On March 2, 2015, HUD issued Notice 2015-02 which outlines Section 230 of the Consolidated Appropriations Act of 2014 and Section 226 of HUD’s Fiscal Year 2015 Appropriations Act. The notice applies to all multifamily housing projects that use TRACS, therefore no property under this program is excluded from the regulations of the notice.

The note provides a framework detailing triggers for when HUD must take action against a non-compliant property. Section 230(a) requires HUD to take specific actions upon the following triggers:

- When a project “receives a REAC score of 30 or less”;
- When a project “receives a REAC score between 31 and 59” and the owner “fails to certify in writing that all deficiencies have been corrected”; or
- When a project “receives a REAC score between 31 and 59” and “receives consecutive scores of less than 60 on REAC inspections.”

HUD’s initial notice to owners must provide an opportunity to respond to the REAC inspection within 30 days. Currently, REAC provides the owner a letter that accompanies the inspection report notifying them of the results of the inspection. The letter also fulfills the response requirement, as it provides language that the owner has the opportunity to respond to the report by requesting a technical review within 30 days of the release or a data base adjustment within 45 days of the release date of the inspection report.

Additionally, HUD will develop a Compliance, Disposition and Enforcement (CDE) Plan within 60 days from the inspection release date. However, in cases where an owner has sought a technical review or database adjustment, HUD will start the 60-day clock upon REAC’s release of the post appeal score, assuming the score is 59 or below and “violations remain.” In cases where the owner did not submit an appeal, the 60-day clock will start from the date the inspection was originally released.

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HUD Issues Guidance for Projects that Receive Failing REAC Scores (Cont.)

The notice also clarifies the procedures for issuance of Notice of Violations. HUD will clearly label that portion of the NOV/NOD that sets out the Compliance, Disposition and Enforcement (CDE) plan and send the plan to the owner within 60-days of release of a post appeal score that is 59 or below or within 60-days of release of the original score in cases where the owner does not appeal. Therefore, on NOVs and NODs concerning poor physical condition of the project, HUD will insert the heading, “Compliance, Disposition and Enforcement Plan” in the space immediately preceding the NOVs/NODs’ instructions to the owner to:

- Conduct a survey of 100% of the project, identifying all physical deficiencies;
- Correct the physical deficiencies identified at the project from the survey, including, but not limited to, those deficiencies identified in the REAC inspection;
- Execute a certification that the project is in compliance with HUD’s physical condition standards of 24 CFR § 5.703 and state and local codes; Submit the completed survey and certification form to the HUD Account Executive in 60 days of receipt of HUD’s notice; and
- Provide tenants with a “Notice of Compliance, Disposition and Enforcement Plan” for the project and provide HUD with a certification that of compliance with this directive.

When owners request a re-inspection, HUD will continue to consider these requests in accordance with current protocols outlined in Notice 2011-24, however this notice clarifies that in cases where the deficiencies noted on the last REAC inspection report and the owner’s 100% survey cannot be completed in 60-days, the NOV/NOD (CDE Plan) now instructs the owner to submit a repair plan with the 100% survey and to request an extension of time to complete the repairs. This repair plan must provide the cost and source of funds that will be used to make the repairs. If the repair plan is approved it will serve as an amendment to the CDE Plan. If the repair plan is not approved a re-inspection will be scheduled as soon as possible after the 60-day cure period expires.

The notice goes on to clarify that for follow-up to re-inspection results, the Departmental Enforcement Center (DEC) will keep the physical referral open until the re-inspection results are issued. If the DEC determines that the project’s physical condition (as reflected by the re-inspection report) demonstrates that the owner has not complied with an expired CDE Plan, the DEC will alert

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HUD Issues Guidance for Projects that Receive Failing REAC Scores (Cont.)

the MFH Account Executive and will proceed to handle the matter for imposition of civil money penalties, if applicable. A subsequent REAC score of 59 or less will be deemed to violate the CDE Plan.

Multifamily Housing will be tracking all REAC inspection scores of properties that scored 59 or less and if the next REAC re-inspection score is also less than 60 (i.e., “the project receives consecutive scores of less than 60 on REAC inspections”), MFH will follow the procedures set out in Section III below. A subsequent REAC score of 59 or less will be deemed to violate the CDE Plan.

Failure to comply with the terms of the CDE plan may result in abatement, civil money penalties, transfer and assignment of HAP to a new owner, or HUD may seek a receivership.


HUD Releases FY2015 Income Limits


As a reminder, HUD multi-family property managers must use the new 2015 income limits for all new move-in transactions effective 3/6/2015 and beyond.

REMEMBER: VOUCHER HARD COPY NO LONGER REQUIRED

With the full implementation of 202D, CAHI no longer requires a voucher hard copy submission. As such, please DISCONTINUE sending the voucher hard copy each month.

Keep in mind that CAHI reserves the right to request a voucher hard copy for special circumstances.

Please contact your Central Contract Specialist if you have any questions.
# HUD News

## What’s New on HUDClips?

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On February 3, 2012, HUD published a final rule entitled “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity”. The Final rule establishes that all eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status have equal access to all HUD housing programs. Recently, HUD issued Notice 2015-01 which revises the Code of Federal Regulations to expand the regulations to include lenders cannot discriminate based on actual or perceived sexual orientation, gender identity or marital status of the applicant or borrower.

The Notice also revises 24 CFR 5.100 to clarify that the term “family” includes, but is not limited to 1) A single person who may be an elderly person, displaced person, disabled person, near-elderly person or any other single person; or 2) a group of persons residing together and such group includes, but not limited to a family with or without children, an elderly family, a near elderly family, a disabled family, a displaced family and the remaining member of a tenant family.

The Equal Access rule does not create any additional protected classes under the Fair Housing Act and does not expressly include sexual orientation, gender identity and marital status as protected classes; however courts have recognized that the Fair Housing Act’s prohibition against discrimination because of sex includes discrimination based on non-conformance with sex stereotypes. Over 20 states have adopted fair housing protections based on sexual orientation and gender identity or expression.

HUD’s Fair Housing office has and will continue to pursue complaints of violations against a person seeking housing or mortgages, who allege discrimination based on sexual orientation, gender identity or expression.

In the words of former HUD Secretary, Shaun Donovan,

“HUD’s housing programs are open, not to some, not to most, but to all.”
A tenancy typically ends because of one of two scenarios: the resident moves out or they pass away. Succession essentially means transferring or handing down the rights of the lease to another household family member.

The term “Family” is defined in both Title 24 of the CFR Part 5.403 and in the HUD 4350.3. A family includes but is not limited to:

1. A family with or without children;
2. An elderly family;
3. A near-elderly family;
4. A disabled family;
5. A displaced family;
6. The remaining member of a tenant family; and
7. A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Since a family is defined, in part, as a “Remaining Household Member” an individual can succeed to a HUD model lease. To do so, he or she must qualify as a “Remaining Household Member” and be eligible under the criteria for the Section 8 program.

**What is a Remaining Household Member?**

“Remaining household member” is defined in paragraph 3-16 of the HUD Handbook 4350.3:

“Periodically, family composition changes after initial occupancy. If the qualifying person leaves the unit, a determination must be made as to whether the remaining member of the household will be eligible to receive assistance. Eligibility depends upon the type of project occupied and other issues.”

HUD Handbook 4350.3, paragraph 3-16, defines the following basic requirements for eligibility that must be met for a person to qualify as a remaining member of a household:

1. The individual must be a party to the lease when the family member leaves the unit.
2. The individual must be of legal contract age under state law.

3. The remaining family member is defined in Section 202 and Section 811 as the surviving member or members of an elderly family or family with disabilities that was a party to the lease and living in the assisted unit with the now deceased member of the family at the time of his or her death.

   a. The remaining family member, based on the death of the family member, is eligible to remain in the unit but must pay rent based on income. In this case, eligibility of the remaining family member, as defined by the death of the family member, is not reviewed.

   b. If the individual who establishes eligibility for the project leaves the unit for any reason other than death in a Section 202/8, Section 202 PAC, Section 202 PRAC or Section 811 PRAC project, the owner must determine if the individual(s) still residing in the unit meet the eligibility requirements for the project, income and age or disability. If the individual is not eligible for the project, he/she may not receive rental assistance and depending upon the type of project, he or she may or may not be allowed to remain in the unit. In a 202/8 or a Section 202 PAC project, the individual may remain in the unit but must pay contract rent. In a Section 202 or 811 PRAC project, the individual may not remain in the unit.

A Quick Note about Life Partners

On February 3, 2012 HUD’s Office of Fair Housing and Equal Opportunity (FHEO) published a final rule entitled “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity.”

This rule implements HUD’s policy to ensure that its core programs are open to all, regardless of sexual orientation, gender identity or marital status. The rule states that eligibility determinations for HUD-assisted or -insured housing must be made without regard to actual or perceived sexual orientation, gender identity or marital status.

The rule defines “family” to include single persons or groups of persons residing together, including those who are elderly, disabled, and with or without children without regard to actual or perceived sexual orientation, gender identity, or marital status.

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Project Eligibility and Program Eligibility
As explained, the Handbook defines a remaining family member for Section 202 and 811 projects as these projects have specific eligibility criteria beyond the general program income eligibility. Therefore, in these circumstances, owners and agents have very little difficulty applying the guidance as set forth in the handbook.

The handbook is less specific with general program eligibility for other project-based developments. Consider a family development, in which the departing tenant may be the sole qualifying tenant or how the situation can be further exasperated when, due to a technicality, the individual may not have been listed on the lease or 50059. This lack of clarity may lead to a rather strict interpretation of the HUD guidance, which could lead to disagreement when the Owner begins the eviction process and the individual maintains succession rights.

Enforcing the HUD Requirements
It is our responsibility as Owners, Managing Agents and Contract Administrators of Project Based Section 8 properties to follow the HUD requirements regarding tenancy and succession rights. When specific questions arise, seek your legal counsel for further guidance.

*This article is informational only and is not intended to replace consultation with legal counsel.

Attacking Bedbug Infestations
In response to inquiries from Owners and Agents of assisted multifamily housing units, HUD issued HUD Notice 12-05, Guidelines on Addressing Infestations in HUD-insured and Assisted Multifamily Housing. This Notice provides information and references to best practices regarding the prevention and control of infestations. It also reaffirms existing program requirements with regard to infestations. This article summarizes the major points presented in the notice. To review the Notice in its entirety, please CLICK on the following link: http://www.stoppests.org. The information below pertains specifically to bed bug infestations.

According to the EPA, principles of IPM for bed bugs include:

- Raising awareness through education on prevention of bed bugs;

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Inspecting infested areas, plus surrounding living spaces;
- Checking for infestations on luggage and clothes when returning home from a trip;
- Reducing the number of secondhand items brought into units and looking for bed bugs or signs of infestation on secondhand items before bringing the items home;
- Correctly identifying the pest;
- Keeping records – including dates when and locations where pests are found;
- Cleaning all items within a bed bug infested living area;
- Reducing clutter where bed bugs can hide;
- Eliminating bed bug habitats;
- Physically removing bed bugs through cleaning;
- Using pesticides carefully according to the label directions; and,
- Following up on inspections and possible treatments.

Residents also play a part in prevention. Early reporting allows the pests to be identified and treated before the infestation spreads. Tenants are the first line of defense against infestations and should cooperate to create living environments that deter pests. This includes reducing unreasonable amounts of clutter that create hiding places for pests and deter treatment.

O/As are encouraged to hold workshops for tenants to teach them to identify bed bugs, to create unfriendly environments for pests, and to report suspicions of bed bugs as soon as possible. Also helpful are providing an orientation for new tenants and staff, and posting signs and providing handouts.

Dealing With Infestations

The O/A should take appropriate action within a reasonable time period. However, pest inspections and treatment may take time to schedule, particularly for recently resurgent pests such as bed bugs.

During this time residents should fully cooperate with the O/A’s efforts to identify and address infestations. Cooperation includes allowing the O/A to enter the unit to perform inspections and treatments, allowing pest treatments to occur, following the pest treatment protocol, and removing infested furniture or other items from common areas such as hallways or community rooms.

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Sometimes bedbug infestations require multiple treatments over the course of several weeks. Generally, relocation from units is not necessary for effective pest treatment. However, if reasonable temporary relocation is necessary, the O/A may request withdrawals from available project funds (which may include Reserve for Replacement, project income, or Residual Receipts, if authorized by HUD), for those days when treatment is actively occurring that may render the unit uninhabitable. All withdrawals of this type must be approved by the Hub/PC Director or designee. Any temporary relocation must be carried out in accordance with applicable civil rights laws, including, but not limited to, Title VI.

An O/A may contact HUD to request project resources for control of infestations. An O/A may use available operating funds to pay for activities to prevent and/or treat infestations. When other sources of funds are not available or sufficient, the Hub/PC Director may honor requests to reimburse Owners for infestation treatment from the Reserve for Replacement account, or, if authorized, the Residual Receipts account. The releases should follow the processes outlined in HUD Handbook 4350.1, Multifamily Project Servicing, Chapters 4 and 25. Other options may be available should be discussed with HUD. For assisted housing projects, HUD may consider use of rental assistance to pay reasonable and necessary project expenses, such as an increased pest control line item in the project’s operating budget, if the Section 8 Housing Assistance Payments (HAP) contract allows for budget-based rent setting in accordance with the Section 8 Renewal Policy Guide. For more detailed information and guidance, read HUD Notice 12-05 in its entirety.

For additional information, try the following resources:

**Healthy Homes Training:** What’s Working for Bed Bug Control in Multifamily Housing?: Reconciling best practices with research and the realities of implementation. [http://www.healthyhomestraining.org/ipm/NCHH_Bed_Bug_Control_2-12-10.pdf](http://www.healthyhomestraining.org/ipm/NCHH_Bed_Bug_Control_2-12-10.pdf)

**National Pest Management Association Bed Bug Hub:** [http://pestworld.org/pest-world-blog/the-bed-bug-hub-one-stop-shop-for-bed-bug-information](http://pestworld.org/pest-world-blog/the-bed-bug-hub-one-stop-shop-for-bed-bug-information)

**National Pest Management Association Best Practices Website:** [http://www.bedbugbmps.org](http://www.bedbugbmps.org)

**IPM Curriculum and Blog:** [http://www.stoppests.org](http://www.stoppests.org)

**Environmental Protection Agency:** [http://www.epa.gov/pesticides/bed_bugs/](http://www.epa.gov/pesticides/bed_bugs/)