



OFFICE OF MULTIFAMILY HOUSING PROGRAMS

# FEDERAL HOUSING ADMINISTRATION



## Questions and Answers for Office of Multifamily Housing Stakeholders<sup>1</sup>

### Coronavirus (COVID-19)

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#### **Contents**

General Multifamily Housing .....	3
Emergency Preparedness .....	3
Resident Health.....	4
Applicability of Existing Emergency and Disaster Guidance .....	7
Policy, Handbook, and Regulatory Waivers.....	7
CARES Act and Additional Resources Available for Response .....	8
Summary Information.....	8
Implementation of Forbearance Provisions under the CARES Act .....	9
Moratorium on Evictions under the CARES Act.....	10
Asset Management .....	12
Property Reviews and Inspections.....	12
Policy and Operations .....	14
Financial Audits, Income Recertifications, and Utility Analyses .....	14
Applications, Vacancies, and Move-ins.....	17
Available Resources for Emergency Expenses and Debt Service.....	18
Staffing and Building Operations .....	20
Recapitalization and Rental Assistance Demonstration .....	22
Property Reviews and Inspections.....	22
Policy and Operations .....	22
Multifamily Production .....	25
Site Inspections and Appraisals .....	25
Policy and Operations .....	27

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<sup>1</sup> Office of Multifamily Housing Stakeholders include tenants; property managers, owners, and agents; lenders and their partners; residential service coordinators; contract administrators; and other participants in FHA Multifamily mortgage insurance and Office of Housing rental assistance programs.

Construction Administration..... 27

Loan Endorsement ..... 31

Section 223(f) Applications ..... 31

Environmental Review ..... 32

    General MFH ..... 32

    Multifamily Production ..... 33

Continuity of MFH Operations with Staff Working Remotely ..... 34

    General MFH ..... 34

    Recapitalization and Rental Assistance Demonstration ..... 35

    Multifamily Production ..... 36

Office of General Counsel- MFH Closings ..... 37

## **General Multifamily Housing**

### *Emergency Preparedness*

#### **Q1: Who is coordinating COVID-19 efforts for Multifamily Housing (MFH)? Who will be the point of contact for housing providers?**

A: Owners and agents should contact their field MFH Account Executive or Resolution Specialist for property specific inquiries. Jeff Little, the Associate Deputy Assistant Secretary for MFH Programs, is the main point of contact for Multifamily stakeholders.

(Added on 3/12/20)

#### **Q2: Have MFH Field Offices been given guidance on how housing providers should prepare and respond to COVID-19?**

A: The Office of MFH provides regular direction to field staff. On March 3, the Office sent an email message to external stakeholders that encouraged stakeholders to share information from the Centers for Disease Control and Prevention (CDC) on the Coronavirus with residents, stakeholders, and others. Please see the following information regarding Emergency Preparedness, Planning, Identification and Messaging for Aging and Disabled Networks: <https://www.naccho.org/uploads/downloadable-resources/Capacity-Building-Toolkit-for-Aging-and-Disability-Networks-2-5-19.pdf>

(Updated on 3/16/20)

#### **Q3: What emergency preparedness steps does HUD recommend or require property owners and agents take?**

A: Owners and agents should generally follow CDC guidelines and the directions given by local health officials for emergency preparedness. Chapter 38 of [Handbook 4350.1](#), Emergency and Disaster Guidance, should also be consulted.

The CDC provides guidance for [communities, businesses and schools](#) that can assist housing providers. The CDC has also provided specific guidance [for retirement communities and independent living facilities](#), including federally assisted independent housing with support services for older adults. Please see the following information as well regarding Emergency Preparedness, Planning, Identification and Messaging for Aging and Disabled Networks: <https://www.naccho.org/uploads/downloadable-resources/Capacity-Building-Toolkit-for-Aging-and-Disability-Networks-2-5-19.pdf>

(Updated on 4/2/20)

*Resident Health*

**Q4: How does a HUD-assisted property learn about a positive COVID-19 case impacting its residents, staff, or the community?**

A: Owners/agents will learn about COVID-19 cases and activities in the community from their local health departments. They should communicate with their local health department if they are concerned that residents or staff might have COVID-19.

(Added on 3/24/20)

**Q5: In the event of a confirmed COVID-19 case at a HUD-assisted property, what steps should property owners and managers take to protect residents, staff, and the community? How should the owner/agent share this information?**

A: MFH suggests property owners and agents follow Center for Disease Control (CDC) guidelines and the direction of local health officials, especially in the event of property quarantine.

HUD recommends that owners/agents create communication plans for distributing timely and accurate information during an outbreak. First, they should identify everyone in their chain of communication (for example, staff, volunteers, key community partners and stakeholders, and clients) and establish systems for sharing information. After identifying this information, they should maintain up-to-date contact information for everyone in the chain of communication as well as identify platforms, such as a hotline, automated text messaging, and a website to help disseminate information to those inside and outside of their organizations.

Owners/agents can provide notification of positive COVID-19 cases without giving the name/apartment number/other personally-identifiable information to their residents and staff. HUD reminds them that they continue to remain subject to HIPAA and other privacy laws.

(Updated on 3/24/20)

**Q6: How would a HUD-assisted property owner/agent message to residents and staff when there is a positive COVID-19 case among their community?**

A: CDC COVID-19 communication resources in both print and digital form are available at: <https://www.cdc.gov/coronavirus/2019-ncov/communication/index.html>

(Added on 3/24/20)

**Q7: How should housing providers assist residents in accessing continued critical services from home- and community-based providers in the event of a quarantine or if community service providers close temporarily?**

A: HUD encourages property owners and agents follow Centers for Disease Control guidelines and the direction of local health officials in all cases, including within the context of home and community-based service providers.

(Added on 3/12/20)

**Q8: What steps is HUD taking to make sure that Fair Housing obligations will still be met in the event of an emergency?**

A: Stakeholders are reminded to ensure that their responses remain faithful to obligations under the Constitution, Fair Housing Act and related regulations. Exigencies associated with important and timely response to issues surrounding COVID-19 are not the basis for unlawful discrimination based on race, color, religion, national origin, sex, disability or familial status.

(Added on 3/12/20)

**Q9: It is thought that many seniors and people with disabilities are particularly susceptible to illness. What kind of communication and resources is HUD providing to communities to reassure residents and property management staff, and prepare them in the event of a confirmed COVID-19 case on site?**

A: We encourage all parties to access information about the health impacts and proper handling of COVID-19 cases from the CDC, and/or state or local health officials.

We intend to provide regular updates to stakeholders and will continue to send written updated communications via email to national stakeholder groups for forwarding to their members, and to HUD Multifamily Field Offices for distribution to stakeholders in their jurisdiction. Where applicable, we will encourage stakeholders to forward COVID-19 communications from HUD to communities and residents.

(Added on 3/12/20)

**Q10: Does HUD have guidance available on infectious disease preparation and response?**

A: See information on the Coronavirus from the CDC's [Coronavirus web site](#).

(Added on 3/12/20)

**Q11: If a person under quarantine has additional family members who need to be kept separate what are a property manager's options for meeting those needs? What if managers are being asked to use vacant units for quarantine?**

A: Resident requests to occupy vacant units or temporarily relocate should be verified before being granted. Verification could include written communication from a medical health professional or through communication with the local health department. Managers may use electronic and telephonic communication to perform verification.

(Added on 3/12/20)

**Q12: Does HUD have guidance on disinfecting common spaces and units, including how to protect our staff?**

A: See these links from the CDC for recommendations on cleaning and disinfecting:

- *Environmental Cleaning and Disinfection Recommendations*, which provides recommendations on the cleaning and disinfection of rooms or areas of those with suspected or with confirmed COVID-19 have visited:  
<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>
- *Disinfecting Your Facility if Someone is Sick*, which provides concise information on how to clean and disinfect facilities, from surfaces to electronics to laundry, in order to protect individuals from COVID-19:  
<https://www.cdc.gov/coronavirus/2019-ncov/prepare/disinfecting-building-facility.html>

In addition, HUD has recently published relevant guidance on best practices in medical waste disposal on the HUD Exchange site. *Medical Waste Disposal: Best Practices for Owners of Multifamily Properties*, provides owners of multifamily properties with a short summary of best practices and links to state and federal websites providing guidance on safe disposal of medical waste: <https://www.hudexchange.info/resource/6005/medical-waste-disposal-best-practices-for-owners-of-multifamily-properties/>

(Updated on 4/14/20)

**Q13: Does HUD have recommendations on where we can direct our residents for health checks?**

A: See the link below to find a health center through the Health Resources and Services Administration. <https://findahealthcenter.hrsa.gov/>

(Added on 3/13/20)

**Q14: My property has a resident that has tested positive for COVID-19 and is currently hospitalized. The hospital wants to discharge the patient to quarantine and recuperate at home in order to free up much needed hospital space and resources. Is there a HUD policy that prohibits residents from returning to their homes until they receive a negative test result?**

A: No, there is no HUD prohibition against a resident returning to their unit until a negative test is received. HUD encourages owners and agents to coordinate and cooperate with local health care professionals and officials to ensure a safe transition from one location to another.

(Added 4/14/20)

*Applicability of Existing Emergency and Disaster Guidance*

**Q15: Does HUD plan to issue guidance on quarantine procedures for HUD-assisted housing that serves predominantly older adults?**

A: HUD encourages property owners and agents to follow CDC guidelines on quarantine procedures and the direction of local health officials. Stakeholders should reference Chapter 38 of [Handbook 4350.1](#), *Multifamily Asset Management and Project Servicing*, which covers Multifamily emergency and disaster guidance.

(Added on 3/12/20)

**Q16: Is HUD planning to update its Chapter 38 on emergency preparedness to include infectious disease protocol?**

A: Multifamily plans to use lessons learned from the COVID-19 response in the update to Chapter 38. The Chapter is in the process of being redrafted. Stakeholders will be able to comment when the draft chapter is posted to the Multifamily Drafting Table.

(Added on 3/12/20)

**Q17: Is Handbook 4350.1 Multifamily Asset Management and Project Servicing, Chapter 38 Multifamily Emergency/Disaster Guidance applicable with the FEMA Declarations for COVID-19?**

A: Yes, MFH authorizes the use of guidance in this chapter for program participants under the Emergency Declaration for COVID-19. Note, however, the statutory and regulatory displaced person/family occupancy preference for properties with insured mortgages under Sections 221(d) and 236 and the refinance of Sections 221(d) and 236 mortgages under Section 223(a)7 of the National Housing Act as amended, only applies to states that are subject to a presidential Major Disaster declaration.

(Added on 4/2/20)

**Q18: Is MFH collecting potential resource information, which tracks vacant units in multifamily properties, at this time?**

A: MFH is not currently collecting potential resource information nationally as it has done in the past in response to disaster events. However, Regional Directors may request potential resource information for specific jurisdictions at their discretion.

(Added on 4/2/20)

*Policy, Handbook, and Regulatory Waivers*

**Q19: In the event of an outbreak in a locality with HUD-assisted housing, what regulatory waivers will apply for HUD housing?**

A: HUD will consider policy, Handbook, and regulatory waivers on a case-by-case basis with the intention of providing flexibility to owners and agents to respond to unique needs.

(Updated on 3/12/20)

**CARES Act and Additional Resources Available for Response***Summary Information***Q1: Are property owners and lenders able to access additional sources of government assistance for covering losses during the COVID-19 crisis, for example, Community Development Block Grant funds available from local and state governments?**

A: HUD encourages borrowers and lenders to access any available Federal assistance or other resources, as may be necessary, to assist in meeting project operations and debt service. It is important to note that some forms of Federal assistance may come with requirements for recipients to ensure that they do not receive multiple forms of Federal assistance that serve duplicative purposes, as required under the Stafford Act.

(Added 4/14/20)

**Q2: Did the Coronavirus Aid, Relief and Economic Security (CARES) Act provide additional funding to HUD Multifamily Housing program?**

A: Yes. Congress appropriated additional funding for several Multifamily Housing programs through the CARES Act, most of which is designated for increased rental subsidy in HUD-assisted housing to cover tenants' loss of income during the COVID-19 National Emergency. Through the CARES Act, HUD is also authorized to use designated funding to take necessary actions to respond to situations resulting from the COVID-19 National Emergency, including addressing unusual operating costs such as increased cleaning costs.

Under the CARES Act, Congress provided the following additional funding:

- \$1 billion to support Project-based Rental Assistance properties (Section 8 project-based properties),
- \$50 million to support Section 202 Supportive Housing for the Elderly properties (with \$10 million of that amount for additional service coordinator support), and
- \$15 million for Section 811 Supportive Housing for Persons with Disabilities properties.

(Added on 4/14/20)



**Q3: Did the CARES Act provide HUD with any additional flexibility for program implementation in response to this emergency?**

A: Yes. The CARES Act provided HUD with authority to waive certain requirements for its Section 8 Project Based Rental Assistance, Section 202, and Section 811 programs when HUD deems this authority is needed to expedite or facilitate the use of the funds to prepare for, and respond to situations resulting from the COVID-19 National Emergency. It is important to note that HUD's waiver authority excludes any requirements related to fair housing, non-discrimination, labor standards, and the environment.

(Added on 4/14/20)

*Implementation of Forbearance Provisions under the [CARES Act](#)***Q4: Is there new guidance for forbearance of FHA-insured, Risk Share, and HUD-held multifamily loans?**

A: HUD published guidance on a standard forbearance protocol, *Mortgagee Letter 2020-09*, dated April 10, 2020, to implement the provisions of the CARES Act and reduce paperwork and streamline processing for multifamily borrowers, servicers, and lenders. These guidelines can be found at: <https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-09hsngml.pdf>. These guidelines are in effect during the covered period of the CARES Act, which begins March 27, 2020, and continues until the earlier of the termination date of the national emergency declared by the President on March 13, 2020 or December 31, 2020. This guidance outlines the protocol for all Multifamily HUD loans, followed by separate guidance for FHA-insured, risk share, and HUD-held loans, including continuing program obligations.

Ginnie Mae has also published a blog post on forbearance as it relates to its issuers, which can be found here: <https://ginniemae.gov/newsroom/GinnieInBrief/Pages/Post.aspx?PostID=40>

(Updated on 4/14/20)

**Q5: What is HUD's role in the forbearance process for HUD Multifamily assisted housing properties or properties with an FHA-insured mortgage?**

A: Mortgage forbearance repayment is a negotiation between borrowers and lenders. HUD will not participate in those negotiations except where the loan in question is a HUD-held loan. While the forbearance agreement is entered into between the borrower and lender, a copy of the forbearance agreement must be provided in connection with actions requiring HUD approval, if any are included in the agreement. HUD provided guidelines in [Mortgagee Letter \(ML\) 2020-09, dated April 10, 2020](#), to assist in borrower/lender negotiations; however, these guidelines are not required to be followed. This ML also provides information on the process for HUD-held loans.

(Added on 4/14/20)

*Moratorium on Evictions under the [CARES Act](#)*

**Q6: Does the ban on evictions apply to HUD Multifamily assisted housing properties or to HUD Multifamily properties with an FHA-insured mortgage? What about Low Income Housing Tax Credit (LIHTC) properties?**

A: All HUD Multifamily assisted housing properties as well as HUD Multifamily properties with an FHA-insured mortgage are covered under Section 4024 of the CARES Act. Therefore, the moratorium on evictions would apply to private owners of properties that either receive housing assistance payments under a Multifamily assisted housing program or those with an FHA-insured mortgage. Since the Internal Revenue Service administers the LIHTC Program, HUD recommends that owners and agents consult the IRS for guidance on evictions under the CARES Act.

(Added on 4/14/20)

**Q7: If a HUD Multifamily assisted housing property or HUD Multifamily property with an FHA-insured mortgage receives a forbearance, pursuant to Section 4023 of the CARES Act, are there any additional limitations on evictions?**

A: Yes, if a HUD Multifamily assisted housing property or HUD Multifamily property with an FHA-insured mortgage receives a forbearance under the provisions of the CARES ACT, it may not, for the duration of the forbearance evict or initiate the eviction of a tenant from a dwelling unit located in or on the applicable property solely for nonpayment of rent or other fees or charges or charge any late fees, penalties, or other charges to a tenant for late payment of rent.

In addition, a multifamily borrower that receives a forbearance pursuant to Section 4023 of the CARES Act may not require a tenant to vacate a dwelling unit located in or on the applicable property before the date that is 30 days after the date on which the borrower provides the tenant with a notice to vacate and issue a notice to vacate for nonpayment of rent or other fees or charges until after the expiration of the forbearance. Please review the 'Renter Protections During Forbearance' section of [Mortgagee Letter 2020-09](#) for additional information.

(Added on 4/14/20)

**Q8: Does the ban on evictions apply to all tenants or only those tenants whose employment has been affected by the COVID-19 National Emergency? For example, what if an owner or agent has tenants on a fixed income who are choosing not to pay rent based on the recent announcement?**

A: Effective March 27, 2020, the CARES Act requires that property owners cease starting new actions against tenants of covered dwellings for 120 days on both FHA-insured Multifamily properties and Multifamily-assisted properties. Further, they must waive late payment fees and charges during this time for nonpayment of rent. Therefore, the temporary moratorium on evictions for nonpayment of rent, as well as a moratorium on charging fees and penalties related to nonpayment of rent apply regardless if employment was directly or indirectly linked to COVID-19.

(Added on 4/14/20)

**Q9: With the eviction moratorium, should owners and agents still send late notices to residents, or should they wait until the 120-day moratorium is over?**

A: The CARES Act does not prohibit a reminder notice of the late rent being sent by owners or agents. The reminder notice cannot be a notice to vacate. The reminder notice must not include fees/charges/penalties for the nonpayment of rent.

(Added on 4/14/20)

**Q10: Can an owner or agent still evict for criminal activity, domestic violence, or other lease violations?**

A: Yes. The eviction moratorium found in Section 4024(b) of the CARES Act only applies to evictions related to non-payment of rent or non-payment of other charges. The moratorium also prohibits the charging of other fees, penalties, or other charges due to the non-payment of rent. Therefore, owners and agents may still undertake an eviction/termination of assistance action against a tenant, in accordance with allowable circumstances in accordance with the applicable provisions of the lease and related guidance in [HUD Handbook 4350.3](#), Chapter 8, as long as the eviction/termination of assistance is unrelated to non-payment of rent.

(Added on 4/14/20)

**Q11: Abandonment of a unit is generally distinguished from absence from the unit by tenant's failure to pay rent and failure to acknowledge or respond to notices from the owner regarding the overdue rent. If the tenant abandons their unit and does not pay rent, does an owner or agent have to wait to evict until after the 120-day moratorium?**

A: The term "abandonment" requires a fact-specific determination to be made as to the reasons behind the family not being in the unit. A family could have decided to quarantine with other family members, could be hospitalized, or could be prevented from returning to the unit due to an emergency declaration by the state. The owner or agent must take additional steps to ensure that the unit is in fact "abandoned" by the family.

(Added on 4/14/20)

## **Asset Management**

### *Property Reviews and Inspections*

**Q1: In light of concerns about site visits to HUD properties, what is the status of REAC inspections on MFH properties?**

A: Until further notice, Multifamily is postponing all REAC property inspections for all Multifamily properties. Where there is an exigent circumstance or reason to believe that there is a threat to life or property at a specific location, inspections will be conducted by HUD quality assurance inspectors in compliance with CDC guidelines. *Please note, this answer supersedes the initial guidance offered in the first version of this document on 3/12/20.*

(Updated on 3/16/20)

**Q2: As a condition of the Notice of Violation or Notice of Default, an owner or agent is required to perform a 100% unit inspection of the property and respond to HUD with the results and a plan to address the deficiencies within 60 days. If an owner/agent is having difficulty getting into units due to the COVID-19 National Emergency, will HUD grant an extension or waiver to the 100% unit inspection requirement?**

A: HUD has suspended physical inspections until further notice due to the COVID-19 National Emergency. In cases where an owner received a Notice of Default (NOD) for an inspection prior to the suspension, all Exigent Health and Safety (EH&S) deficiencies must be corrected immediately, and the owner must certify that all EH&S were mitigated within 3-business days. Where unit inspections cannot take place, the owner must submit a repair plan based on the deficiencies noted on the inspection report, including systemic deficiencies. The plan should anticipate completing all repairs within 60 days of the date HUD resumes inspections

(Added on 4/14/20)

**Q3: In light of concerns about site visits to HUD properties, what is the status of Management and Occupancy Reviews (MORs) performed by Performance-Based Contract Administrators (PBCAs)?**

A: HUD recognizes that the President's March 13, 2020, emergency determination related to COVID-19 constitutes a significant administrative action that could disrupt performance under the Annual Contributions Contracts (ACC). HUD is hereby relieving PBCAs operating under both ACCs from notifying HUD that the Presidential emergency determination either limits, or in some cases, prevents, PBCAs from carrying out MORs and related activities. HUD is therefore suspending standard MORs until the PBCA determines that local conditions no longer limit or prevent the PBCA from performing MORs safely.

HUD is looking into a flexible model that would allow PBCAs to adapt to local conditions in a way that allows them to continue MORs on a modified basis to ensure acceptable conditions in HUD properties. Additional guidance and specifications will be forthcoming.

*Please note, this answer supersedes the initial guidance offered in an earlier version of this document on 3/13/20.*

(Updated on 3/16/20)

**Q4: What should owners/property managers do if tenants refuse entry to inspectors, citing fears of COVID-19?**

A: Until federal, state, or local public health officials counsel otherwise, owners and agents should follow published guidance covering apartment inspections. In this case, Paragraph 20 of the [HUD Model Lease](#) covers the rules governing the landlord's access to a tenant's apartment.

(Updated: on 3/12/20)

**Q5: An owner's Rent Comparability Study (RCS) has triggered the need for a HUD RCS, but concerns from owners, tenants, and HUD contract appraisers are making it difficult to execute the HUD-sponsored RCS. How will this be addressed?**

A: HUD RCSs are suspended in areas that are under a state or nationally declared emergency or where public health officials have imposed limited travel. HUD is rescinding guidance provided on 3/13/20 on how it will respond to an owner's previously submitted RCS and will be providing new guidance on this topic in the upcoming weeks.

(Updated on 3/24/20)

**Q6: An owner/agent's property's contract is coming up for renewal, and a Rent Comparability Study (RCS) is required. How can the property renewal be approved if an RCS can't be obtained?**

Renewal rents that are capped at market, and therefore require an RCS, include Option One, Option Two, and Option Three (at initial renewal only) renewals as detailed in [HUD's Section 8 Renewal Policy](#) Guidebook. Renewal under Option Four also requires an RCS if the owner wishes to establish eligibility based on rents under the expiring contract being at or below market rate. As a result of the COVID-19 National Emergency and under the authority of the Section 8 Renewal Policy Guidebook, HUD will, until June 30, 2020 (or such later date as HUD may determine), approve all renewals for the above-noted Options (\*see exception below) as short-term renewals with a 12-month term at current rents. This includes any Option Four renewal requests for which the owner seeks to establish eligibility based on rents being at or below market.

HUD/ Performance-Based Contract Administrators (PBCA) staff should follow existing guidance in Sections 2-8 and 2-9 of the Section 8 Renewal Policy to process the short-term renewals. In accordance with Section 2-8 C.2. of the same policy, the property file and Integrated Real Estate Management System (iREMS) should be documented with the reason (Emergency Declaration for COVID-19) for the short-term renewal.

**\*EXCEPTION:** For an expiring Full Mark-to-Market renewal contract, an RCS is not required for a subsequent renewal if the required Mark-to-Market Use Agreement is in place. Therefore, no short-term renewal is needed under these circumstances, and a Full Mark-to-Market renewal contract with an appropriate term should be used.

(Added on 4/14/20)

### *Policy and Operations*

#### *Financial Audits, Income Recertifications, and Utility Analyses*

**Q7: A multifamily owner's financial statements are complete, but their auditor is not comfortable coming into their office to conduct the audit. Can they get an extension?**

A: To provide relief for multifamily property owners, HUD has extended the audited financial reporting deadlines until April 30. All entities required to submit financial information on or before April 30, 2020 are now required to submit their financial information no later than 120 days after the end of the fiscal year of the reporting period, and as otherwise provided by law. This waiver does not apply to the submission requirements for financial information that was delinquent as of March 23, 2020.

The Office of Multifamily Housing Programs will continue to monitor the situation and may provide additional extensions as warranted.

(Updated on 3/24/20)

**Q8: Will impacted residents still have to complete annual recertification and interim certification for lost income?**

HUD statute and regulations require family income to be reviewed at least annually to determine the amount paid by the family for the assisted unit. Owners must continue to perform annual and interim recertifications, as requested by tenants, within the required timeframes and using current/anticipated data. Annual recertifications must not use previous year's income to determine rent and assistance, except in instances when using streamlined income determinations.

Considering the current COVID-19 emergency, there may be extenuating circumstances that impede owners and tenants from complying with interim and annual recertification

requirements. When the use of traditional procedures is not possible, the extenuating circumstance instructions provided in this document, HUD Handbook 4350.3, REV-1, and the TRACS MAT Guide should be used. HUD considers the CDC's recommendations for controlling the spread of the virus as well as shelter-in-place and similar orders as qualifying as an extenuating circumstance.

It is recommended the owner begin, and if possible, complete, the recertification actions within 90 days of being advised of the extenuating circumstance. When an extenuating circumstance is present, there is no change to the tenant's recertification anniversary date. The Total Tenant Payment/Tenant Rent and the assistance payment are effective retroactively to the recertification anniversary date.

#### Use of Tenant Self-Certifications for Interim and Annual Recertifications

HUD will allow assisted tenants that may have lost income due to COVID-19 to self-certify for annual or interim recertifications. Acceptable methods of verification of income for all recertifications, in order of acceptability, are provided in HUD Handbook 4350.3, paragraph 5-13, B and Appendix 3.

Family certification can be used if the information cannot be verified by another acceptable verification method. When family certification is used, owners must document the tenant file to explain why third-party verification was not available. During the COVID-19 National emergency, this certification can be provided to the owner by other means such as mail or email. The owner may consider collecting the original documents from the family at a later date.

#### Signatures

For owners or tenants impacted by the COVID-19 virus, HUD will allow alternate signatures (e.g. copies or images of signatures sent by email, fax, or other electronic means) as long as original, "wet" signatures are obtained at a later date. Forms that will require original, "wet" signatures to be obtained at a later date include, but are not limited to, form HUD-9887/9887-A ("Applicant's/Tenant's Consent to the Release of Information"), form HUD-50059 ("Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures"), lease agreements/addendums, family certifications of income (unemployment, zero income, etc.), and state lifetime sex offender forms.

#### Form HUD-9887/9887-A and Form HUD-50059

When a tenant's "wet" signature cannot be obtained on form HUD-9887/9887-A or on form HUD-50059, due to extenuating circumstances, the forms, and HUD Handbook 4350.3, REV-1, paragraph 5-21.C (for HUD-9887/9887-A) and paragraph 5-31.F (for HUD-50059), instruct the owner to document the tenant file with the reason for the delay and the specific plans to obtain the signature(s) as soon as possible. Please note that form HUD-9887/9887-A remains in effect for 15 months after signature.

#### Documentation for Certifications

Tenants experiencing extenuating circumstances due to the COVID-19 virus can provide the owner with documentation for the recertification by email or other electronic delivery at the owner's discretion. Documentation includes, but is not limited to, paystubs, (Social Security) SS/Supplemental Social Security (SSI)/State Supplemental Program (SSP) awards, bank statements, and public assistance documents. If electronic documentation is received by the owner, and original documents are required by HUD Handbook 4350.3, REV-1, the owner must collect the original documents from the tenant at a later date.

#### Tenant Rental Assistance Certification System (TRACS)

When an extenuating circumstance is present due to the COVID-19 virus, the owner must submit the Interim Recertification (IR) or Annual Recertification (AR) to the TRACS (via the Contract Administrator or directly to TRACS, as appropriate) using one of the following three (3) extenuating circumstances codes:

1 = Medical (medical staff have quarantined the tenant)

2 = Late annual certification due to accommodation or extenuating circumstances.

10 = Other

A correction certification to remove the extenuating circumstance code must be submitted to TRACS once the appropriate signature(s) is obtained on form HUD-50059.

Owners are reminded to maintain at least 90% of their certifications in an active status in TRACS to maintain subsidy payments. TRACS users experiencing technical issues can continue to submit requests through the system's [Help Desk](#).

*Please note that this guidance updates earlier guidance on interim and annual recertifications as published on 3/16/20 and 3/24/20.*

(Updated on 4/2/20)

#### **Q9: How can owners complete a Utility Analysis (UA) baseline when utility companies are not responding?**

A: For the lack of Utility Analysis (UA) data, owners may obtain the utility data from the tenants, which is currently permitted in HUD Notice H-2015-04. Tenants may submit this data via mail or email. Currently, owners use an adjustment factor for two years and do a full baseline analysis on the third year. As an alternative, in the event tenant data is unable to be obtained during the COVID-19 National Emergency, HUD will allow properties to use an adjustment factor for three years rather than two. For example, if a property did a full baseline analysis in 2017, and is due for a baseline analysis in 2020, the property can adjust using the adjustment factor for a third year in 2020 and perform a new full baseline analysis in 2021.

(Added on 4/14/20)



*Applications, Vacancies, and Move-ins*

**Q10: Some owners and agents have raised concerns about how to proceed with processing applications and the resulting move-in to units during the COVID-19 crisis. What is HUD's guidance regarding owners' accepting and processing new applications for move-in?**

A: HUD understands that the in-person interview is essential during the application process and allows the owner to verify the identity of the applicant. The need for social distancing makes this requirement problematic in the face of COVID-19. Owners and agents may choose to conduct the interviews remotely using available technology or barriers (e.g., windows) as may be recommended by the CDC to prevent transmission of the virus. Owners may accept electronic signatures on owner-adopted verification forms in order to perform both owner-adopted and HUD-required screening criteria as long as they obtain original, "wet" signatures on the verification forms at a later date.

(Added on 4/14/20)

**Q11: Does the guidance in these Q&As relating to the signing/submission of forms HUD-9887 and HUD-9887-A for recertifications and interim certifications apply to applicant verifications, and on how to conduct the physical move in/move outs.**

A: Yes, owners and agents may follow the guidelines in Question #8 in this section regarding the forms HUD-9887 and HUD-9887-A and providing documentation as it relates to the certification process for new residents. Regarding move-in inspections, owners and management agent staff must make decisions about performing move-in inspection based on guidance from their local or state jurisdiction and from the CDC and based on the circumstances existing at their particular property. HUD defers to owners and agents to determine the best course of action, accounting for the importance of ensuring the safety of the residents, staff and the property.

One option is for the owner/agent to inspect the unit separately from the new resident and electronically provide the move-in inspection signed by the owner/agent to the new resident. If a joint move-in inspection by the owner and new resident is not to be performed, owners should also document the condition of the vacant unit with photos prior to the new resident's move-in and accept an electronic copy of a move-in inspection form that has been signed by the new resident.

(Added on 4/14/20)

**Q12: Our utility provider indicated that it is not performing new service turn-ons. Can an owner/agent delay a move-in as a result?**

A: Yes. The unit must be ready for occupancy before a resident can occupy it. Therefore, the absence of utilities would render the unit unfit for occupancy.

(Added on 4/14/20)

**Q13: If an owner/agent is not able to interview and fill vacancies as a result of the COVID-19 National Emergency, will they be able to request vacancy claims to keep the property solvent?**

A: If the owner/agent is not able to interview and fill vacancies due to restrictions based on guidance from their local or state jurisdiction regarding COVID-19, then the owner should submit information to their HUD office documenting why the filling of any vacancies were considered infeasible. The HUD Office will review this information on a case-by-case basis and process requests for vacancy claims accordingly.

(Added on 4/14/20)

**Q14: Is HUD considering any changes to vacancy payment procedures given that move-in and move-outs may not be feasible right now?**

A: HUD regulations and Housing Assistance Payment (HAP) contracts allow for vacancy payments to be considered once a unit becomes decent, safe, and sanitary. At this time, HUD is not considering expanding the current vacancy payment procedures. Owners and agents should review the HAP contract to determine the property's vacancy payment provisions and to utilize guidance found in the *Special Claims Processing Guide – HSG-06-01* for processing of Special Claims, available at:

[https://www.hud.gov/program\\_offices/administration/hudclips/guidebooks/HSG-06-01](https://www.hud.gov/program_offices/administration/hudclips/guidebooks/HSG-06-01)

(Added 4/XX/20)

*Available Resources for Emergency Expenses and Debt Service*

**Q15: Is testing for the COVID-19 virus for property staff an eligible cost, and if so, under what source of funding? How about residents?**

A: No, these are not eligible costs.

(Added on 3/12/20)

**Q16: What emergency funds can owners and agents access for outbreak preparedness and response (including extra supplies, additional administrative hours, and staff overtime), and what kind of approval do housing providers need from HUD in order to access the funds?**

A: Multifamily property owners and agents can access property operating accounts for all reasonable and necessary COVID-19 related preparedness and response actions, including supplies, staff hours, and overtime. No advance HUD approval is required to access operating account funds.

To the extent that owner advances are required, owners should receive HUD approval in advance, especially if the owner expects repayment before the distribution of annual (or semi-annual) surplus cash. For those properties with reserve for replacement accounts and residual receipts accounts, funds should be accessed according to current policy in Handbook 4350.1, Chapter 4 (for reserve for replacement accounts) and Chapter 25 (for residual receipts), for eligible items. If the owner is seeking to use reserve for replacement and residual receipt funds for non-eligible uses, approval must be received from HUD field staff and Headquarters, as necessary, in advance.

(Updated on 3/16/20)

**Q17: May FHA-insured borrowers as well as Section 202 and 811 property owners access their reserve for replacement accounts to cover items not consistent with Handbook 4350.1 Chapter 4 guidance, such as mortgage payments for delinquent mortgages?**

A: Owners and agents may submit requests to HUD field staff for non-traditional uses of reserve for replacement accounts. Field staff will review such requests based on account balances and future needs, project needs, owner compliance and other criteria consistent with Chapter 4 of HB 4350.1. In addition, HUD field staff will need to see evidence of the loss of rental receipts.

(Added on 3/24/20)

**Q18: Are costs directly related to safety or preventative equipment for staff use in response to COVID-19, including maintenance staff, eligible costs of residual receipts funds for PBRA projects?**

Yes, costs directly related to the safety or preventative equipment for staff in response to COVID-19 are considered project expenses and are eligible costs with prior HUD approval.

(Updated on 4/2/20)

**Q19: Can property owners with FHA-insured mortgages with reserve for replacement accounts access those funds to pay debt service?**

A: Owners should request any reserve for replacement account releases from their Account Executive and local field office using the form HUD-9250. The request should include evidence of the causes of the cash shortfall and a promise to repay the funds to the reserve for replacement account. HUD field staff will expeditiously review such requests and consider the cash flow of the property, the amount in the reserve account, and the borrower's current compliance with HUD's business agreements.

(Added on 4/2/20)

*Staffing and Building Operations*

**Q20: Will HUD be making COVID-19 prevention training available for property management and resident services coordinator staff? Will HUD be providing technical assistance for housing providers and residents?**

A: HUD recommends that property managers and service coordinators avail themselves of all relevant training and supplies at the local, state, and federal level.

(Added on 3/12/20)

**Q21: Maintenance employees who need to enter resident units for service calls are concerned that residents may be ill with COVID-19. Can they ask tenants if they have COVID-19 symptoms before entering a unit? Can non-essential repairs be postponed?**

A: Maintenance employees and other staff can ask a resident if it is safe to enter a unit before entering. Owner/management staff who do not feel safe should not enter a tenant's unit.

Residents suspected of having an unreported illness should be referred to a medical provider and/or local health officials.

The deferral of non-essential or non-health and safety repairs should be made on a unit-by-unit basis. If the repair is necessary for health and safety of residents and the staff person is not comfortable entering the unit as a result of a potential COVID-19 exposure, owner/management should consult local health guidance regarding the appropriate pre-cautions to take.

(Added on 3/24/20)

**Q22: What if property owners or managing agents either close rental offices or only offer limited hours/access? Would these actions result in any penalty?**

A: Owners and agents should make decisions on limiting access to their rental offices on a case-by-case basis based on guidance from their local or state jurisdiction and the particular circumstances at their property. HUD defers to them to determine the best course of action, accounting for the importance of ensuring the safety of residents, staff, and the property.

(Added on 3/24/20)

**Q23: Can HUD provide guidance on who is an "essential" employee in states/localities that have strict stay-at-home or shelter-in-place requirements for all persons not deemed "essential"?**

A: Quarantine and travel restrictions are being set by state and local governments, with many variations and daily revisions. Many of these rules provide exceptions for staff supporting operations at residential properties. On March 28, 2020, the Department of Homeland Security Cybersecurity & Infrastructure Security Agency (CISA) published an [Advisory Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response](#). State, local, tribal, and territorial governments are responsible for implementing and executing response activities, including decisions about access and reentry in their communities. Therefore, HUD recommends that building owners consult with their local counsel to determine whether building employees are considered “essential.”

(Added on 4/2/20)

**Q24: What is HUD’s protocol for properties that are currently undergoing major rehabilitation work? Should HUD order the owner to withhold all work until further notice?**

A: The decision as to whether work should proceed should be made by the project owner and agent, taking into account the safety of the construction workers, residents, staff, as well as guidance from state and local officials pertaining COVID-19.

(Added on 4/14/20)

**Q25: How should owners and agents handle in-person meetings, such as tenant meetings, in light of safety concerns arising from COVID-19?**

A: The health and safety of residents, owners, agents, and staff is paramount. Owners/agents considering in-person meetings should follow the latest CDC, state, or local health department guidance relative to holding public meetings.

(Added on 4/14/20)

**Q26: May service coordinators work remotely during the COVID-19 emergency?**

A: HUD encourages property owners and service coordinators to exercise all safety precautions to protect both residents and staff. If service coordinators can work remotely, while still meeting resident needs, that precaution is acceptable.

(Added on 4/14/20)

**Q27: May owners or agents of properties with service coordinators lay off the service coordinator to conserve property operating funds?**

A: If the service coordinator's salary is funded by a grant or the project budget, the service coordinator must continue to function for the proportionate period of time commensurate with the funding of their salary. For example, if the service coordinator grant pays for 75% of their

time, the owner and agent must ensure that they continue to perform and be paid for 75% of their function. If their position is funded for 100% of their time, then the owner/agent must ensure that they continue to work in a full-time capacity. Additionally, service coordinator funds cannot be used for operating funds without prior HUD approval. HUD urges owners and agents to continue supporting these positions and their functions to support the needs of the residents.

(Added on 4/14/20)

**Q28. Can I ban or restrict visitors to my HUD-assisted property?**

A: Owners and agents may have the authority to restrict visitors from HUD-assisted Multifamily housing properties and should review state and local laws to determine the permissibility of banning visitors. If an owner or agent plans to implement a visitor restriction or ban through amended policies or house rules, HUD recommends it be done as part of a broader, publicly announced plan to respond to the COVID-19 National Emergency. Owners should consider that residents will still need to receive essential services, such as food deliveries, medications, and personal care assistants (PCAs). Restrictions should track with CDC guidance and recommendations from state or local health officials. Owners are also reminded that they must continue to adhere to Fair Housing Act requirements in implementation of such restrictions.

(Added on 4/14/20)

## **Recapitalization and Rental Assistance Demonstration**

### *Property Reviews and Inspections*

**Q1: Will HUD relax its RAD Capital Needs Assessment inspection requirements for RAD conversions?**

A: The Capital Needs Assessments are a core part of the RAD review process, as they are used to establish a basis on which to project the property's 20-year capital needs. As such, unless constructed within the past ten years, all properties will require a complete inspection in compliance with the MAP Guide. For properties built within the last ten years, HUD may approve the inspection of only vacant or model units. The Office of Recapitalization will extend milestones and deadlines on a case-by-case basis if the capital needs inspection cannot be completed at this time due to COVID-19. Recap is also considering other approaches to avoid delays caused by inspectors having more limited access to sites at this time.

(Updated on 4/2/20)

### *Policy and Operations*

**Q2: Public Housing Authorities (PHAs) and their development teams are currently implementing renovations and tenant moves to facilitate construction. How should property owners reconcile the construction schedule with COVID-19 concerns?**

A: PHAs and their Rental Assistance Demonstration (RAD) development partners should consider the health and well-being of the residents and the public as the first priority and use CDC guidance and guidance from state and local health officials. In doing so, RAD development teams should consider the impact of their renovation activities on the potential to exacerbate or mitigate exposure to the virus, particularly among vulnerable populations. Every construction project is different - in the vulnerability of the residents, the extent of tenant relocation, the extent of construction, the timing of construction and the deadlines created by natural conditions or financing sources. In all cases, development teams should follow the instructions of applicable governmental authorities (such as a government-issued shelter-in-place or similar order).

(Added on 4/2/20)

**Q3: How will HUD handle delays in the completion of construction required by the RAD Conversion Commitment (RCC), including increases in costs, modification of resident relocation? How will it approve periods for rehab assistance payments?**

A: HUD will approve extensions to the rehab period and rehab assistance payments. Such requests can be made through the RAD Resource Desk. Note that the RAD construction deadlines do not supersede other parties' requirements, so development teams should also consult with their lenders, investors, and other stakeholders as applicable when modifying the construction schedule. Increases in costs should be reflected on the sources and uses log on the RAD Resource Desk. HUD encourages PHAs to maintain routine communication with residents whose length of relocation may be impacted and to alert HUD if relocation plans change such that resident relocation will exceed 12 months.

(Added on 4/2/20)

**Q4: Where can a PHA or owner find guidance regarding PBRA or PBV program requirements that customarily involve in-person meetings?**

A: Guidance is available and will be continually updated [at www.hud.gov/coronavirus](http://www.hud.gov/coronavirus). Guidance for PBRA can be found within this FAQ document ("FAQ for Multifamily Housing Providers"). For PBV, please see "FAQs for Public Housing, Housing Choice Voucher, Project-based Voucher Program, and Native American Programs."

(Added on 4/2/20)

**Q5: How should PHAs communicate with residents about the RAD conversion process, respond to resident questions, and solicit feedback when in-person resident meetings are not possible due to the recent COVID-19 outbreak?**

**A:** The health and safety of residents, PHA and Owner staff, and other program partners is paramount. PHAs that continue with public meetings should follow the latest CDC, state, or local health department guidance relative to holding public meetings. However, it is still critical for PHAs and owners to keep residents informed about any changes to their housing, their rights, and the timing of key events related to the conversion and for residents to have the opportunity to provide comments as required at different stages of a RAD conversion.

Required resident meetings. The RAD Notice requires PHAs and owners to hold resident meetings and to receive and provide response to comments during those meetings. In lieu of community meetings held in common areas, PHAs and owners may hold meetings remotely using videoconferencing or teleconferencing technology provided that they can:

- Accept and respond to answers to questions submitted during the meeting;
- Maintain an attendance log in order to track if residents are able to participate successfully;
- Accommodate the needs of persons with disabilities or with limited English proficiency (LEP) through the meeting format. In selecting the host technology, PHAs must ensure they can comply with Section 504 of the Americans with Disability Act; and
- Provide residents with a follow-up notice after the meeting with a summary or reproduction of presented information and a means to ask additional questions related to the conversion.

In selecting among alternative meeting methodologies, PHAs and owners should be attentive to the nature of technology which residents are likely to have in their homes. When submitting their Financing Plan or Conversion Plan and (for public housing conversions) their RAD application, PHAs and owners must provide the date(s) of any remote resident meetings and a record of the responses (written or oral, or in subsequent actions) to resident comments on the proposed conversion and scope of work that were received in connection with such meetings. HUD may request follow-up measures on a case-by-case basis.

Effectively communicating during this period may take more time than previously and PHAs and owners may determine that additional meetings are necessary in order to ensure that you are reaching all residents. Please keep your RAD point of contact updated in the event that an extension to existing deadlines is needed.

Ongoing resident engagement. Beyond the required resident meeting and comment period, HUD recommends that PHAs and owners develop an alternative communication plan that is sustainable for at least 8 weeks or more and that achieves the goals of providing residents relevant information about the RAD conversion, particularly more complex transactions with significant construction and/or relocation. PHAs may develop a process that includes various



forms of alternative communication methods so that all residents can receive information and participate in the process regardless of their individual circumstances. Below are some suggested methods by which to share information with residents:

- ✓ Set up teleconference calls in the place of in-person meetings, ensuring that residents have enough prior notice and receive clear directions (particularly those with limited technological access/abilities).
- ✓ Provide flyers/notices to residents at each unit with updates about how information can be obtained regarding the RAD process.
- ✓ Post notices in common areas of the property.
- ✓ Provide letter updates in resident mailboxes.
- ✓ Provide text and/or email updates to residents.
- ✓ Share a sign-up sheet with residents to meet 1-on-1 with office staff or by phone.
- ✓ Create online materials (video or other) available to all residents.
- ✓ Create and distribute a survey for residents to gather information about their questions, experience, and preferences.
- ✓ Ensure that all residents have contact information (phone and email) for PHA staff should they have questions.

(Added on 4/2/20)

## **Multifamily Production**

### *Site Inspections and Appraisals*

#### **Q1: Will MFH Production relax its site visit requirements for third parties and lenders?**

A: If a third-party capital needs inspector cannot physically inspect the required sample of units due to COVID-19 concerns, the Regional Production Director may waive the sampling requirements in favor of inspecting only vacant and model units on a case-by-case basis for recently built insured properties (within 10 years of submission) or non-insured properties built within the past five years. All other properties will require a complete inspection prior to issuance of the firm commitment.

(Updated on 4/2/20)

#### **Q2: What if the lender is unable to visit the site to verify the inspection report's findings?**

If the lender's travel is restricted (thereby limiting the lender from inspecting the site), the capital needs inspection report may be accepted for underwriting purposes on the condition that the lender inspects the property prior to the issuance of the insurance commitment. Therefore, to the extent that a lender is not able to physically inspect the property due to COVID-19 concerns, the conclusions of the report must be included without modification as part of the application.

HUD's appraisers and market analysts, as necessary, must inspect the property and subject comparables in accordance with Multifamily Accelerated Processing (MAP) requirements to insure a credible valuation conclusion.

(Added on 3/13/20)

**Q3: Will MFH Production relax its site visit requirements for FHA lenders performing lease audits?**

A: Yes. Lenders may perform lease audits electronically if the information is available and verifiable.

(Added on 3/13/20)

**Q4: Given current travel restrictions, must appraisers conduct both an on-site visit and unit inspections to complete the appraisal report?**

A: HUD requires that lender or third-party appraisers inspect the property and the subject comparables in accordance with MAP Guide requirements to insure the credibility of the resulting valuation conclusion. To the extent that the contracted appraiser cannot physically inspect the site, the appraiser should contract with a local, appropriately credentialed appraiser to perform the site inspection in his/her stead. In this situation, the report must identify the appraiser conducting the site visit, their credentials, and a certification regarding the limit of their inspection, if any.

When appraisers are unable to inspect units on-site due to COVID-19 concerns, they should consider the following options:

- Conduct inspections of vacant units. If vacant units are the only ones inspected, the appraiser should make an extraordinary assumption that the sample units viewed are representative of all the units. The inspector should provide a detailed review of the differences between these units and the others considered for the valuation.
- Use of construction drawings and other available documentation to supplement their physical inspections
- Use of information from CoStar or other reporting services and other available documentation to supplement their physical inspections.
- Note any previous inspections, if applicable.

Any/all sources of information used for valuation purposes must be documented, and multiple sources of information on interior site conditions are preferable to enhance the reliability and credibility of the valuation, in lieu of an actual physical inspection.

Appraisers and lenders should contact the HUD field office that will be processing the application for additional guidance.

(Updated on 4/2/20)

*Policy and Operations*

*Construction Administration*

**Q5: What impact does the COVID-19 emergency have on owner-architect agreements, owner-general contractor (GC) agreements and similar contracts associated with FHA insured loans?**

A: There is no impact on the validity or enforceability of contracts among parties to a HUD insured loan and any associated construction except insofar as any provisions that the contracts may provide in the event of emergencies. HUD cannot change any provision of existing agreements or alter the mutual obligations of any of the parties. In the present COVID-19 emergency situation, each party must endeavor to perform its obligations under these existing agreements, and if unable to do so, they must follow all contract notice and hold harmless provisions. Communication between the parties, and with HUD, is important as is the need for all parties to mitigate adverse consequences to health and property.

(Added on 4/2/20)

**Q6: What should owners, general contractors and subcontractors do if the State or local government issues a shelter-in-place or similar order that prevents essential workers and materials reaching the job or a stop-work order that forces cessation of work as a result of COVID-19?**

A: All parties to the transaction and construction should stay engaged and provide regular updates to the lender and to HUD. If a job site is shut down, the general contractor (or in the absence of the general contractor, the owner) must ensure that the site is properly secured and that all completed work and stored materials are protected. If limited work continues, workplace safety procedures and CDC advisories for “social distancing” should be observed.

(Added on 4/2/20)

**Q7: What happens to Surety Bond coverage and Builder’s Risk insurance during a work shut-down or slow-down caused by the COVID-19 emergency?**

A: Owners, general contractors, and lenders should proactively assure that Surety Bonds and Builder’s Risk insurance policies will remain in place and will not be impaired by any job slow-down, temporary cessation of work, or any failure to report or communicate emergency conditions or consequences.

(Added on 4/2/20)

**Q8: Since the COVID-19 emergency likely will cause numerous delays, if not complete cessation of construction work, how should work progress be managed?**

A: HUD requests that general contractors, owners and supervising architects report construction work status on a monthly basis in connection with their monthly requests for reimbursement of costs and associated inspection trip report. Unlike the typical process where change orders are submitted on a more frequent basis, during the current emergency, requests for change orders for time extensions should be documented to identify delays resulting from the COVID-19 emergency, and single, time-extension change orders should be submitted on a monthly basis.

While HUD does not normally allow time extensions of Repair Escrows for projects under Sections 223[f] and 223[a][7], it will consider amending the Repair Escrow Agreement in those cases where owners and lenders have documented COVID-19 related delays. Owners/lenders should use a change order request for time extension to report delays due to COVID-19 and request extensions. Such requests must be submitted in the first report period following the delay.

(Added on 4/2/20)

**Q9: For new construction or substantial rehabilitation jobs, will requests for reimbursement of the cost of work completed be approved even if the supervising architect and/or the HUD Inspector are not able to conduct an onsite inspection?**

A: Yes. In most cases, reimbursement requests for work completed in the prior period will be approved even when either the supervising architect or the HUD inspector, or both, are unable to conduct an on-site inspection of the property due to the COVID-19 emergency. HUD will accept the supervising architect's verification of the work completed based on a recorded virtual inspection and virtual site meeting if the supervising architect and/or the HUD inspector are not able to be present onsite.

Enabling virtual inspections and site meetings will require extra initiative and coordination among the supervising architect, HUD Inspector, general contractor and owner's representative. Notwithstanding this additional flexibility, the contractual responsibility and liability for checking the work and signing off on the reimbursement request remains with the supervising architect. Normally, both the architect and the HUD Inspector must sign a draw request, but HUD will approve a draw without the HUD Inspector's signature as a one-time event, provided any work claimed but later disallowed by the HUD Inspector will be subtracted from the draw request for the following month. The general contractor will bear full responsibility for any costs and delays caused by any reconstruction work required to correct errors in work that is later disallowed.

HUD's working assumption is that if neither the supervising architect nor the HUD Inspector can inspect the completed work, the most likely cause is that the construction site has been shut

down. In the event of a site shutdown, the parties should endeavor to arrange a virtual inspection as soon as possible in order to establish and verify the extent and amount of work completed but not yet paid.

(Added on 4/2/20)

**Q10: If a construction job is shut down as a result of the COVID-19 emergency, but the owner and/or the general contractor have ongoing soft costs or general requirements, will they be reimbursed for these?**

A: Yes. Again, monthly job reports and requests for reimbursements should continue even if little or no work has been completed. Of course, owners and general contractors should proactively mitigate or reduce such costs whenever possible. Question #8 in this section further describes change order requests for time related to COVID-19. Owners will be expected to fund change orders that increase costs.

(Added on 4/2/20)

**Q11: Will HUD reduce or eliminate the requirements for job site inspections by HUD inspectors during the COVID-19 emergency?**

A: No. HUD will not reduce or eliminate its general requirements for job site inspections by HUD Inspectors. However, as noted in the answer to Question #9 in this section, HUD will accept the signature of the supervising architect alone as sufficient for draw requests when the HUD Inspector is unable to sign the request. HUD will only allow this flexibility for a single month, or for rehab loans that do not have monthly inspections, for a single reporting period. Additionally, the signature of the HUD Inspector is still required for the last or final request for disbursement.

HUD will accept recorded virtual inspections if and when the parties are able use this option.

(Added on 4/2/20)

**Q12: What about Section 223(f) and 223(a)(7) Repair Escrows? Will HUD waive inspection requirements? What if tenant units are involved?**

A: The construction supervision and inspection requirements for Repair Escrows vary by the substance and cost of the repairs and alterations. Regardless, owners currently obligated to complete repairs that require entry to tenant units should delay beginning any such new work. In addition, owners with any current work-in-progress in tenant units should bring it to a prompt conclusion, even if it is not fully completed. They should ensure that they do not leave unfinished work that inhibits tenants' full and safe use of their units, and communicate to tenants that remaining work, if any, will be completed when feasible to do so based on state and local guidance and guidance from the CDC.

The MAP Guide organizes varied supervision and inspection requirements for repairs and alterations based on the level and extent of these activities as follows:

- 1) *Routine Maintenance* (e.g. repairs and replacements of limited extent and cost, no accessibility deficiencies unless they can be easily verified by photography, e.g. accessibility signage)-the owner can self-certify that the work is complete.
- 2) *Repairs and alterations that are accessibility remedies*- A supervising architect or HUD Construction Inspector will be assigned, and a single inspection after completion of all remedies will be sufficient barring a re-inspection for work not found to be acceptable on the initial inspection.
- 3) *Repairs and Level 1 alterations up to \$15,000/unit with no accessibility repairs* -HUD Construction Inspector may be assigned at HUD discretion and if not, then owner may self-certify. If a HUD inspector has been assigned to a job in this category but is thereafter unable to sign a disbursement request, then the owner may self-certify each request other than the last or final.
- 4) *Repairs and Alterations requiring a Project Architect, i.e. >\$15k per unit or Level 2 or Level 3 alterations*- HUD Construction Inspector and Supervising Architect must be assigned with the architect's signature needed for each request for reimbursement and the HUD Construction Inspector normally required to complete at least three inspections. If the HUD Inspector is not able to sign a disbursement request following any but the last required inspection, the signature of the supervising architect alone will be accepted. If the supervising architect is unable to sign a single disbursement request (other than the final) then the owner may self-certify for that one request.

In the case of numbers 3 and 4 above, there are normally three HUD inspections during the work. These inspections occur at construction completion intervals measured in thirds. When a supervising architect is engaged, the architect typically inspects and signs disbursement requests on a monthly basis with the HUD Inspector participating every third or fourth month. In all cases a documented, i.e., a recorded, virtual inspection will be acceptable.

(Added on 4/2/20)

**Q13: If an owner has assurance of completion funds or a surplus cash hold-back held in escrow pending completion of repairs and alterations and such completion is delayed due to the COVID 19 emergency, will HUD release or reduce these escrows?**

A: In cases where HUD inspection is needed but is delayed indefinitely by the COVID-19 emergency, HUD will consider release of surplus cash held back pending completion of repairs, provided that available evidence is sufficient to establish that all repairs and alterations have been satisfactorily completed. However, HUD will not release the assurance of completion funds until all required HUD inspections are completed.

(Added on 4/2/20)

*Loan Endorsement***Q14: Is MFH Production delaying endorsing loans that involve in-place rehabilitation and/or tenant relocation, as well as loans to properties that are located in areas have mandated shelter-in-place orders?**

A: HUD may temporarily pause initial endorsement of new construction and /or substantial rehabilitation loans that involve either tenant in-place rehabilitation and/or tenant relocation, as well as endorsement of loans for properties that are located in areas that have mandated shelter-in-place orders.

There have been multiple instances where construction/rehabilitation has been significantly delayed or completely stopped due to either an inability to enter units to conduct repairs, or unavailability of construction staff due to state or local restrictions. HUD will issue a firm commitment and grant appropriate extensions until work can be resumed such that the loan may be closed and construction can be completed without unnecessary delay. For projects that have time sensitive restrictions or contractual obligations (e.g. delivery of Low Income Housing Tax Credits) that will expire if endorsement is delayed, HUD will close the loan on condition that mitigants are in place to offset unplanned construction delays.

(Updated on 4/2/20)

**Q15: What accommodations can be made if a project cannot obtain a Certificates of Occupancy to achieve Final Endorsement?**

A: HUD will not make accommodations for obtaining a Certificate of Occupancy from the municipality and meeting all other requirements to obtain a signed form HUD 92485, "Permission To Occupy Project Mortgages," as preconditions to Final Endorsement. If a Certificate of Occupancy is not issued by the municipality, the building must remain vacant, and the general contractor retains responsibility for its maintenance. In such cases, Final Endorsement will be delayed until the Certificate of Occupancy and form HUD 92485 are issued.

(Added on 4/14/20)

*Section 223(f) Applications***Q16: Has HUD provided any additional underwriting guidance for 223(f) transactions as a result of the economic impact of the COVID-19 National Emergency?**

A: Yes. HUD provided guidance in [Mortgagee Letter 2020-11, dated April 10, 2020](#), which provides clarification and instructions to HUD staff describing additional mitigants that may be

included in the Firm Commitment for Section 223(f) loans that are in processing, as well as for those projects for which a Firm Commitment has been issued.

(Added on 4/14/20)

**Q17: For 223(f) transactions that were recently submitted and in the early stages of HUD review, is there an option to “pause” the process, including the normal stale dates of the reports and exhibits?**

No. Outside of HUD’s use of the ‘stop the clock’ option to respond to deficiencies, there is no mechanism to pause the process. There can be no assurance that previously submitted due diligence reports will remain acceptable. If a lender is uncertain as to the market, then the appropriate response is to delay submission of the application. The alternative is to incorporate mitigants to offset the impact of current market challenges. The lender may also choose to withdraw the application and resubmit at a later date with updated reports, as further discussed in Question #17 in this section.

(Added on 4/14/20)

**Q18: For 223(f) transactions that were recently submitted and at the early stages of HUD review, is there an option to withdraw the application to receive a full refund of the application fee?**

If a lender is uncertain as to the market, then the appropriate response is to delay submission of the application. Should an unforeseeable event occur at the time of submission of the application (plant/office closings in the market directly impacting the project) which would void or alter the underwriting conclusions, then any refund would depend upon the time that HUD spent in review. The application fee is earned at time of submission, per requirements in the MAP Guide.

(Added on 4/14/20)

## **Environmental Review**

### *General MFH*

**Q1: Will MFH allow any additional flexibility, specifically around requirements for on-site surveys or testing related to asbestos, lead-based paint, and radon considering the COVID-19 emergency?**



*A: Production:* For MF FHA-insured lending, in situations where interior access to the subject property is limited, and the asbestos surveys, lead-based paint hazard evaluations, and/or radon testing cannot be completed prior to application submittal, MFH Production will allow lenders to submit applications without these reports. However, MFH Production will require these reports before issuing a Firm Commitment. For new construction and substantial rehabilitation properties where asbestos clearance sampling, lead clearance examinations, or radon testing takes place after construction, all mitigation reports, including follow-up sampling, examinations, or testing, must be submitted to HUD staff at the final completion inspection, before occupancy.

*Recapitalization:* For RAD conversions, MFH Recapitalization (Recap) is developing instructions for the completion of asbestos surveys, lead-based paint surveys, and/or radon testing in situations where COVID-19 considerations impact site visits. Recap is also developing instructions regarding Section 106 consultation in light of the closure of some State Historic Preservation (SHPO) and Tribal Historic Preservation (THPO) offices. However, MFH Recap will require these reports before issuing a RAD Conversion Commitment. These instructions will be available in a future Q&A supplement.

(Added on 4/2/20)

### *Multifamily Production*

#### **Q2: Will MFH Production relax its site visit requirements for FHA site inspections as part of the environmental review process?**

A: HUD currently requires a site inspection for all environmental reviews. Each Regional Production Director can waive this requirement on a case-by-case basis for currently insured or non-insured applications (for refinance or new construction) for which an environmental report has been submitted in HEROS with no significant issues. Examples of significant issues include but are not limited to Underground Storage Tanks (UST); site contamination, onsite or adjacent floodplain or floodways, above-ground tanks within the acceptable separation distance, and noise levels greater than 65db that would require mitigation.

If a property meets the criteria for a significant issue, HUD will continue processing the application without a site visit, but must have a HUD site inspection prior to the issuance of the firm commitment. In the event that a property is not able to be accessed for a prolonged period due to COVID-19 concerns, HUD may consider alternatives to site inspections on a case-by-case basis.

(Updated on 4/2/20)

**Q3: Will MFH Production allow any additional flexibility for compliance with the requirements for site reviews for Phase I ASTM Environment Site Assessments considering the COVID-19 emergency?**

A: Yes, HUD will provide some flexibility as outlined below, depending on the type of assessment.

Interior assessments: For Phase I Environmental Site Assessments (ESAs) performed on projects where the preparer is unable to access the interior of the building due to COVID-19, HUD will permit an exterior only inspection provided the ESA is conducted in accordance with ASTM E1527-13 (or most recent version) and the ESA preparer has another adequate means of viewing the interior (e.g. an onsite rep live streams a facility walk-through.)

Exterior assessments: If traveling to the site is not practicable (e.g. due to governmental restrictions on travel or shelter in place/quarantine orders), HUD will accept the ESA without a visit to the site for projects proposed for Section 223(f) refinancing or acquisition as long as the site is considered low risk based on current and historical uses. Sites with past, current or adjacent uses that include but are not limited to underground storage tanks, contaminated soil or groundwater, dumps, solid or hazardous waste landfills, brownfields or superfund sites require an in-person site visit by the ESA preparer.

ESA reports without a physical site visit must:

- Explain the reason why a site visit did not take place,
- Meet the ASTM E1527-13 standard (or most recent version), and
- Include adequate means of viewing the interior and exterior (e.g. an onsite rep could live stream a walk-through of the facility and grounds, send photos and video of the site and grounds.)

For all new construction and substantial rehabilitation projects, and 223(f)s that do not meet the low risk criteria, the ESA preparer must conduct an in-person site visit. However, HUD will accept a draft ESA report that includes all information except the physical site visit (the preparer must view the interior and exterior by other means) for purposes of submitting the pre-application or application. The final ESA with the site visit must be submitted before HUD will issue a Firm commitment.

(Updated on 4/14/20)

**Continuity of MFH Operations with Staff Working Remotely***General MFH*

**Q1: In the event of HUD office closures and/or staff working remotely, how will MFH handle “in person” meetings?**

A: All meetings that cannot be held in person will be held via conference call. If a meeting must be held in person, contact the field Branch Chief or Director to discuss options.

(Added on 3/13/20)

**Q2: In the event of HUD office closures and/or staff working remotely, what will be the process for subsidy contract renewals and funding actions?**

A: Multifamily field and headquarters staff will process subsidy contract renewals and related funding actions remotely. Contract renewals and funding actions should still be submitted electronically via the local or Regional office email box, with a copy to the assigned Account Executive/Resolution Specialist, the Funding Specialist, and Branch Chief. Hard copies should still be submitted to the field office.

(Updated on 3/16/20)

**Q3: Will MFH allow electronic signatures on its documents?**

A: Production: For FHA insured transactions, please see the section on *Office of General Counsel-MFH Closings* below for specific information.

Asset Management: Electronic signatures are allowed for all subsidy administration, including contract renewals, rent schedules, and HAP Assignments, and all other Multifamily Housing submissions. State and local law determines the requirements for leases and 50059s.

Recapitalization: For RAD and other real estate transactions, the recorded documents typically have “wet” signatures that are notarized. The HUD closing attorney will have to advise if electronic signatures are acceptable in the recording offices in their jurisdictions. Documents that will not be recorded may be signed electronically.

For all transactions, electronic signatures must conform to applicable federal, state, and local requirements.

(Added on 3/24/20)

*Recapitalization and Rental Assistance Demonstration*

**Q4: How will Rental Assistance Demonstration (RAD) transactions be processed?**

A: Applications, requests for concept calls, financing plan submissions, submissions of closing documents, and many other processes under the RAD program are already conducted on-line. We will continue to receive and review these materials and communicate with project

teams by e-mail and phone. There is no change from current practice and teleworking employees will still be able to process submissions and requests.

(Added on 3/13/20)

**Q5: Will HUD office closures impact RAD closings?**

A: Office of Recapitalization closing coordinators and Office of General Counsel field counsel will continue to perform their standard duties. HUD anticipates arranging for execution and notarization of documents that need to be recorded in public records and distribution to escrow agents, subject to compliance with applicable governmental orders and the availability of overnight courier services. It is possible that there may be fewer signing dates per month as HUD works through logistical constraints. HUD is also aware that some recorders' offices around the country have closed. HUD will work with the transaction teams to maximize the ability of transactions to move forward consistent with applicable conditions. Documents that do not require notarization will be distributed electronically.

(Updated on 4/2/20)

*Multifamily Production*

**Q6: In the event of office closures, how will concept meetings be handled?**

A: Continue to submit your electronic requests and packages as usual, and concept meetings will be handled remotely.

(Added on 3/13/20)

**Q7: In the event of office closures, how will MFH Production handle the submission of applications since typically HUD requires an original and two hard copies of the application along with a physical thumb drive for certain types of projects?**

A: HUD will permit applications and related documents to be submitted electronically, using a secure cloud storage service, as determined by the lender, instead of hard copies. HUD will arrange for architectural plans and specifications to be sent to the processing construction analyst identified at the concept meeting to be reviewed remotely.

(Updated on 3/16/20)

**Q8: Will office closures affect HUD's underwriting and issuance of firm commitments?**

A: No. HUD staff are equipped to perform underwriting functions and all other duties remotely; therefore, HUD does not anticipate a significant issue or delay in processing loans.

(Added on 3/13/20)

**Q9: In the event of office closures, how will HUD conduct MFH Production loan closings?**

A: MFH Production is coordinating with HUD OGC to ensure continuity of closings in the event of office closures. Certain reviews that are routinely performed electronically, and closings that are routinely conducted by mail, such as Section 223(f) and 233(a)(7) loans, will continue in the same manner.

OGC and MFH Production are working to expand the ability to conduct other types of reviews and closings, including for Section 221(d)(4) and other NC/SR programs, either electronically or by mail to the extent practicable. Additional guidance will be forthcoming as soon as it is available. Please see the additional information included in the section on OGC-MFH Loan Closings below.

(Added on 3/13/20)

**Q10: In the event of office closures or staff on telework, how will HUD conduct construction administration?**

A: Monthly draws, trip reports and change orders are routinely completed electronically; however, a site visit is required by the owner, architect and construction inspector (CI) to review progress and approve monthly draws. If the owner or architect can only attend remotely, exceptions can be made on condition that the CI is present. Should the CI be unable to attend, then the draw will need to be postponed. While HUD does not anticipate that the timeline for CI inspections to occur will extend past 60 calendar days, situations presented by prolonged unavailability of the principal participants should be raised with the Regional Production Director.

(Added on 3/13/20)

**Q11: In the event of office closures or staff on telework, how will HUD handle cost certification/ Final Endorsement?**

A: HUD anticipates no disruptions in the performance of these functions as they are routinely conducted electronically.

(Added on 3/13/20)

*Office of General Counsel- MFH Closings*

**Q12: What is the Office of General Counsel (OGC) doing in response to the current COVID-19 Coronavirus outbreak and President's declaration of a national emergency?**

A: While the Department of Housing and Urban Development and its offices remain open for business at this time, many employees, including closing attorneys are now engaged in full-time telework. OGC, in collaboration with Multifamily and the Office of Healthcare Programs has established protocols, rules, and procedures to best ensure continuity of operations in the event of an extended closure of a specific division, regional or field office, or the determination that OGC in its entirety should work remotely. Q&A's on these protocols, which were initially published on March 24, 2020, have been moved into a stand-alone document located at: [https://www.hud.gov/sites/dfiles/Housing/documents/MF\\_COVID-19\\_QA\\_Production\\_OGC\\_Closing.pdf](https://www.hud.gov/sites/dfiles/Housing/documents/MF_COVID-19_QA_Production_OGC_Closing.pdf)

Additionally, to ease the transition to an electronic review process, OGC has developed a series of "Best Practices" for electronic transmission, available for your closing attorney. This document can be found online at: [https://www.hud.gov/sites/dfiles/Housing/documents/Best Practices for electronic submission for MF Closings during COVID-19 pandemic.pdf](https://www.hud.gov/sites/dfiles/Housing/documents/Best_Practices_for_electronic_submission_for_MF_Closings_during_COVID-19_pandemic.pdf).

(Updated on 4/14/20)