

# U.S. Department of Housing and Urban Development

## Housing

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Special Attention of:  
All Regional Directors  
All Multifamily Hub Directors  
All Program Center Directors  
All Owners and Management Agents of  
Multifamily Insured Properties  
All Contract Administrators

### NOTICE

Issued:  
Expires:

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**Subject:** Multifamily Housing – Disaster Recovery Policy and Guidance

#### Introduction:

This Notice provides HUD staff and program participants with HUD Asset Management and Production program-related disaster recovery policy and guidance. It applies to HUD insured and/or assisted properties located in a Presidentially-declared disaster (PDD) area. It supersedes Notices 2004-22, 2005-20 and all prior Directives on this subject.

A PDD puts into motion federal recovery programs designed to help victims of hurricanes, earthquakes, floods, tornadoes, major fires and other disasters, which the President determines warrant federal assistance. When the President declares a disaster, HUD participants must check with the Federal Emergency Management Agency (FEMA) to learn which counties have been designated for disaster recovery assistance and the corresponding declaration dates. This information can be found on the Internet at: <http://www.fema.gov/disasters> or by calling your designated FEMA Regional Office. The information in this Notice applies to HUD insured and/or assisted properties located in counties identified in a PDD for individual assistance, unless stated otherwise. The policy and guidance provided in this Notice applies to all PDD's and will remain in effect for the duration of the PDD designated time period. Counties added to a PDD will also be eligible for disaster relief and the provisions established in this Notice will apply.

The HUD Multifamily Housing website for disaster recovery information is located at: <http://www.hud.gov/offices/hsg/mfh/disasterguide.cfm>. HUD staff and program participants are encouraged to check this site for updates and related disaster information whenever they have properties affected by a PDD.

#### Roles and Responsibilities:

In most disaster situations, units of local government and charitable organizations provide the initial response to the disaster and address emergency shelter needs. Once recovery operations are underway, disaster assistance may be available from FEMA, and may include temporary housing assistance for eligible individuals and families who were adversely impacted by the disaster. As a general rule, HUD funds are not available to cover temporary housing expenses, and disaster-displaced families must rely on FEMA assistance and other resources to cover these costs.

Multifamily Housing’s role in a PDD is to:

- Determine the extent of damage to HUD insured and/or assisted properties in the PDD area.
- Assess the disaster’s financial impact on HUD Multifamily properties.
- Help identify available vacant units in HUD Multifamily Housing properties that might serve as temporary housing for disaster-displaced families deemed eligible for FEMA disaster assistance.
- Implement the disaster related policies and guidance contained in this Notice.
- Help identify vacancies for permanent replacement rental housing.

As soon as possible after a PDD is declared, HUD staff will contact owners/management agents of HUD insured and/or assisted properties located in the disaster areas and conduct phone interviews to obtain an initial damage assessment. Depending on the extent of damage and scope of the disaster, additional assessments may need to be conducted. Headquarters will provide a format and mechanism for reporting damage assessments as well as the availability of vacant units that could be used to meet temporary housing needs.

HUD’s Real Estate Management System (REMS) is the official source of project data. Therefore, it is vital that offices maintain basic project data (complete address information, including county name, property contact phone number, electronic mail address, etc. of property owners/management agents) as a routine part of their ongoing operations. The Physical Conditions screen must be regularly updated with information on any property that has received any disaster related damage.

Owners and management agents of HUD insured and/or assisted properties affected by a disaster are encouraged to assist displaced residents, protect and secure damaged property, and initiate repairs as quickly as possible.

**Waivers of Handbooks and Notices, etc.:**

In the event of a PDD, Hub Directors should process disaster-related requests for waivers of provisions in the Office of Housing’s Handbooks and Notices that do not reflect statutory or regulatory requirements as quickly as possible. Hub Directors must prepare a Finding and Determination, which justifies each waiver request in compliance with outstanding instructions on approving waivers. A copy of all waivers must be forwarded to Multifamily Headquarters. A copy of the waiver and justification must be maintained in the project file.

<b>Asset Management Issues</b>
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**Providing Temporary Housing to Disaster-Displaced Residents:**

Owners are encouraged to provide temporary housing to disaster-displaced individuals and families. As noted below, some FHA insurance programs require owners to rent vacant units to disaster-displaced individuals and families. However, owners are not required to hold vacant units off the market for disaster-displaced residents.

## Multifamily Housing – Disaster Recovery Policy and Guidance

The following guidance applies to **temporary housing** of disaster-displaced individuals and families:

- A disaster-displaced resident **MUST** pay market rent for a unit being leased as temporary housing. Income certification is not needed even if the disaster-displaced resident is to occupy a unit in a rent assisted property, since they will pay market rent and the owner will not receive any rental subsidy assistance from HUD for rent. Therefore, full rent is the responsibility of the temporary tenant.
- Federal statute and HUD regulations require that PDD-displaced individuals and families be given priority over other applicants for either temporary or permanent housing in all multifamily properties currently insured under sections 221(d)(3), 221(d)(3) BMIR, 221(d)(4), and 236 programs. (See HUD Handbook 4350.3 REV-1, chapter 4, paragraph 4-6). The term of this requirement is 18 months from FEMA’s publication of the PDD declaration, unless extended by Congress. The disaster-displaced resident is required to provide their FEMA eligibility letter, or other acceptable documentation, to qualify for priority preference on the waiting list.
- For all other multifamily properties with FHA insured or HUD-held mortgages, disaster-displaced residents **MAY** be given priority over other applicants for temporary or permanent rental housing. An owner opting to grant such a preference must include it as an owner established local preference.
- For 202 direct loans and 202/811 capital advance properties with a waiting list, disaster-displaced residents may be given preference for temporary housing over individuals/families on the waiting list so long as the applicant meets all eligibility requirements. If these properties do not have a waiting list, vacant units may be made available for temporary housing as long as the disaster-displaced applicant meets all program eligibility requirements. Deviation from program eligibility rules requires a Headquarters’ waiver. Such waivers will be considered on a case-by-case basis. Waiting list preference may not be afforded to disaster-displaced residents seeking permanent housing in 202/811 properties.
- For a property with Section 8 assistance, vacant units may be made available to disaster-displaced residents for temporary housing. The disaster-displaced resident must pay market rent for the unit. Therefore, the owner would not submit payment vouchers for those units.
- Owners should establish a written policy that includes local preference for leasing to disaster-displaced residents.

### **Determining Eligibility of Applicants:**

Residents and owners of HUD insured and/or assisted multifamily properties that have been impacted by a PDD are encouraged to apply to FEMA and the Small Business Administration for assistance as quickly as possible after a disaster occurs. FEMA will process the application and determine the eligibility of the applicant and the amount and type of assistance that can be provided.

Generally, to be eligible for temporary rental housing at a HUD multifamily property, a disaster-displaced applicant must have a letter from FEMA which specifies that the applicant is displaced from their housing, and is eligible for temporary housing assistance. However, there may be instances when it is difficult to register with FEMA and obtain the eligibility letter due to disaster conditions. In such cases, owners/management agents must use their best judgment in processing requests for temporary housing by disaster-displaced residents. Generally speaking, local officials will know if a particular section of the community or a particular property was impacted. In lieu of FEMA determined eligibility, an owner must require documentation that the applicant lived in the PDD area at the time of the disaster. The documentation must include one or more of the following:

- A driver's license or other picture ID with an address;
- Utility bills; or
- A credit report that indicates the address of the applicant was in the area of the PDD.

In addition to the above, applicants who do not have the eligibility letter from FEMA must certify in writing that they were displaced from their housing as a direct result of the PDD and that their housing unit is presently uninhabitable. This certification must be made a part of the tenant file.

### **Security Deposits for Temporary Housing:**

Owners renting to disaster-displaced residents for temporary housing have flexibility in the collection of security deposits. HUD will allow owners to waive the normal security deposit requirements for disaster-displaced residents who demonstrate financial hardship and the inability to pay all or some of the security deposit. Owners can waive the deposit requirement, collect a reduced deposit amount, or create a payment plan to collect the deposit over time. Permanent housing placement requires the payment of the normal security deposit.

### **Application Fees for Temporary Housing:**

As with the guidance for security deposits, owners may waive application fees at market rate housing properties for those disaster-displaced residents who demonstrate financial hardship. Owners may consider reduced fees or a payment plan for disaster-displaced residents seeking temporary housing.

### **Criminal Background Checks:**

Owners of assisted properties are required by both statute and regulation to exclude persons who have engaged in specific crimes. Therefore, criminal background checks and sex offender registration checks must be completed on disaster-displaced applicants for temporary or permanent housing, or on applicants requesting to “double up” with a friend or relative, who is a current resident. Sex offender registration checks are required pursuant to Section 578 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) and 24 C.F.R. §5.905. The statute requires that an owner of federally assisted housing must prohibit admission of any household that includes any individual who is subject to a lifetime registration requirement under a state sex offender registration program. Market rate properties should be guided by their existing policy in processing all applicants.

When a displaced tenant returns to their previous rental housing from which they were forced to move temporarily, the owner cannot conduct any rescreening. However, upon certification or recertification, guidance in 4350.3 applies.

### **Multiple Occupants in a Unit:**

Disaster-displaced individuals and families can move in with families and friends occupying units in HUD insured and/or assisted properties on a temporary basis, provided the host household obtains the property owner’s approval, and provided the increased occupancy does not create a health and safety problem or violate local ordinances.

In the case of a Section 8 assisted unit, if a current, eligible family chooses to allow a disaster-displaced individual/family to move into the unit on a short-term basis, the family is considered a guest of the eligible Section 8 family and therefore is not required to meet income eligibility rules. An owner may allow the eligible family to house the guest(s) for a limited period without interruption of the subsidy.

### **Lease Terms and Rental Rates:**

The minimum lease term to temporarily house disaster-displaced individuals and families is a 30-day, renewable lease. Longer-term leases are permitted if circumstances warrant. Subject to state or local law, the lease should have a provision which states that the lease terminates when the resident’s permanent housing unit is ready for occupancy, or when FEMA no longer certifies a resident’s eligibility for temporary rental housing assistance. Additionally, if the applicant does not have a FEMA eligibility approval letter, the lease should contain a statement that the resident certifies that they are displaced from the PDD area and have applied to FEMA. If they are later found to be ineligible, they can be evicted.

A disaster-displaced resident occupying a unit as temporary housing must pay the market rental rate for the unit they occupy. The market rate must be set at the rent in effect immediately prior to the PDD and may not be increased due to the disaster. Disaster-displaced residents must comply with all lease terms, including rent payment.

**Opportunity to Return – Tracking Disaster-Displaced Residents:**

All households displaced from a HUD insured and/or assisted multifamily property as a result of the PDD must be provided the opportunity to return to the unit they occupied at the time of the PDD once the unit is repaired, restored or otherwise becomes available for re-occupancy.

In addition, residents who occupied units at the time of a PDD that are destroyed, condemned or substantially damaged and the Section 8 Housing Assistance Payment (HAP) contract is transferred to a new property, must be afforded the opportunity to move to the new property and continue receiving subsidy.

Owners must make a diligent effort to locate their disaster-displaced residents as soon as possible and to continue to stay in contact with them.

At a minimum, owners must send a letter to each head of household at their last known address at least 60 days prior to the expected date the unit will be ready for re-occupancy. This notice period is increased to 90 days when repairs to the unit/property will take more than 90 days to complete. A sample letter is provided as an attachment to this Notice. The letter must be sent via regular and certified mail. Additionally, phone contact is also encouraged.

Disaster-displaced residents must respond within 30 days of the notice and inform the owner of their intention to return or not, and provide current contact information. The response must be in writing, although the resident may also call the owner's contact representative to indicate their decision and to ask any questions they may have about returning. When a 90-day notice is issued, disaster-displaced residents will have 45 days to respond. If the resident does not respond, the owner must send a second notice certified and regular mail, notifying the resident that they have forfeited the opportunity to return to the unit that they occupied prior to the PDD. The unit may now be leased to someone else.

Those residents indicating an intention to return must be given a minimum of 60 days to reoccupy the unit from the date the unit is repaired. An owner has the option to give a displaced resident a longer period to return to the property.

An owner may, at any time, offer an available comparable unit (one that no displaced tenant will be returning to) to a disaster-displaced resident if the unit that the resident occupied before the PDD cannot be repaired or if the needed repairs require a long period of time to complete. If a returning resident accepts an alternate unit, the resident is considered re-housed and not eligible for additional unit transfer except in accordance with HUD Handbook 4350.3 REV-1. The unit they occupied can now be rented.

If the disaster-displaced resident resided in a Section 8 unit and was over-or under-housed, as defined in the aforementioned handbook, prior to the PDD, an appropriate size must be offered as a replacement, if available.

If a disaster-displaced resident fails to return after notifying the owner of their intention to return during the right to return period and there was no agreement between the disaster-displaced resident and the owner to extend the time period, the owner may take action to terminate the lease in accordance with local law and rent the unit. Disposal of any personal property must be done in accordance with local law.

Additionally, owners may take action to terminate a lease and dispose of personal property in accordance with local law when a disaster-displaced resident indicates their intention not to return or fails to respond to the owners notice.

A disaster-displaced resident should make every effort to keep in touch with the owner and provide their forwarding address, phone numbers and other contact information. Once a disaster-displaced resident has chosen permanent housing, they are expected to immediately inform their former landlord and give notice of termination as specified in their lease. The disaster-displaced resident has the responsibility to move all their personal belongings from their former residence. The lease provisions and local law relative to evictions and the disposition of personal property of disaster-displaced residents who do not or cannot return should guide owners.

#### **Use of HAP Assistance to Temporarily House Displaced Section 8 Residents:**

When project-based Section 8 units are damaged by a PDD and therefore cannot be occupied by Section 8 residents, HUD will permit the owner to use the Section 8 HAP assistance funds to temporarily house the affected disaster-displaced residents in other suitable properties. The owner must obtain the written approval of the local HUD Multifamily Program office before taking any action. The request should include as much specific information as possible, including names of disaster-displaced residents, unit numbers, length of the temporary lease, name and location of newly leased units, certification that the units meet the Section 8 property physical standards, and the rental rate.

Once approval is secured, the owner of the damaged units must enter into a short-term lease at the other property on behalf of the disaster-displaced residents. The new units must be in decent, safe, and sanitary condition as defined by the Uniform Physical Condition Standards. The owner can pay up to the contract rent on the temporary housing units, and include the cost (less the tenants portion of the rent) in the monthly Section 8 invoice. The disaster-displaced residents continue to pay their certified income share of the rent payment. This process can continue until their damaged units are repaired, at which time the residents must return.

Should the disaster-displaced residents fail to return when their units are ready for re-occupancy, the owner must immediately inform them in writing by regular and certified mail that their assistance is terminated. In addition, the owner must terminate the lease that was executed on behalf of the disaster-displaced resident. Also, should the temporarily disaster-displaced resident move from the off-site leased unit before their permanent rental unit is repaired and made available for their return, the owner can no longer submit subsidy vouchers for the temporary unit.

This arrangement calls for close coordination and cooperation between the owner, the resident, the temporary landlord, the Section 8 Contract Administrator, and HUD.

Once the original units are fully repaired, tenants must reoccupy their original units within a reasonable period of time and all Section 8 provisions apply.

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### **HAP Assistance on Repaired Units Pending Re-occupancy by Disaster-Displaced Residents:**

Multifamily units that are damaged and unoccupiable as a result of the disaster and are uninhabitable are not eligible for Section 8 assistance. However, once the units are repaired and ready for re-occupancy the owner may request a special claim for vacancy loss in accordance with the policies in effect at the time of the request. The owner must adhere to all policies, procedures, and submission requirements for special claims.

### **Providing Permanent Housing:**

Disaster-displaced individuals and families can apply for permanent housing at any time at a HUD multifamily property. For placement in permanent housing, the disaster-displaced applicant must meet ALL program requirements for the housing they are requesting, including all income, age, security deposit, and other items required by the applicable HUD insured/assisted program.

As with temporary housing, PDD-displaced individuals and families seeking permanent housing are afforded federal preference for vacant units at 221(d)(3), 221(d)(3)BMIR, 221(d)(4), and 236 insured properties and must be moved to the top of any waiting list. If they meet all the qualifications for Section 8 or other rental assistance, and if subsidy assistance is available on the temporary unit they are leasing, the disaster-displaced applicant can receive subsidy assistance as a permanently housed resident. If the tenant takes this option, they are now permanently housed and lose their opportunity to return. Owners have the option of granting local preference to disaster-displaced applicants for other HUD insured/assisted properties.

Once permanently housed, the disaster-displaced resident is no longer eligible for temporary rental assistance; however, FEMA may rule that they may be eligible for other assistance



## **Resident Files and Recertification Requirements:**

If resident files are destroyed or unavailable as a result of a PDD, an owner/agent can use the TRACS certification database in Secure Systems as a source of information for HUD assisted residents. In such cases, TRACS can be used to establish or confirm who resided at the site and who received HUD rental assistance prior to the PDD.

In addition, if the waiting list information for assisted units is lost due to the PDD, the owner/agent must advertise the availability of assisted units in accordance with the Affirmative Fair Housing Marketing Plan and create a new waiting list. The owner is responsible for documenting the loss of the pre-PDD waiting list and the need for “starting over.” Waiting list applicants, who can provide acceptable documentation that they were on the lost waiting list, should be recognized and be given preference on the new list.

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All returning residents to permanent housing who are subject to income certification requirements must be recertified as soon as possible upon their return to the property if their income or other eligibility criteria have changed, or if they are due for an annual recertification. The recertification process should be initiated no later than 15 business days after the disaster-displaced resident returns.

### **Section 8 Housing Assistance Payment Contact Opt-Outs or Termination**

Opt-out requests for properties that have been condemned, destroyed or substantially damaged as a result of the PDD will be handled on a case-by-case basis. The procedures for opt-outs are outlined in Chapter 11 of the Section 8 Renewal Policy Guide. When HUD acknowledges that a property is uninhabitable and that no residents are legally residing in the project, the notice requirement of Section 8 (c)(8) of the United States Housing Act of 1937 will be reduced from one-year to 120 days. At a minimum, the owner’s request must prove that the local government has declared the property uninhabitable. The notice must be issued to each head of household residing at the property at the time of the PDD and mailed to their last known address via regular and certified mail (return-receipt requested). Guidance related to securing, issuing and eligibility of tenant protection vouchers for the disaster-displaced residents of a multifamily housing property where the owner opts-out of the Section 8 HAP Contract will be provided based on the specifics of the opt-out situation

When a Section 8 contract is being terminated for any reason, only those tenants actually living in temporary housing will be eligible for a voucher. HUD will not be responsible to provide a voucher for 100% of the contract, but only for tenants still under the contract in temporary housing.

### **REAC Inspections and Management and Occupancy Reviews (MORs):**

HUD will postpone all physical inspections and MORs of HUD multifamily properties for a minimum of 30 days from the date of a PDD throughout all of the counties included in the PDD. This includes counties designated for public assistance as well as individual assistance.

After the initial 30-day postponement, there may be counties in PDD areas where REAC Physical Inspections and MORs will be further postponed. Headquarters will make this determination after consultation with the Hub Director and Program Center Director for impacted areas. As the restricted counties change from time to time, Hub Directors and REAC will be informed under separate cover of any changes. Hubs and Program Centers should communicate this information to program participants, including owners, agents, and Contract Administrators (performance-based and traditional). In addition, an owner may request a postponement of a REAC inspection through the local HUD office. The HUD project manager should then make the request to defer the REAC inspection to Headquarters through the Business Relationship's DivisionMailbox.

### **Annual Financial Statement Submission:**

Owners of multifamily properties affected by a PDD, who are required to file their annual financial statement (AFS) during the time of the PDD, may request an extension of up to 30 days to file. This extension applies to currently due financial statements only. The request for extension must be electronically submitted to REAC via the Multifamily Financial

Assessment Subsystem (MF-FASS). Owners making such a request should provide their FEMA application number as well as a brief statement explaining why the extension is necessary. The extension may be extended further, if necessary, based on the particulars of the case, by submitting another request through MF-FASS.

### **Reserve for Replacement and Residual Receipts:**

HUD will permit the use of reserve for replacement funds and/or residual receipts to make necessary repairs pursuant to outstanding Departmental policies and Handbooks. Mortgagees are encouraged to provide priority processing for these requests. Once the request for funds (Form HUD 9250) is received, the approval will be expedited. Residual Receipts should be utilized first. Additionally, HUD will permit the use of reserve escrows for immediate project use to augment cash flow for the period of the emergency.

Owners must submit a request for HUD's approval stating the need and use of these funds, and an agreement to repay these funds. Reserves must be replenished as local, state, or federal benefit programs as well as insurance proceeds are received. Owner contributions during the emergency period can be repaid to the owner under a plan previously approved by HUD.

### **Mortgage Forbearance:**

Section 202/811 and Secretary-held mortgages: Hub Directors are authorized to approve forbearance agreements in PDD areas in maximum increments of 90 days for properties that meet the following minimum requirements:

- The Hub Director determines that it is likely that forbearance will result in restoration of the project to full operation and the mortgage brought current;
- The property has unfunded repair needs;
- The owner is actively negotiating for or awaiting an insurance claim payment, or the owner is actively negotiating or awaiting grant funds release;
- The owner is otherwise in full compliance with all business agreements with HUD.

The owner is required to execute a Forbearance Agreement that will include the terms of the forbearance and will require the owner to submit monthly accounting reports and progress reports on obtaining needed funding and repair status. HUD Handbook 4350.1, REV-1 provides a sample workout agreement that can be used for these projects. A copy of the Forbearance Agreement must be sent to the Multifamily Notes Branch for HUD-Held properties, and to the CFO's office in Ft. Worth for the Section 202 and 811 projects, as well as a copy to the Asset Management Division in Headquarters. Information about the workout should be placed in REMS.

Owners of Section 202 properties in a PDD area that have automatic mortgage payment by the Section 8 Offset and are in need of money for emergency repairs to provide security or other disaster related purposes, may request that the "offset" be temporarily suspended. A request for suspension of the "offset" should be made to the local HUD office.

The request should include the period of suspension, reason, and a plan for satisfying the mortgage delinquency that will result because of the suspension. The local HUD office will forward the request to the appropriate Hub Director, who will in turn forward it with a recommendation to Headquarters. Requests will be handled on a case-by-case basis.

Insured mortgages: If the lender requests forbearance, a 90-day extension of election to assign may be approved under the same circumstances as above except that the mortgagee will provide the information above to the Hub Director for approval. All extensions must be requested through the Multifamily Delinquency and Default Reporting System (MDDR).

When funds are secured to repair the property and bring it into full compliance, the Hub Director may approve a final written forbearance agreement and/or extension to assign if the following conditions are met:

- The Hub Director has determined that the funds are sufficient to fully restore and preserve the property and to pay in full, all delinquencies and arrearages in the mortgage accounts;

- The owner has a Hub approved, time-phased repair plan with a targeted end date, and is in full compliance with the plan and its other business agreements; and,
- The owner submits monthly accounting reports and monthly progress reports as required by the Hub.

If there is a serious default of the repair plan or failure to supply cash required to cure the delinquencies, the Hub will follow normal disposition and enforcement policy and practices.

Where it is determined there is no possibility of physically and financially restoring and preserving the property, no forbearance or extensions of elections to assign should be approved. HUD's normal disposition policies and procedures will apply.

### **Mortgage Prepayment**

Mortgagors who wish to prepay their FHA insured or HUD Held mortgage are subject to existing lockout provisions, applicable use restrictions, resident notification and HUD review/ approval requirements.

For Section 221 and 236 properties that are preservation-eligible and the owner has a right to prepay without HUD approval, the owner must provide the statutory Resident Notification letter no less than 150 days and no more than 270 days of the intended prepayment date. Owners of properties in the PDD area shall post notice at the property as well as send the statutory required Resident Notification letter to each household residing at the property on the date of the disaster, via regular and certified mail to the resident's last known address. The owner must retain copies of all notification letters and certified receipts in the resident files.

For 221 and 236 properties where HUD approval is required to prepay and the project is subject to 250(a) of the National Housing Act (Notice 2004-17), HUD will continue to require owners to send the Resident Notification letter to each household residing at the property on the date of the disaster, via regular and certified mail to the resident's last known address. The owner must retain copies of all notification letters and certified receipts in the resident files. However, HUD will consider an exception request to lessen the notice period for these projects. Exception requests should be forwarded to the Asset Management Division in Headquarters for review through the Hub. A Rental Use Agreement must also be executed and recorded at the time of prepayment once approved.

### **McKinney Act Shared Savings Bond Refunding:**

In the case of bond refunding for FHA 20-year HAP assisted projects, all of the issuer savings have been fully paid as the HAP contracts have expired. These were contracts affected during the peak interest rates of 1980 – 1983. However, if any public housing authority (PHA) issuers have unspent balances and several have not yet used any of their

savings, this resource could help low income (below 50% of median income) disaster-displaced families with rental or home purchase or relocation assistance. State and local agencies around the nation could transfer their savings to disaster-impacted areas since HAP portability is not a problem, and the contracts have expired. In addition to the pool of unutilized savings, PHA's, which committed savings to other purposes, have the discretion to re-direct to disaster relief without HUD prior approval. Agencies may of course use their savings to help victims relocated to their jurisdictions. The only restrictions are the statutory VERY low-income limit and requirement that housing be decent, safe, and sanitary. Participants are urged to contact the Headquarter Asset Management Division for further discussions on Bond and refunding related matters.

### **Office of Affordable Housing Preservation (OAHP) (Formerly Office of Multifamily Housing Assistance and Restructuring (OMHAR):**

For properties going through the mark-to-market process, OAHP will grant a reasonable extension of time for owners impacted by a PDD. This will allow additional time to hold resident meetings and for delays in property inspections and/or appraisals for affected properties and other disaster related factors. Some owners may have OAHP properties that are not directly affected by a PDD, but may own other properties that are directly affected by a PDD. OAHP will consider the impact that the disaster may have on owner's responsiveness to the debt restructuring process. OAHP will take these factors into account when exercising its discretion about an owner's delayed responsiveness and in imposing time-related penalties.

### **Departmental Enforcement Center (DEC):**

If a property is with the DEC, owners adversely affected by a PDD are encouraged to contact the appropriate satellite office of the DEC, in writing, if they are unable to respond in a timely manner to any correspondence or notices issued by the DEC. Based on the documentation submitted by owners, the DEC will consider the effect of a PDD on the owners' ability to comply and will exercise discretion in judging responsiveness before imposing any time-related penalties or other action as appropriate. The DEC will coordinate with Housing Headquarters.

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### **Use of Community Space:**

Owners are encouraged to allow community space, kitchens, restrooms and other facilities to be used for shelters or disaster recovery related activities as permitted by local code.

### **Role of Service Coordinators in the Disaster Relief Efforts:**

Service coordinators play a critical role in assisting the elderly, people with disabilities, and others who reside in subsidized multifamily housing developments. Therefore, they should continue to focus their attention on providing assistance to those residents. However, if there are disaster-displaced residents in the vicinity of the property, the

service coordinator may provide assistance to them at the property site. Some off-site assistance may be offered to those individuals unable to travel to the site, so long as normal resident support services are not adversely affected.

### **Reporting Losses:**

In the event of a property loss, the mortgagor will take immediate steps to protect the property and report the loss within 24 hours of the occurrence, or as quickly as conditions allow, to the insurance company, the mortgagee and the local HUD office responsible for servicing the property.

The following items should be furnished:

- Date damage occurred;
- Location, such as building and/or apartment number;
- Type and extent of damage;
- Estimate of cost of repairs, and projected completion date;
- Identification of a contact person and phone number for follow-up information.

### **Restoration:**

Property damage should be repaired as quickly as possible. In cases where the damage is extensive, HUD Multifamily staff and/or the mortgagee must be given the opportunity to inspect the damaged property before restoration begins. HUD and/or the mortgagee may make such inspections as they determine necessary based on the extent of the damage and to assure satisfactory restoration of the property. Owners should check with the local HUD Multifamily office and/or the mortgagee to determine if they will require prior approval of the plans and specifications for restoration of the property and if they will make inspections during the restoration.

### **Processing of Loss Drafts (Settlement Checks):**

All loss settlement drafts or checks must name the mortgagor and the mortgagee (or the Secretary of HUD for HUD-held and direct loans) as payee. In certain instances, other payees may be named. The issuer is responsible for properly naming all payees. If any loss settlement draft or check is received that does not name the mortgagee as a payee, it shall be returned for correction.

The Multifamily Asset Management and Project Servicing Handbook (4350.1, REV-1, chapter 21) provide specific processing instructions for loss drafts/settlement checks. As indicated in this handbook, insurance settlement checks can be deposited in a controlled escrow account, and the funds disbursed as disaster damage repairs are completed.

## **HUD Administrative Record Documentation:**

HUD office files must contain the following documentation for all properties that sustained damage from a PDD and the loss reported to the insurance carrier:

- Proof of loss,
- Inspection from the mortgagee (completion of repairs/restoration),
- Mortgagor's certification of restoration and lien waiver,
- A mortgagor certification that all repairs/restoration are complete and copies of lien waivers – if no insurance claim was filed,
- Properties with HUD-held mortgages, direct loan/capital advances and non-insured subsidized properties should be inspected on completion of repairs/restoration. Field staff or REAC shall perform the restoration inspection. The Office of Asset Management should be contacted for scheduling of all restoration REAC inspections.
- Copy of all inspection reports must be maintained in the property file.
- Appropriate detailed information must be placed in REMS.

## **DEVELOPMENT ISSUES**

Hub Directors in PDD-affected areas are afforded flexibility in dealing with various multifamily development/production issues. Hub Directors may delegate the authority in this guidance to Operations Officers and Program Center Directors located throughout the Hub jurisdiction. Hubs should contact the appropriate Headquarters staff for additional guidance or clarification.

The following guidance applies to all project mortgages with insured advances under the applicable Sections of the National Housing Act, except Section 242 hospitals. It also applies as noted to Section 202/811 properties in the development pipeline.

### **FHA-Insured Projects in Development Phase:**

Vacant units in pipeline properties may be made available for temporary housing and permanent housing, if they can be released early for this purpose. Owners and local officials are encouraged to take the necessary steps to make units available.

### **Projects Under Construction:**

HUD's overriding goal is to enable projects to reach 100% completion so they can be occupied as soon as possible. To the extent possible, Hubs should expedite review of insured

advances, change orders, and cost certifications in order to reach final endorsement of the project mortgage as soon as possible.

- Inspections: Hub processing decisions on individual projects should be based on inspections by HUD staff/contractors (FHA approved mortgagee/MAP Lenders, if HUD staff/contractors are not available).
- Early release of general contractor's holdback: Hub Directors are authorized to allow early release of the general contractor's holdback where they believe it is necessary to meet the goal of 100% completion. This is applicable to insured properties as well as Section 202/811 properties.
- Change orders: The Hub should attempt to handle construction changes by processing change orders to expedite the review. Resubmission of revised plans and specifications should only be required where damage is so extensive that the change order process is not feasible. For Section a 202/811 property, change orders requiring additional capital advance funds should be forwarded to Headquarters.
- Approval of surety: Mortgagees must provide evidence of approval of surety on all required items such as change orders which are 10% or more above construction contract cost. This is applicable to insured properties as well as Section 202/811 properties.

Mortgage increases: Hub Directors are authorized to consider mortgage increases caused by disaster related factors in accordance with paragraph 1-30 B1.c. of Handbook 4435.1 and the MAP guide. Reasonable consideration should be given to an increase in the mortgage to cover part of the cost. The granting of such an increase should be done with the proviso that the mortgagor pursue his/her remedy against the property insurance company or other sources and apply any recovery to a mandatory payment to the mortgage of any funds recovered. Interim mortgage increases to be advanced and insured prior to final endorsement can be approved if the Hub Director believes it is necessary to reach the goal of 100% completion. This also applies to Section 202/811 properties where increases require additional capital advance funds and are within the mortgage limits. If additional assistance is needed with respect to a Section 202/811 property, HUD Directors should contact the Multifamily Housing Assistance and Grants Office in Headquarters.

- Cost Certifications: Hubs must use the expedited procedures contained in Notice 96-37 and the MAP guide in their review.

**Projects Completed and Cost Certified:**

- Properties with increased mortgage amounts because of additional work or increased costs caused by the disaster: The Hub must request a supplemental cost certification reflecting the additional work and corresponding soft costs, including any change



orders for extensions of time. Final closing documents must be amended to reflect that any insurance proceeds received for mortgage increase items will result in a mandatory payment to the mortgage principle balance.

- Projects with additional non-critical repair work but not requesting a mortgage increase (anticipating payment from insurance proceeds, or government grants or other assistance, etc.): The Hub should expedite final endorsement of these cases since the release of the holdback and final endorsement will enable the general contractor to obtain the remainder of this holdback and limit any permanent financing extension fees payable by the mortgagor.

### **Applications in the Pre-Construction Pipeline:**

Hub Directors have the discretion to waive MAP time deadlines without receiving Headquarters authorization:

- MAP pre-application or SAMA feasibility application received: Hub Directors have the discretion to return MAP pre-applications and SAMA feasibility applications or suspend review/processing so that mortgagees/borrowers can update the Phase I environmental, market, and rent and cost information. Hubs should be flexible in allowing sufficient time to amend MAP pre-applications or SAMA feasibility applications and should honor any requests to refund SAMA feasibility application fees paid to FHA. Where sponsors/mortgagees intend to resubmit another SAMA feasibility application, Hubs can credit the application fee to the new application instead of issuing a refund.
- MAP invitation letter or SAMA feasibility letter issued: Hub Directors have the discretion to rescind MAP invitation letters and SAMA feasibility letters or suspend further processing until mortgagees/borrowers can update the Phase I environmental, market, and rent and cost information. Hubs should be flexible in allowing sufficient time for updating and honor any requests to refund SAMA feasibility fees paid to FHA. Where sponsors/mortgagees intend to resubmit SAMA/feasibility applications, Hubs can credit the application fee to the revised application instead of issuing a refund.

- HUD issuance of amended or revised SAMA feasibility/MAP invitation letter: Hubs will have to complete a revised environmental assessment, consult with EMAS on market conditions and be convinced of continued demand for long-term occupancy before issuing a revised or amended approval letter.

### **Firm Commitment Application Received:**

Hub Directors have the discretion to return applications or suspend processing so that mortgagees can update the Phase I environmental, market, and rent and cost information to reflect current conditions in the area. Revised MAP underwriting summaries must specifically address the changes in the underwriting and the area. Hubs should be flexible in allowing sufficient time to update the applications, considering the extra time necessary for updating of the 3<sup>rd</sup> party MAP reports. Hubs will honor any mortgagee requests to refund application fees paid to FHA or credit the fees to a revised application.

For Section a 202/811 property, Hub Directors have the same discretion as reflected above with respect to updating reports.

**Firm Commitment Issued / No Initial Endorsement:**

Hub Directors have the discretion to request mortgagees to withdraw applications or suspend processing so that mortgagees can update the Phase I Environmental, market, and rent and cost repair information to reflect current conditions in the area. If the mortgagee refuses a Hub request to withdraw an outstanding firm commitment or update information, the Hub should not proceed to initial endorsement or honor any extension request until the Hub has received advice from Headquarters. FHA will refund Firm Commitment Application fees at the request of the mortgagee. For Section 202/811 properties, Hub Directors should contact the Multifamily Housing Assistance and Grants Office in Headquarters.

**HUD Issuance of Firm Commitments**

Hubs will have to complete a revised environmental assessment, consult with EMAS on market conditions and be convinced of the validity of the costs, rent and expense estimates, and the demand for long-term occupancy before issuing a new, amended, or reissued commitment.

When reissuing a Firm Commitment, Hubs must consider and include an Initial Operating Deficit (IOD) and where necessary, allow for an extended IOD period to a projection of occupancy stabilization for the project.

<b>OTHER ISSUES/QUESTIONS</b>
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Headquarters will determine the status reporting requirements on HUD’s active inventory in impacted areas for each PDD. Reporting may be completed in phases. Standardized formats will be utilized for reporting. These will be provided to Hubs and

Program Centers at the time of the PDDs. Headquarters will determine applicability and necessity of reporting. Modification or deviation from the reporting formats provided requires the approval of Headquarters.

This Notice should be disseminated to appropriate HUD staff, owners and management agents, mortgagees, contract administrators, and other program participants.

Questions or concerns should be directed to the local HUD office or the appropriate Multifamily Program Office in Headquarters.

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Brian Montgomery  
Assistant Secretary for Housing-  
Federal Housing Commissioner

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**Attachment-Sample notification letter to residents displaced from HUD insured and or assisted property.**

**Distribution: W-3-1,**

SECTION 8 TENANT LETTER

**Sample letter to notify disaster-displaced rental assisted residents that their unit will be repaired and available for re-occupancy.**

**Owner/Management Company/or Property Letterhead**

Date

Mr./Mrs. \_\_\_\_\_

Address \_\_\_\_\_

Dear \_\_\_\_\_:

This letter contains important information regarding your opportunity to return to your former rent assisted apartment. Please carefully read the information, and send back the requested information if you want to return.

Our records indicate that you were displaced from \_\_\_\_\_ property, due to the damage caused by \_\_\_\_\_. **We want to let you know that unit number \_\_\_\_\_, at \_\_\_\_\_ property will be repaired and ready for re-occupancy in about 60 (insert 90 if appropriate) days from the date of this letter.** You have the exclusive opportunity to reoccupy this Section 8 (or insert other rental assistant program) unit. **To take advantage of this opportunity to return you must sign and return the enclosed form indicating your intention. Please note that you must reoccupy the apartment no later than 60 days after \_\_\_\_\_, which is the date the unit will be ready.**

It is very important that you understand that if you fail to respond to this notice, or fail to reoccupy the unit within 60 days after it is repaired, or indicate that you do not intend to return that you will lose the opportunity to return to this unit. The apartment will be rented to someone else and any personal property remaining in the unit that you have not removed, will be disposed of in accordance with state and local laws.

Please complete the enclosed form, and return it within 30 (insert 45, if 90 days are provided above) days. If you have any questions please contact \_\_\_\_\_, at \_\_\_\_\_.

Sincerely,

Name  
Title

Enclosure

**RENTAL TENANT LETTER**

**Sample letter to notify disaster-displaced residents that their unit will be repaired and available for re-occupancy.**

**Owner/Management Company/or Property Letterhead**

Date

Mr./Mrs. \_\_\_\_\_

Address \_\_\_\_\_

Dear \_\_\_\_\_:

This letter contains important information regarding your opportunity to return to your former rental apartment. Please carefully read the information, and send back the requested information if you want to return.

Our records indicate that you were displaced from \_\_\_\_\_ property, due to the damage caused by \_\_\_\_\_. **We want to let you know that unit number \_\_\_\_\_, at \_\_\_\_\_ property will be repaired and ready for re-occupancy in about 60 (insert 90 if appropriate) days from the date of this letter.** You have the exclusive opportunity to reoccupy this unit. **To take advantage of this opportunity to return you must sign and return the enclosed form indicating your intention. Please note that you must reoccupy the apartment no later than 60 days after \_\_\_\_\_, which is the date the unit will be ready.**

It is very important that you understand that if you fail to respond to this notice, or fail to reoccupy the unit within 60 days after it is repaired, or indicate that you do not intend to return that you will lose the opportunity to return to this unit. The apartment will be rented to someone else and any personal property remaining in the unit that you have not removed, will be disposed of in accordance with state and local laws.

Please complete the enclosed form, and return it within 30 (insert 45, if 90 days are provided above) days. If you have any questions please contact \_\_\_\_\_, at \_\_\_\_\_.

Sincerely,

Name  
Title

Enclosure

**ATTACHMENT TO BE RETURNED BY DISPLACE TENANT**

**Owner or Management Company Letterhead.**

**FAMILY CERTIFICATION OF INTENT TO REOCCUPY PRE-DISASTER PROJECT-BASED ASSISTED APARTMENT**

ق Yes, I want to occupy this unit.

Please check below if any of the following circumstances apply to your family.

ق My household is larger or smaller than before we were displaced by the disaster. It now consists of \_\_\_ adults, and \_\_\_ children.

ق State any accommodations (like accessibility) that you want to note.

\_\_\_\_\_  
Print Name of Head of Household

\_\_\_\_\_  
Signature of Head of Household

\_\_\_\_\_  
Date

\_\_\_\_\_  
Current Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Alternate Number  
(If available)

ق No, I do NOT want to occupy this unit. I UNDERSTAND THAT CHECKING THIS BLOCK MEANS I FORFIET THE OPPRTUNITY TO RECCOUPLY MY UNIT, .

\_\_\_\_\_  
Print Name of Head of Household

\_\_\_\_\_  
Signature of Head of Household

\_\_\_\_\_  
Date

\_\_\_\_\_  
Current Address

\_\_\_\_\_  
Phone Number

Please mail to the attention of:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_