes before the due date. Generally, this means that the entire amount due the State or local government must be fully escrowed thirty (30) days before the due date so the taxes may be paid before the penalty date.

10-15. UNIFORM COMMERCIAL CODE (UCC) REQUIREMENTS. Upon assignment to HUD, the assigning lender is required to also assign its security interest in chattels, including materials. (A chattel is any article of tangible property other than land, buildings, and other property purchased with mortgage proceeds or income from the project). The mortgagee must warrant that:

- A. No act or omission of the mortgagee has impaired the validity or priority of the lien created by the chattel security instruments;
- B. the mortgagee has a good right to assign the security instruments; and
- C. the chattel security instruments are a first lien on items covered by the instruments except such other liens or encumbrances as may be approved by the Commissioner.

Under UCC requirements, HUD must file a report periodically (every 5 years or as state law requires) to assure that a lien on such chattels remains in effect until the mortgaged property is paid in full or foreclosed. Therefore, it is essential that an accurate inventory be maintained by the project owner of the personal property fixtures and equipment belonging to the project. These inventories should be reviewed at least every two years by the Loan Management staff to assure that no asset is taken from the property without adequate compensation to the project.

10-16. FUNDED RESERVES must be maintained in accordance with the mortgage document and instructions in this Handbook.

10-17. USE OF PROJECT FUNDS. An owner may not use project funds to pay an attorney, agents, or representatives to develop a workout proposal for HUD to consider and/or to advocate that HUD approve the plan. Further, project funds may not be used to defend a foreclosure action or to pay for a bankruptcy action.

10-18. SURVEY OF TENANTS IN ASSIGNED PROPERTIES. Each Field Office must ensure that unassisted tenants in projects with assigned mortgages are surveyed as indicated below. Section 203 of the Housing and Community Development Act of 1978, as amended by the Housing and Community Development Act of 1987 and the Stewart B.

McKinney Homeless Assistance Amendments Act of 1988, requires HUD to preserve, in unsubsidized insured projects, the affordability of "at least the units that are occupied by low and moderate income persons on the date of assignment or foreclosure, whichever is greater." Whenever a project is assigned to HUD, the Field Office must:

- A. Complete questions 1-8 on the form entitled "Projects with Assigned Mortgages" for each project upon assignment. The Projects with Assigned Mortgages data sheet and the instructions are found in Exhibit 1 and 1A to this Chapter.
- B. Prepare an Income Chart for Projects with Assigned Mortgages, using the list of HUD Annual Median Income Limits which is prepared for the Section 8 Program and the list of HUD Annual Median Income Limits which is prepared for the Section 221(d)(3) and Section 236 programs. A Format of the Income Chart for Projects with Assigned Mortgages are found in Exhibit 2 to this Chapter.
- C. Distribute to each project owner whose mortgage has been assigned to HUD, a packet which includes the forms listed below:
 1. a copy of the "Projects with Assigned Mortgages," summary of tenant income data form (with questions 1-8 completed), (Exhibit 1 and 1A to this Chapter).
 2. a copy of the "Income Chart for Projects with Assigned Mortgages," (Exhibit 2 to this Chapter).
 3. a copy of the "Tenant Income Survey," (Exhibit 3 to this Chapter),
 4. a copy of the "Privacy Act Notice Statement," (Exhibit 4 to this Chapter).
 5. a letter to the owner, specifying the date by which the surveys are due back to the Field Office.
- D. Retain the survey documentation in the project file. The survey results must be utilized in determining the amount of subsidy and number of

Section 8 units that may be provided to the low-income tenants at any foreclosure sale.

- E. Send the Tenant Survey and Privacy Act Statement directly to each resident in the project, in those cases where the owner refuses to distribute the survey or will not return the results to the Field office. The survey must be modified to reflect Field office origination.

SECTION 5. SERVICING PARTIAL PAYMENT OF CLAIMS MORTGAGES

10-19. GENERAL. HUD may, with the concurrence of the mortgagee, make a partial payment of an insurance claim on a defaulted mortgage covering certain multifamily housing projects. The mortgagee would agree to accept partial payment in lieu of full assignment and to recast the remaining mortgage balance. The mortgagor must give HUD a second mortgage on the property for the amount of the partial payment. The option to permit a partial payment of claim may be exercised when it is determined by HUD that such relief would be less costly to the Federal Government than other reasonable alternatives for maintaining the low and moderate income character of the project. A more detailed discussion of partial payment of claims and eligible project is included in Chapter 14 of this Handbook.

10-20. OWNER REQUIREMENTS. Under the terms of the second mortgage, the owner is required to do the following:

- A. At a minimum, the owner is required to pay a service charge of .5 percent of the second mortgage per month. Each second mortgage document must be reviewed to determine the date the mortgagor must begin making debt service payments.
- B. The owner must submit all net cash derived from project operations. There will be no distributions to any type owner until the second mortgage is brought current.
- C. Submit Monthly Accounting Reports, Forms HUD 93479, 93480, and 93481 until debt payment service payments begin, or as determined by the Loan Management Branch Chief.

10-21. FIELD OFFICE RESPONSIBILITIES. Partial payment of claims may be initiated at the Field Office level, but final approval will be given only by the Assistant Secretary for Housing. The Field Office is responsible for monitoring the compliance of the owner as it relates to the conditions of the second mortgage. Once debt service payments begin, the owner is subject to the requirements discussed in Chapter 11 of this Handbook. Serious consideration shall be given to the overall cost to HUD prior to the Field Office recommendation for foreclosure on the second mortgage if the first mortgage is still insured and current.

- A. The Field Office must establish a project file comprised of the closing documents of the newly created HUD-Held loan. This file will contain all pertinent data.
- B. Upon receipt, Loan Management staff must review all Monthly Accounting Reports, Forms HUD-93479, 93480, and 93481. The Statement of Multifamily Mortgage Account & Notice of Mortgage Payment Due (Form HUD-2771) must also be reviewed to ensure that the owner is forwarding the required service charge, and net cash. Further, the Field Office will establish a tickler system to ensure all funds under the workout are paid as required. This tickler/control will also track all Letters of Credit or special conditions of the Workout and/or Management Improvement (MIO) Plan.
- C. The Field Office should consider all partial payment of claims projects as troubled and service accordingly until the second loan is recast and is paying current or the Loan Management Branch Chief makes a finding that the projects are no longer troubled.

SECTION 6. SECTION 202, AND 202/8 LOANS AND ADVANCES

10-22. GENERAL. Section 202 direct loans are long-term low interest rate loans made by HUD to non-profit borrower corporations formed to provide rental housing for elderly and handicapped persons. As such, these HUD loans have no mortgage insurance and HUD serves as mortgagee. Capital advances pursuant to section 202 and Section 811 of the National Affordable Housing Act will assist owners in financing rental housing for low-income elderly persons and low-income persons with

disabilities. Regional Accounting Division (RAD) is the custodian of all Section 202 loan instruments.

- A. Monthly amortization payments are for principal and interest only.
- B. Projects that are current in amortized payments are not billed.
- C. Requests for loan balance should be made directly to the RAD.

10-23. DEFINITIONS

- A. Sponsor - the applicant for the section 202 loan. The sponsor forms a non-profit corporation which becomes the "Borrower" to engage in the project business and to operate the project.
- B. Borrower - the non-profit corporation, consumer cooperative, or public entity designated. The term Borrower also is synonymous in this Chapter with mortgagor, owner, and Board of Directors.

10-24. BASIC DOCUMENTS. The basic documents which set forth the Borrower's responsibility and provide HUD control of project operations are the Regulatory Agreement, the mortgage, the mortgage note, and the loan agreement.

- A. The Regulatory Agreement is between the Borrower and HUD. The Borrower agrees to protect the interests of itself, HUD, and the tenants.
- B. The Mortgage (or Deed of Trust) is the document which pledges the property as security for the Mortgage Note. It is the key document in the loan transaction.
- C. The Mortgage Note ("Note" or Deed of Trust Note) sets forth the amount of indebtedness owed HUD by the Borrower and the manner in which the debt shall be satisfied.
- D. The Loan Agreement, used only with loans made prior to 1974 (project numbers preceded by SH) and in conjunction with the Regulatory Agreement. It defines procedures to be used in the operation of the project, details the proceedings necessary for the authorization, execution, and issuance of the Mortgage Note, details construction requirements,

sets forth insurance requirements, etc. It also prescribes the establishment of special accounts, i.e., debt service reserve, revenue fund account, tax and insurance escrow, and repair and replacement reserve account, and details the flow of revenues into these accounts. The Regulatory Agreement prescribes escrow accounts and their funding for loans made since 1974.

10-25. REQUIRED ACCOUNTS. Each Borrower corporation is required to maintain the following accounts:

- A. Revenue Fund Account/Operating Account is the basic operating account where all rentals, charges, income, and revenue arising from operation and ownership of the project are deposited. This is also the account from which current expenses (except taxes and insurance) and debt service requirements are paid. Payments from this account must be made in accordance with the Loan and Regulatory Agreements.
 - B. Tax and Insurance Escrow. One-twelfth of the annual requirement for ground rents, insurance premiums, taxes, special assessments, etc., shall be transferred monthly from the Revenue Fund Account to this account. Expenditures from this account should be made as assessments come due to avoid late charges.
 - C. Reserve for Replacement and Residual Receipts Accounts are funded as specified in the Regulatory Agreement or Loan Agreement. Disbursements from these funds may be made only after the consent in writing of HUD. Funds are maintained and invested according to instructions found in Chapters 4 and 25 of this Handbook.
 - D. Debt Service Reserve account is required for Section 202 loans made prior to 1974 (project numbers for these loans are preceded by SH). Deposits must be made annually until the balance required in the Loan Agreement is reached. No withdrawals may be made from this account without prior HUD approval. If the balance in the account falls below the required amount as outlined in the Loan Agreement, annual deposits will be reinstated in order to restore and maintain the required account balance. Funds in this account
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are maintained according to the instructions in Chapter 27 of this Handbook.

10-26. RENT INCREASE REQUESTS AND ANNUAL OPERATING BUDGETS are submitted, reviewed, and processed according to instructions in Chapter 7 of this Handbook.

10-27. ANNUAL FINANCIAL STATEMENTS must be submitted and reviewed in accordance with the instructions in HUD Handbooks 4370.1 and 4370.2.

SECTION 7. DEFAULT SERVICING OF SECTION 202 PROJECTS

10-28. GENERAL. For Section 202 projects in financial difficulty, Loan Management/Asset Management staff should seek to prevent (or cure) the delinquency, while assuring that escrow accounts for taxes and insurance funded at appropriate levels. Prior to granting any relief or waivers, the Loan Management/Asset Management staff must determine the sponsor's ability to advance funds for curing the default and must be sure that:

- A. The Borrower is operating in compliance with the mortgage, Loan Agreement and Regulatory Agreement.
- B. Project Management is satisfactory.
- C. Rents are at a sustaining level.
- D. The physical condition is satisfactory.
- E. The default is not the result of any deliberate or voluntary action on the Borrower's part.

10-29. DEFAULTS AND ADVERSE TRENDS. When there is a default or an adverse trend, the Loan Management/Asset Management staff should contact the Borrower to ascertain the cause and require the Borrower to begin submitting Monthly Accounting Reports, Forms HUD-93479, HUD-93480, and HUD-93481 as discussed earlier. Careful monitoring of these reports are necessary to detect areas within project operations which may be causing the default.

10-30. WAIVER OF RESERVE DEPOSITS AND SCHEDULED PAYMENTS. The Director, Housing management Division, may waive deposits to the Reserve for Replacement Account, and/or authorize use of the Debt Service Reserve Account in

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order to forestall a default or to cure one. However, prudent use of these funds is necessary in order to maintain the appropriate balance.

10-31. RELIEF AND REINSTATEMENT OF DEFAULTED SECTION 202 LOANS. Workout arrangements have not been delegated to the Field Offices for Section 202. Relief for Section 202 mortgages in default may include suspension of payments to the Reserve for Replacement as discussed above. For terms of workout arrangement recommendations, see Chapter 11 of this Handbook.

10-32. PARTIAL RELEASE OF SECURITY. In most cases, the procedures which apply to the release of insured or HUD-Held mortgages also apply to Section 202 projects, However, the Section 202 project owner must apply the entire amount received from the release to the unpaid principal balance of the loan. In the event of delinquent loan payments, the amount received from the release will be applied to any delinquency, then to outstanding principal. Should the payment result in a substantial reduction of principal, HUD may recast the loan over the remaining term. This may result in a rent decrease and/or lessen the amount of future rent increases.

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SECTION 8. APPLICATION OF FUNDS TO INDEBTEDNESS

10-33. HUD may on occasion auction, sell, or assign HUD-Held notes and mortgages. When the Department disposes of these mortgages there may exist funds that were held in escrow at the time the mortgages were assigned to HUD as well as funds accumulated in the escrows during the period that the mortgages were held by HUD. When such loans are in default and are auctioned, sold, or assigned by HUD without mortgage insurance, HUD will apply the funds in the Reserve Fund for Replacements account to amounts due to the Department before the loans are transferred. However, in any case where the loan is subject to a provisional workout arrangement and the mortgagor is in compliance with the provisional workout arrangement, the Department will not apply the funds in the Reserve Fund for Replacements account to

amounts due to the Department before the loan is transferred if (i) the provisional workout arrangement specifically provides that the Department will take no action to apply the Reserve for Replacement funds to the indebtedness if the loan is auctioned, sold, or assigned by it without mortgage insurance, or (ii) the Department has agreed in the provisional workout arrangement to specific applications of the Reserve Fund for Replacements. The Department also may and in most cases will apply any funds held in other escrows, such as Residual Receipts accounts and tax escrow accounts, to delinquent sums due under the notes and mortgages.

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EXHIBIT 1

PROJECTS WITH ASSIGNED MORTGAGES

Project Data and Summary of Assisted Units (to be completed by Field Office and reviewed by owner/manager).

1. FHA number/Section 8 Contract Number _____
2. Date Mortgage Assigned _____
3. Property Name _____
4. Property Address _____
5. Geographical Area _____
6. Total Units in Projects _____
7. Number of Units in Section 8 Contract _____
8. Number of Tenants Receiving Section 8 Assistance at Date of Assignment (tenants with current 50059) _____

Summary of Unassisted Units (to be completed by owner/manager)

9. Number of Tenants Receiving Assistance under Section 8 Existing or Housing Voucher Program
10. Number of Units Not Responding
11. Number of Vacant Units
12. Number of Units with low-income Tenants (0-80%)
13. Number of Units with moderate income tenants (81-95%)

14. Number of Units with higher income tenants (over 96%)

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EXHIBIT 1A

INSTRUCTIONS FOR OWNERS OF PROJECTS WITH ASSIGNED MORTGAGES

A. Distribute tenant certification to each unit for which there is no current 50059 on file. Include a stamped, self-addressed envelope for each certification and specify a telephone or other contact and a date for return of the surveys.

B. Gather and separate the tenant certifications by number of tenants residing in the unit.

C. Sort tenant certifications into income levels according to the chart covering your geographical area provided by the Field Office.

D. Fill in questions 9-14. (Field Office should have completed questions 1-8. Please check this information for accuracy.)

E. Return the completed Projects with Assigned Mortgages form to the Field Office, along with the tenant surveys collected by one month from the date of this letter.

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EXHIBIT 2

INCOME CHART FOR PROJECTS WITH ASSIGNED MORTGAGES

(FORMAT)

Geographical Area _____

INCOME CLASSIFICATION

FAMILY SIZE (number of persons)

1 2 3 4 5 6 7 8

Low Income
(0-80%)

Moderate
Income
(81-95%.)

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EXHIBIT 3

TENANT INCOME SURVEY

Dear _____:

We are required by the Congress, under the Housing and Community Development Act of 1987, to collect the following information about household incomes of the tenants in this complex. Because the law is concerned with the preservation of housing affordable to low and moderate income persons, it may be to your benefit to respond if you feel you fit into these categories.

We will send a summary of the income levels of the people living here to the U. S. Department of Housing and Urban Development (HUD). The attached Privacy Act Statement explains the authority, purposes, and uses of this information collection.

Please read the Privacy Act Statement thoroughly, sign the certification, and return the survey in the enclosed envelope by _____. If you have any questions, please contact us at _____. Thank you for your cooperation.

Sincerely,

1. Unit Number _____
2. How many people live in your unit? _____
3. How many bedrooms does your unit have? _____
4. What is the combined annual income of all the people living in your unit ___\$(approx)_____
5. I certify that the above information is true and complete to the best of my knowledge.

Signature of person
whose name is on the Lease

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EXHIBIT 4

PRIVACY ACT NOTICE STATEMENT

Read this before you sign the tenant income certification.

The Department is authorized by the Housing and Community Development Amendments Act of 1978, as amended by the Housing and Community Development Act of 1987 and the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, to collect information relating to the income level of certain unassisted tenants in projects with assigned or foreclosed mortgages. The information being collected with this survey will enable HUD to determine the number of units it must maintain as affordable for low and moderate income persons. The information will be used in establishing the income classification of unassisted tenants. The information will be used to divide respondents into the categories of very low, low, or moderate income. When a property is disposed of, the information may be used to identify specific units and unit types which should be retained as affordable, and may be used in determining what type of assistance can be provided to the project. The information may be provided to new owners entering into a Housing Assistance Payments Contract with HUD. Also, HUD may disclose this information to Federal, State, and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by HUD. Individuals choosing not to participate in the survey cannot be prosecuted for failing to respond. However, if the Department does not know that the respondent's unit is of low or moderate income, it can not make provisions for that unit in its plans for disposing of the project.

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APPENDIX 1

LETTER TO OWNER UPON RECEIPT OF THE LENDER'S
ELECTION TO ASSIGN

Mortgagor
Address

Dear _____:

HUD has received the mortgagee's election to assign to the Secretary the defaulted mortgage on (Project Name _____), (HUD Project No. _____). In accordance with policy guidelines, if this mortgage is assigned, HUD will put this mortgage into foreclosure immediately after the assignment has been completed.

In order for the assignment and foreclosure action to be avoided, you must bring the mortgage current immediately by paying all delinquencies. If you cannot bring the mortgage current immediately, and it is assigned, you must submit a reinstatement plan designed to bring the mortgage current through principal within 36 months of the assignment. The reinstatement plan must be submitted to this office within 30 days of the date of this letter. Guidelines for any reinstatement plan include, but are not limited to:

1. Generally, the mortgage must be brought current through principal in no more than 36 months from assignment.
2. The reinstatement plan must provide that you make any necessary repairs.
3. HUD will not capitalize any delinquent interest.
4. HUD will not recast any principal on unsubsidized projects. HUD may consider recasting principal on subsidized projects if justification can be presented.

Sincerely,

Director,
Housing Management Division

9/92

10-22

4350.1 REV-1

APPENDIX 2A

FORMAT - LETTER TO OWNER AT DEFAULT ASSIGNMENT
(Letter may also be sent on behalf of HUD by the
Asset Management Contractor for formerly coinsured loans)

Addressee: Project Owner

Subject: Project Number, Name, and Location

Dear _____,

The mortgage on the above project was assigned to the Department of Housing and Urban Development on (date). As HUD is now the lender, you must submit your plan for reinstating the loan or arrange a meeting in our office to discuss a reinstatement plan within 30 days. The Department expects to have a written reinstatement plan in effect within 90 days. Effective immediately, you are to pay all reasonable and necessary project operating expenses and each month remit all remaining net cash to the lock box operated by the Multifamily Notes Servicing Branch. All monthly payments are to be made to the lock box. The project name and number should be clearly stated and the check sent to:

Multifamily Payment Processing Center
(Field Office insert correct address)

HUD does not currently escrow for property insurance. Therefore, you must arrange for insurance coverage as required by the mortgage and make premium payments either from project income or other sources. Insurance escrows were terminated at mortgage assignment and any funds in the escrow were applied to sums due under the mortgage.

Until you bring the mortgage fully current you are prohibited from taking any owner distribution, repaying any funds advanced to the project, or repaying either interest or principal on any project obligation junior to HUD's mortgage. Section 239 of the National Housing Act prohibits the willful use of project funds for purposes other than actual and necessary operating expenses (including debt service requirements) while a loan is in default. Section 239 further provides for penalties of fine and/or imprisonment.

In addition, you are required to submit Monthly Reports for Establishing Net Income, Forms HUD-93479, HUD-93480 and HUD 93481, copies enclosed.

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APPENDIX 2A

It is imperative that you operate in accordance with a HUD-approved Workout Arrangement which is based on your reinstatement proposal. Your proposal should outline how you plan to reinstate the mortgage (bring it current and resume full amortization) within 36 months. Your plan should also demonstrate that you:

1. Did not cause the default by any deliberate or voluntary act;
2. Have restored to the project any funds or assets improperly withdrawn, distributed or disbursed;
3. Will correct any conditions constituting violations of the Regulatory Agreement or Section 8 HAP Contract and thereafter conform to its requirements;
4. Will provide and maintain management acceptable to the HUD Loan Management Branch Chief; and
5. Will correct any physical and financial deficiencies and make any general upgrading repairs or renovation the project may require.

Unless you have already submitted a detailed reinstatement plan, you must, within 30 days from the date of this letter, arrange a meeting in our office to discuss the terms and conditions of an acceptable proposal. Any questions you may have can be answered during the meeting. It is essential that you submit your written reinstatement proposal within 30 days of the meeting because, as noted above, HUD expects to have a written reinstatement plan in effect within 90 days following assignment. In the event no acceptable plan is submitted within that time period, this office will initiate foreclosure.

To arrange a meeting time, you should contact (Loan Specialist's Name) at (Telephone No.). We look forward to working with you to reinstate this loan.

Sincerely,

Director,
Housing Management Division

Enclosures

9/92

10-24

4350.1 REV-1

APPENDIX 2B

FORMAT - LETTER TO OWNER AT G-4 ASSIGNMENT

Addressee: Project Owner

Subject: Project Number, Name, and Location

Dear _____ :

The mortgage on the above project was assigned to the Department of Housing and Urban Development on ___(date)____. Each month you should remit the scheduled mortgage payment to the lock box operated by the Notes Receivable Branch. The project name and number should be clearly stated and the check sent to:

Multifamily Payment Processing Center
(Field Office insert correct address)

If you should have any questions regarding this matter, please contact (Loan Specialist) at (telephone number).

Sincerely,

Director,
Housing Management Division