



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

### [Coronavirus \(COVID-19\)](#)

Last Updated: October 14, 2020, 10:00 a.m., ET

*This document is intended to provide guidance and clarification of HUD's policies, and does not have the force and effect of law except when based on statutory, regulatory, or other legally binding authority.*

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<sup>1</sup> Office of Multifamily Housing Stakeholders include residents; 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.

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

Owners and agents are encouraged to follow the updated [Centers for Disease Control and Prevention \(CDC\) guidelines for multifamily housing](#), any directions given by local health officials for emergency preparedness, and [Chapter 38 of Handbook 4350.1](#), Emergency and Disaster Guidance. Another useful resource is the [Capacity-Building Toolkit for including Aging & Disability Networks in Emergency Planning](#) for Aging and Disabled communities from the U.S. Department of Health and Human Services Office of the Assistant Secretary for Preparedness and Response: <https://www.naccho.org/uploads/downloadable-resources/Capacity-Building-Toolkit-for-Aging-and-Disability-Networks-2-5-19.pdf>.

(Added on 10/14/20)

### *Resident Health*

#### **Q3: What guidance is available to assist property owners and agents in preventing the spread of the coronavirus in multifamily properties and in the event of a confirmed COVID-19 case at a HUD-assisted property?**

A: Owners and agents should generally follow updated [CDC guidelines for multifamily housing](#) and directions given by local health officials for emergency preparedness and response to COVID-19 pandemic.

If a resident has a confirmed case of COVID-19, HUD suggests that owners and agents immediately notify the [local health department](#) and communicate with staff, residents, volunteers, and visitors about potential COVID-19 exposure, while maintaining the confidentiality of the sick person as required by the Americans With Disabilities Act, Fair Housing Act and Health Insurance Portability and Accountability Act, as applicable (see Question #4 about messaging below). Local health officials will help determine the appropriate course of action for risk assessment and public health management in the facility or community.

Owners and agents are encouraged to provide residents with confirmed or suspected COVID-19 cases with information on [how to care for themselves](#) and [when to seek medical attention](#). Any residents with [COVID-19 symptoms](#), and any other members of these households, should be encouraged to self-isolate and to limit their use of shared spaces on the property. Residents with confirmed or suspected COVID-19 cases that take reasonable precautions not to spread the disease should not be evicted on the ground that they may pose a health and safety threat to other residents. Individuals who might have COVID-19 are advised to self-isolate except to get medical care (see the CDC's guidance on [What to Do If You Are Sick](#)).

(Updated on 10/14/20)

**Q4: How should a HUD-assisted property owner/agent message to residents, staff, volunteers, and visitors when there is a positive COVID-19 case among their community?**

A: Residents are not required to notify administrators if they have or may have a positive case of COVID-19. However, if you do receive information of a positive case, in coordination with [local health officials](#), communicate the possible COVID-19 exposure to all residents and workers, volunteers, and visitors. This can be done by placing signage in common areas and entrances/exits and by letter to all residents, delivered to their doors. Messages should attempt to counter potential [stigma and discrimination](#). Residents could be advised to inform their recent personal visitors of potential exposure.

Owners and agents must maintain confidentiality as required by the Americans with Disabilities Act (ADA) and the Privacy Act. Owners and agents may provide notification of positive COVID-19 cases, but they **must** ensure the notification **does not disclose** any names, apartment numbers, and other personally identifiable information to residents, workers, volunteers, and visitors. Owners and agents should also consult local and state health and privacy laws before making any disclosure. CDC COVID-19 [printable materials](#) for community-based settings are available on the CDC website.

(Updated on 5/21/20)

**Q5: Are owners or agents of properties receiving project-based Section 8, Section 202, or Section 811 assistance allowed to require COVID-19 testing for new and existing tenants at the property? Can they also require that testing results be shared with the owner or agents?**

A: There is no regulatory or statutory basis under the Section 8, 202, or 811 programs for an owner or agent to require tenants to take a health or medical test and disclose results as a condition of tenancy. If an owner or agent believes there is a basis in state or local law to require testing and disclosure, their counsel should provide the local HUD Multifamily Office with the legal authority. Owners and agents can encourage, but not require, tenants to get testing and disclose the results. However, tenant testing cannot be classified as a project expense.

(Added on 7/31/20)

**Q6: Are owners or agents of properties receiving project-based Section 8, Section 202, or Section 811 assistance allowed to require tenants to wear face coverings while at the assisted property and/or treat a tenant's failure to wear a face covering as a lease violation?**

A: Owners and agents may amend their lease terms and/or house rules in accordance with state and local law and HUD requirements (see chapter 6 of HUD Handbook 4350.3 for guidance on lease amendments and house rules) and [Notice H12-22](#). Section 6-9.B.1.a of the Handbook states that house rules should be "within the bounds of common sense, [...and] not excessive or extreme." Notice H 2012-22 states that owners and agents must notify existing tenants, who have completed their initial lease terms, of modifications to the House Rules 30 days prior to implementation. Tenants who have not yet completed their initial lease terms must be notified 60 days prior to the end of their lease terms.

House rules pertaining to face coverings must be reasonable and consistent with state and local law and directives from public health officials. Changes to house rules may be sent to the local Multifamily Office or Performance-Based Contract Administrator (PBCA) for review. While neither HUD nor the PBCA approves house rules, they can advise if any rules violate HUD statutory, regulatory, or programmatic requirements. Failure to comply with face covering requirements may be treated as a lease violation only if house rules are reasonable and consistent with state and local law and directives, and if the house rules are identified in the lease as an attachment to the lease agreement.

(Added on 7/31/20)

**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 department](#) 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 website](#).

(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>

- *Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools and Homes*, which was jointly developed with the U.S. Environmental Protection Agency:  
<https://www.epa.gov/coronavirus/guidance-cleaning-and-disinfecting-public-spaces-workplaces-businesses-schools-and-homes>
- *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 5/21/20)

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

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

(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 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)

**Q15: Can properties provide on-site flu shots and COVID-19 testing?**

A: Temporary use of property common areas, parking lots, and vacant offices by providers of healthcare services to provide flu shots and/or COVID-19 testing to residents is allowable. The services must not affect property operating costs beyond budgeted and approved supportive services funds. Owners and agents should ensure that their testing site has a [Clinical Laboratory Improvement Amendments \(CLIA\) certificate of waiver](#) or is covered by another

facility's CLIA certificate. Owners and agents are encouraged to consult with their legal counsel before hosting healthcare services on site.

(Added on 10/14/20)

**Q16: What resources are available to address food insecurity concerns for residents of HUD-assisted Multifamily properties during the National Emergency?**

A: HUD encourages tenants, property owners and agents to explore all local, state, and federal resources to assist residents with access to food, especially vulnerable residents living in HUD assisted housing. A list of potential sources can be found on the HUDExchange at <https://www.hudexchange.info/resource/6026/food-resources-for-residents-of-multifamily-properties/>. A key resource to connect older adults and their caregivers to meals and other community-based services is the U.S. Administration on Aging's Eldercare Locator at 800-677-1116 or [eldercare.acl.gov](http://eldercare.acl.gov). In addition, the Eldercare Locator can help people with disabilities find their local Aging and Disability Resource Center. People with disabilities can also locate their local Center for Independent Living at <https://www.ilru.org/projects/cil-net/cil-center-and-association-directory>. Households who recently experienced a loss of income or who have a very low income can check with their state human services agency about food benefits under the USDA Food and Nutrition Service's Supplemental Nutrition Assistance Program (SNAP). Households with children who previously received free or reduced-cost school meals should contact their school, school district, or state education department about food benefits for children. HUD also has a site where households can find nearby food pantries based on their location: <https://www.hud.gov/findshelter/foodpantries>

(Added on 5/1/20)

*Broadband Internet Access*

**Q17: Are internet services an allowable expense for properties receiving HUD project-based rental assistance?**

A: HUD encourages property owners and agents to make their properties internet-ready, including through participation in the [Neighborhood Networks](#) Program. Similar to telephone service, broadband or internet fees for individual units may not be included in tenant rent charges or utility allowances for properties receiving project-based rental assistance; however, low-income tenants may be eligible for low-cost internet services. Interested owners and tenants should contact local internet service providers or visit <https://connecthomeusa.org/> for more information.

(Added on 5/21/20)



*Applicability of Existing Emergency and Disaster Guidance***Q18: 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)

**Q19: 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)

**Q20: 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)

**Q21: 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***Q22: 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: Are Small Business Administration Paycheck Protection Program (SBA PPP) loans subject to the normal HUD subordinate financing rules, including requiring payments from surplus cash?**

A: HUD is reviewing its subordinate financing requirements for compatibility with the SBA PPP program and has given Multifamily field staff guidance to approve SBA PPP loans without limiting repayment to surplus cash for borrowers with market rate properties. However, repayments must come first from available surplus cash, if any, before drawing on other funds to repay the loan.

(Added on 5/1/20)

**Q3: Did the CARES Act provide additional funding to Multifamily Housing programs?**

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)

**Q4: 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)

*Household Stimulus Payments and Unemployment Compensation*

**Q5: Are household payments under the CARES Act reportable as tenant income?**

A: The Economic Impact Payment (which is technically an advance payment of a tax credit that may be claimed on a 2020 tax return) provided by the CARES Act is not to be included in calculations of tenant income.

(Updated on 7/31/20)

**Q6: The CARES Act identifies different types of unemployment compensation. Can HUD clarify which payments are to be included in tenant income calculations for HUD assisted Multifamily housing?**

A: The CARES Act contains the following three types of unemployment compensation:

- Section 2102: Pandemic Unemployment Assistance (PUA). This is an unemployment benefit for individuals who are self-employed, seeking part-time employment, or whom otherwise would not qualify for regular unemployment insurance (UI). HUD has determined that PUA benefits must be included as annual income.
- Section 2104: Federal Pandemic Unemployment Compensation (FPUC) program. This program provides eligible individuals who are collecting certain UI benefits, including regular unemployment compensation to receive an additional \$600 in federal benefits per week for weeks of unemployment ending on or before July 31, 2020. HUD has

determined that FPUC benefits meet the definition of temporary income and must NOT be included in annual income.

- Section 2107: Pandemic Emergency Unemployment Compensation (PEUC) program. This program provides an extension to regular unemployment insurance benefits for eligible individuals, allowing them to receive up to 13 weeks of additional benefits (this extends UI from 26 weeks to 39 weeks in total). HUD has determined that PEUC benefits must be included in annual income.

HUD also notes that regular payments of unemployment insurance (issued by the state) are treated as annual income according to existing HUD policy.

(Added on 7/31/20)

### *Implementation of Forbearance Provisions under the [CARES Act](#)*

#### **Q7: 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)

#### **Q8: 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)

**Q9: Does HUD have a standard form Forbearance Agreement?**

A: [Mortgagee Letter \(ML\) 2020-09, dated April 10, 2020](#), provides guidelines to assist all FHA Approved Multifamily Mortgagees in developing forbearance agreements.

(Added on 5/1/20)

**Q10: How will HUD communicate the time when [Mortgagee Letter \(ML\) 2020-09](#) no longer applies?**

A: The Mortgagee Letter will remain in effect until HUD issues a formal rescission. HUD will publish this rescission on its website and notify stakeholder groups.

(Added on 5/1/20)

**Q11: Is a construction loan eligible for CARES Act forbearance?**

A: If a project with a Section 221(d)(4) Insurance of Advance construction/rehabilitation loan has not been issued a Certificate of Occupancy, or final Certificate of Occupancy if the project includes multiple buildings, HUD considers it to be “temporary financing” in the context of the CARES Act, and therefore specifically precluded from CARES Act forbearance.

(Added on 5/1/20)

**Q12: Will a borrower taking a CARES Act forbearance on an existing FHA-insured loan result in HUD creating a flag in its Active Partners Participation System (APPS) (Form HUD-2530) that limits the borrower’s ability to participate in a new FHA-insured transaction?**

A: Multifamily Housing’s guidance to field staff is that borrowers with delinquent and defaulted loans (i.e., loans that miss a payment) are eligible for a 2530 flag. During the CARES Act forbearance period, HUD does not consider the eligible loans to be delinquent or in default provided that the forbearance occurs prior to the borrower missing a payment. However, if the borrower fails to repay the forbearance amount or otherwise defaults under the forbearance agreement, the field has discretion to place a flag on a property.

(Added on 5/1/20)

**Q13: If an FHA-insured borrower has available Initial Operating Deficit (IOD), Working Capital (W/C) escrows, or an Operating Deficit Escrow (ODE), can the lender require the borrower to use these resources prior to forbearance?**

A: This is not a CARES Act requirement. The CARES Act provides that lenders must grant forbearance to eligible multifamily borrowers upon oral or written request.

(Added on 5/1/20)

**Q14: Should FHA lenders file loans that are currently under forbearance as delinquent in the Multifamily Delinquency and Default Reporting (MDDR) System?**

A: **CARES Act Forbearance:** During the CARES Act forbearance period, HUD does not consider the eligible FHA-insured multifamily borrower to be delinquent or in default. While HUD views loans subject to the CARES Act forbearance to be current during the forbearance period, for MDDR reporting purposes, lenders have the option to request an extension of the election to assign. Multifamily Housing may also grant extensions on filing the notices of default in MDDR until the CARES Act forbearance period expires. Consistent with the guidance provided in [ML 2020-09](#), HUD asks that lenders submit executed and implemented forbearance agreements to the HUD Multifamily field office with property oversight. For extended forbearance, prior HUD approval is required as referenced in [Notice H 20-07](#).

**Extended Forbearance or Repayment Post-CARES Act:** Pursuant to ML 2020-09, lenders should report the loan as delinquent or in default in MDDR after the CARES Act forbearance period ends if the multifamily borrower does not immediately make the loan current, including when the loan is subject to a forbearance and/or repayment agreement extending beyond the expiration of the CARES Act forbearance period. Lenders are advised to follow MDDR reporting guidelines at the time of such default. Lenders must inform HUD if the loan is subject to an extended forbearance and/or repayment agreement and should request an extension to assign the loan to HUD in order to permit the borrower to perform under extended forbearance and/or repayment agreements.

Notwithstanding the above, lenders should use MDDR to record delinquencies and defaults if there is a default under the Loan Documents not related to nonpayment.

(Added 10/14/20)

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

#### **Q15: 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)

#### **Q16: Are owners with FHA-insured mortgages under forbearance required to cease evictions for non-payment of rent and any related late fees or penalties?**

A: Under the CARES Act, owners are eligible for up to 90 days of forbearance. During this time, owners or agents cannot require a tenant to vacate, issue a notice to vacate (or evict), or charge tenants late fees or penalties due to late or missed rent payments while under forbearance. Additionally, [Notice H 20-7](#) extends these prohibitions to any new, extended, or amended forbearance arrangements due to COVID so long as the borrower is under forbearance. The Notice also requires owners receiving extended forbearance to inform all residents of the prohibition against eviction solely for non-payment of rent. See [ML 2020-09](#) and Notice H-20-7 for more information on these and other requirements related to forbearance.

(Added 7/31/20)

**Q17: 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)

**Q18: 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)

**Q19: 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)

**Q20: Can an owner or agent still evict a perpetrator of domestic violence or criminal activity, or for 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. Protections under the Violence Against Women Reauthorization Act of 2013 (VAWA) remain in effect, and owners/agents should consult [Notice H17-05](#) for more information about the housing rights of victims of domestic violence, dating violence, sexual assault, and stalking under VAWA.

(Updated on 5/1/20)

**Q21: 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)

**Q22: Can an owner or agent of a multifamily property covered by the CARES Act carry forward late fees and related charges that were initiated prior to enactment of the CARES Act? Can these owners or agents add additional fees, or assign new fees or charges for delinquent rent, and wait to bill those fees after the end of the relevant eviction moratorium?**

A: An owner or agent of a multifamily property covered by the CARES Act may only charge fees and penalties during the eviction moratorium if the charge is wholly unrelated to a tenant's nonpayment of rent. However, during the eviction moratorium, the CARES Act prohibits an owner or agent from filing for possession of a unit for nonpayment of any rent, fee, or charge. This holds true regardless of the date the fee or charge was initially assessed.



While the CARES Act is silent on what an owner or agent can charge after the eviction moratorium ends, HUD's interpretation of this provision is that fees and charges that could not be assessed during the eviction moratorium should not accrue and should not be charged after the moratorium ends; however, rents not paid during the moratorium, as well as fees assessed prior to the eviction moratorium, which took effect on March 27, 2020, may be collected.

(Added on 5/21/20)

**Q23: How can I find if my property is a HUD Assisted or FHA-insured Multifamily property covered by CARES Act eviction moratorium?**

A: You can find maps with information for each of these properties at the following links:

- HUD Multifamily Assisted Properties: <https://hudgis-hud.opendata.arcgis.com/datasets/multifamily-properties-assisted>
- FHA-insured Multifamily Properties: <https://hudgis-hud.opendata.arcgis.com/datasets/hud-insured-multifamily-properties>

(Added on 5/21/20)

## **Centers for Disease Control and Prevention (CDC) Eviction Moratorium Order**

*The guidance in this section supplements the [HHS/CDC TEMPORARY HALT IN RESIDENTIAL EVICTIONS TO PREVENT THE FURTHER SPREAD OF COVID-19](#) guidance. Please see this document for further information.*

### *Applicability*

**Q1: Does the CDC eviction moratorium automatically apply to, and protect, all HUD-assisted residents?**

A: The [CDC's Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 Notice and Order \(the Order\)](#) imposes a temporary halt in residential evictions to prevent the further spread of COVID-19 between September 4, 2020 through December 31, 2020. The Order applies to all tenants, lessees, or residents of residential property in the country who are subject to eviction for nonpayment of rent and who sign and submit the a [declaration](#), as described in the Order, under penalty of perjury.

The Order only applies in states (including the District of Columbia), localities, territories, or tribal areas that do not have a moratorium on residential evictions in place that provides the same or greater level of public-health protection than the CDC's Order. The Order does not apply in American Samoa, which has reported no cases of COVID-19, until such time as cases are reported.

The Order applies to all Office of Multifamily Housing assisted housing programs, including Project Based Section 8, Section 202, Section 811, and multifamily properties with FHA

mortgage insurance. Under the Order, HUD-assisted residents must sign and submit a declaration to become a “[covered person](#)” and receive the Order’s protection. The signed declaration must be submitted to the owner or management agent of the residential property where they live or to another person who has a right to have them evicted or removed from where they live. A resident cannot be required to complete the declaration. However, without the declaration, residents are not protected from eviction under the Order. This means that until the declaration is signed and submitted to the owner or agent, the CDC eviction protection is not in place.

This Order is separate from the now expired eviction moratorium in Section 4024 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the active eviction moratorium related to forbearance required under Section 4023 of the Act, and any other eviction moratoriums afforded to federally insured or guaranteed loans.

(Added 10/14/20)

**Q2: Do owners or agents have to notify residents of the CDC Order and declaration?**

A: While the Order does not mandate resident notification, HUD strongly encourages owners and agents to notify their residents that the CDC eviction moratorium is in place and that execution of the declaration referenced in the Order is necessary to be covered by the CDC order. HUD strongly recommends that owners and agents who are notifying residents of termination while the Order remains in effect document that they have informed the resident of the protections available to them under this Order.

Owners and agents should also review their state or local laws, as some may have different notification requirements regarding the moratorium and providing the Declaration to tenants.

(Added 10/14/20)

**Q3: Can residents who are “covered persons” be evicted for reasons other than not paying full rent?**

A: Covered persons may still be evicted for reasons other than not paying full rent or making a full housing payment. The Order does not prevent covered persons from being evicted for:

- (1) engaging in criminal activity while on the premises;
- (2) threatening the health or safety of other residents;
- (3) damaging or posing an immediate and significant risk of damage to property;
- (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
- (5) violating any other contractual obligation of a tenant’s lease, other than the timely payment of rent or similar housing-related payment (including nonpayment or late payment of any fees, penalties, or interest).

(Added 10/14/20)

**Q4: During the CDC eviction moratorium, do covered persons still owe rent to their landlords?**

A: Yes. Covered person still owe rent to their landlords. The Order halts residential evictions only temporarily. Covered persons still must fulfill their obligation to pay rent and follow all other terms of their lease and rules of the place where they live. Covered persons must use best efforts to make timely partial payments that are as close to the full payment as their individual circumstances permit, considering other nondiscretionary expenses. When the Order expires, consistent with the applicable landlord-tenant or real-property laws, a covered person will owe their landlord any unpaid rent and any fees, penalties, or interest as a result of their failure to pay rent or make a housing payment on a timely basis during the period of the Order.

The CDC eviction moratorium differs from the CARES Act eviction moratorium in this regard: fees for nonpayment of rent from March 27, 2020 – July 24, 2020 could not be charged. The prohibition on charging fees or related penalties for late or nonpayment of rent continues to apply to properties in forbearance pursuant to Section 4023 of the CARES Act.

HUD encourages owners and agents to consider entering into repayment agreements for all outstanding payments with residents facing financial difficulties during the COVID-19 National Emergency.

(Added 10/14/20)

### *Resident Declaration*

#### **Q5: How does a HUD-assisted resident use this protection?**

A: A resident must provide and completed and signed [declaration](#) to their landlord, owner, agent, or other person who has a right to have them evicted or removed from where they live. The declaration may be signed and transmitted either electronically or by hard copy. Each adult listed on the lease, rental agreement, or housing contract should complete the declaration. In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the residence to provide an executed declaration on behalf of other adult residents party to the lease, rental agreement, or housing contract at issue. If possible, HUD recommends residents send the signed declaration using a method that provides them a time-stamped receipt, such as via email, and that residents keep a copy of the signed declaration for their records.

(Added 10/14/20)

#### **Q6: Has the CDC provided a declaration form that eligible individuals can complete and submit to their owners or agents?**

A: The CDC has issued a [declaration](#) form that is compliant with the Order. CDC recommends that eligible persons use this declaration form. The declaration form is available on the CDC website: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>.

Residents are not obligated to use the CDC form. Any written document that an eligible individual presents to their landlord will comply with the Order, as long as it contains the same information as the CDC declaration form.

All declarations, regardless of the form used, must be signed, and must include a statement that the covered person understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration.

In addition, residents are allowed to use a declaration translated into other languages. Even though declarations with other languages may satisfy the requirement that a covered person must submit a declaration, the CDC cannot guarantee that they in fact do satisfy the requirement. However, declarations in languages other than English are compliant if they contain the information required to be in a declaration, are signed, and include a statement that the covered person understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration. HUD has made translated versions of the declaration available on [its website](#).

(Added 10/14/20)

**Q7: The CDC Order requires residents to sign the declaration certifying that they have “used best efforts to obtain all available government assistance for rent or housing.” Since HUD-assisted residents are already receiving government assistance, what can HUD-assisted residents consider to certify to this requirement?**

A: HUD-assisted residents may consider the fact of their participation in a rental assistance program when determining whether they have made their best effort to obtain government assistance. Under the Order, it is the resident’s responsibility to certify to truthful information, as any false or misleading statements or omissions may result in criminal liability.

(Added 10/14/20)

**Q8: Is it the responsibility of the owner or agent to verify the truthfulness of the certifications related to the CDC Order?**

A: Owners and agents are not required to verify the certifications in the [declaration](#). The Order states that residents must make a certification to the truthfulness of the information provided in the declaration under the penalty of perjury.

(Added 10/14/20)

**Q9: If an owner or agent initiated an eviction for nonpayment of rent before the effective date of the CDC Order but has not completed the eviction, does the CDC Order apply?**

A: Yes. Any evictions for nonpayment of rent that were initiated prior to September 4, 2020, but have yet to be completed, are subject to the Order. Any resident who qualifies as a “covered person” and is still present in a rental unit is entitled to protections under the Order. Any eviction that occurred prior to September 4, 2020 is not subject to the Order.

(Added 10/14/20)

## **Asset Management**

### *Property Reviews, Inspections, and Rent Comparability Studies*

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

A: In a memorandum dated August 10, 2020, the Real Estate Assessment Center (REAC) announced HUD's intent to resume physical inspections on or about Monday, October 5, 2020. This required providing the required 14-day notification period beginning in late September. HUD will prioritize states and localities where inspections are likely to begin, based on the latest COVID-19 public health data from Johns Hopkins University and health risk scoring methodology from the Harvard Global Health Institute. REAC has developed a guide that categorizes states and localities into four risk categories:

- (1) Low Risk: Green
- (2) Moderately Low Risk: Yellow
- (3) Moderately High Risk: Orange
- (4) High Risk: Red

HUD will prioritize those properties not assessed in the last three years and properties identified as high-risk. Beginning Friday, August 7, 2020, this guide and a list of counties categorized by risk level was [posted on our website](#) and is updated weekly or as additional information becomes available. Please read the August 10, 2020 memorandum entitled, "[Physical Inspection Return to Operations for Select HUD Properties](#)" for more detail and instruction.

(Updated 10/14 /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 will continue to review and approve or deny owner repair plans when all deficiencies cannot be corrected in 60 days. However, with the resumption of physical inspections on or about October 5, 2020, HUD will not approve any extensions where an owner/agent is having difficulty entering units. In these cases, owners receiving a Notice of Violation (NOV) and/or Notice of Default (NOD) based on a project's physical conditions must follow the corrective actions enumerated in the NOV/NOD within the time specified. At a minimum, the owner must conduct a 100% survey of the property and submit their survey report to HUD. The NOV/NOD

may require the correction of all physical deficiencies by a specified date or that the owner submit a repair plan for HUD's review and approval.

At the completion of all repairs, the owner must submit a certification to HUD that all corrections have been made and that the project is in compliance with all of HUD's requirements, including HUD's physical condition standards of 24 CFR § 5.703. During any REAC inspection, or in conducting any required survey or repairs, owners should document any resident's refusal of access and cite the reason(s). This documentation should be provided with any surveys or certifications submitted to HUD.

Further, HUD regulations require that all Exigent Health and Safety (EH&S) deficiencies be corrected immediately. Upon receipt of notice of EH&S deficiencies, the owner is required to submit a certification to HUD within three business days that all EH&S deficiencies have been corrected. This is required regardless of the REAC inspection score and/or whether or not the owner receives an NOV/NOD. If a resident refuses access to correct EH&S deficiencies, this should also be documented and submitted with the EH&S correction certification.

(Updated 10/14/20)

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

A: Effective May 22, 2020, HUD has [lifted the suspension of MORs performed by PBCAs, TCAs, and HUD staff](#) in locations where there are no restrictions by state or local law or ordinance to prevent them from performing these reviews. This supplemental guidance additionally establishes an alternative manner in which a MOR may be conducted.

- HUD will, **until December 31, 2020** (or such later date as HUD may determine), allow PBCAs, TCAs, and HUD staff to conduct on-site MORs, without entering resident units.
- For REAC follow-up, in determining whether Exigent Health & Safety (EH&S) and other deficiencies have been corrected, the PBCA/TCA/HUD staff must attempt follow-up on those affected units via contact directly with the resident by way of phone or email and document the results or attempt(s) made on the MOR report.
- A physical on-site visit to the property must still occur to document the physical conditions, general appearance, and security of the property, and the visit should include a visual assessment of each building, including the common areas, and the grounds of the property.
- An on-site, entrance/exit interview with the owner/agent should occur, except in instances where the owner/agent and PBCA agree to conduct these portions of the review remotely (via virtual meeting or, if sufficient internet is not available, by telephone). In instances where these interviews are conducted remotely, the method must be documented in the MOR Report.

- Tenant file reviews may be conducted remotely when owners/agents voluntarily create and transmit electronic tenant files to the PBCA in accordance with all requirements of Notice H 2020-4. Personally identifiable information (PII) must be encrypted or transmitted and stored in a secure manner to prevent its release. Violations of the Privacy Act may be subject to fines up to \$5,000. Owners/agents and reviewers must comply with EIV Data Sharing Agreements to prevent any prohibited use of or access to EIV records. PBCAs/TCAs/HUD staff must continue to conduct MORs in accordance with their approved workplans regardless of owners' willingness to provide electronic tenant files.

All other portions of the MOR, including the Desk Review and On-site Review, including the review of tenant files, must be completed in their entirety.

*Please note, this answer supersedes the initial guidance offered in earlier versions of this document on 3/13/20, 3/16/20, and 7/31/20.*

(Updated on 10/14/20)

**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: A Section 8 HAP owner's Rent Comparability Study (RCS) has triggered the need for a HUD third-party RCS. How will this be addressed?**

A: Performance Based Contract Administrators (PBCA) and HUD staff will continue to review owners' previously submitted RCSs pursuant to guidance in Chapter 9 of the [Section 8 Renewal Guide](#). If field staff is unable to procure third-party RCSs due to the COVID-19 pandemic, HUD will develop an alternative mechanism to respond to the owners' RCS submissions.

(Updated on 5/21/20)

**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 cannot 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)

**Q7: A Section 8 HAP owner/agent's Fifth year rent adjustment is coming up, at which time the property's rents would be adjusted up or down to align with the Rent Comparability Study (RCS) market rents. How should these rents be processed if the RCS cannot be obtained?**

A: Under Option One, Option Two, and Option Five contained in [HUD's Section 8 Renewal Policy Guidebook](#), if the contract is for a period greater than five years, the owner must submit a new RCS at the end of each five-year life cycle of the RCS. Rents for the next five years will be adjusted based on the approved RCS.

During the COVID-19 pandemic, HUD will continue to pay the current rent amounts after the fifth-year anniversary date. Owners will be required to obtain and submit RCSs as soon as emergency conditions allow. New rent amounts based on the approved RCS, with any adjustments by HUD, will be made retroactive to the fifth-year anniversary date.

(Added on 5/21/20)

### *Policy and Operations*

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

**Q8: 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 September 30, 2020](#). This waiver is limited to entities which are required to submit the referenced annual financial information on or before June 30, 2020. Projects with annual financial due dates after June 30, 2020, are still required to submit the financial information within 90 days of the of the owner's fiscal year end date. However,



extensions will be granted on a case-by-case basis through the REAC-FASS system for circumstances beyond the owner's control.

Note that this waiver does not apply to submissions of financial information that were delinquent as of March 20, 2020.

(Updated on 10/14/20)

**Q9: Will impacted residents still have to complete annual recertification and interim certification for lost income?**

A: Families residing in properties that participate in one of HUD's Office of Multifamily Housing assisted housing programs must have their income reviewed at least annually to determine the amount paid by the family for the assisted unit. Owners and agents must continue to perform annual and interim recertifications, as requested by tenants, within the required timeframes and using current/anticipated data.

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 [202D 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 extenuating circumstances.

Owners should begin, and if possible, complete the recertification actions within 90 days of being advised of an 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 certified during the interim recertification are effective retroactively to the first day of the month following the date the family's income changed.

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. When self-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. When obtaining documents by email, owners may consider utilizing guidance in [Notice H 20-4](#) when state and local laws permit, in obtaining electronic signatures and documents from tenants.

Acceptable methods of income verification for all recertifications, in order of acceptability, are provided in [HUD Handbook 4350.3, REV-1](#), paragraph 5-13, B and Appendix 3.

Signatures

[Notice H 20-4](#), issued on May 26, 2020, provides new guidance on the use of electronic signatures and the transmission and storage of electronic documents related to OAMPO's asset management, Section 8 contract renewal, and occupancy policies. Any such forms and documents that comply with HUD guidelines may be signed, transmitted, and stored electronically. HUD encourages industry partners to consult with legal counsel about applicable state and local laws regarding the use of electronic signatures. Please review Housing Notice H 20-4.

During the COVID-19 National Emergency, HUD will allow owners who prefer not to adopt the flexibility provided by Notice H 20-4 to continue to accept 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 within 90 days from the termination of national, state, or local orders restricting movement to essential activities, whichever comes later.

#### Documentation for Certifications

Tenants experiencing extenuating circumstances due to COVID-19 can provide the owner with documentation for the recertification. With the publication of [Notice H 20-4](#), tenants can provide this documentation by email or other electronic delivery at the owner's discretion when state and local laws permit.

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. Documents containing or conveying personally identifiable information (PII) must be encrypted or transmitted in a secure manner to safeguard this information. Refer to Housing Notice H20-4 for more information on transmitting documents containing PII.

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

When an extenuating circumstance is present due to COVID-19, 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 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, 3/24/20, and 4/2/20.*

(Updated on 7/31/20)

**Q10: If a tenant fails to notify an owner or agent of a decrease in income, can the decrease in the tenant's contribution ('tenant rent') be retroactive to when the decrease in income occurred?**

A: Following the instructions found in [HUD Handbook 4350.3, REV-1](#), paragraph 7-10, B, tenants may request an interim recertification due to any changes in family income that may affect their Total Tenant Payment (TTP) or tenant rent and assistance payment occurring since the last income recertification. Following a recertification, owners/agents must then retroactively apply any reduction in rent starting with the first day of the month after the date of the action that caused the decrease in income. For example, if a tenant lost their job on March 4, 2020, then the owner/agent would reflect this change in income starting with the first day of the following month, which would be April 1, 2020. See the policy in HUD Handbook 4350.3, REV-1, paragraph 7-11 for further information on owner/agent responsibilities when a tenant reports a decrease in income.

(Added on 7/31/20)

**Q11: Is hazard pay included in the calculation of a participant's income? E.g., if a family is reporting that it is receiving \$200 per month in additional hazard pay for agreeing to work during the pandemic, would this income be included in the family's income calculation?**

A: Hazard pay has historically been included in income calculation and is not broadly excludable under 24 CFR § 5.609. Owners and agents should consider whether the pay increase is temporary or recurring in determining whether it will trigger an income reexamination in accordance with [HUD Handbook 4350.3, REV-1 and](#) their written recertification policies.

(Added on 10/14/20)

**Q12: Can a resident who is unemployed or furloughed continue to receive an income deduction for childcare expenses?**

A: Yes, the resident can continue to receive a deduction for reasonable childcare expenses if the parent/guardian/caretaker continues to have childcare expenses. HUD regulations under 24 CFR 5.611(a) permit a deduction for unreimbursed childcare expense to enable a family member to seek employment, be employed, or further his/her education.

(Added on 5/1/20)

**Q13: 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 [Notice H 15-04](#). 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)

**Q14: For FHA-insured borrowers that have upcoming 10-year anniversaries from the date of final closing, will HUD delay the requirement for ordering a Project Capital Needs Assessments (PCNA) in light of the COVID-19 pandemic?**

A: Due to the COVID-19 pandemic, Multifamily Housing is allowing the postponement of regular 10-year PCNA updates (as outlined in Section 10.10 of the [MAP Guide](#)) until September 30, 2020, for properties with PCNA reports that are due between March 15 and September 30, 2020. This postponement will allow for additional time for the scheduling, conducting, and submitting of the 10-year PCNA.

(Added on 5/21/20)

**Q15: May Section 8 HAP owners and agents temporarily stop reducing their vouchers to offset Residual Receipts as a precaution against COVID-19 expenses?**

A: HUD will temporarily permit suspension of Residual Receipts Housing Assistance Payment (HAP) offsets, as outlined in [Notice H12-14](#) and [Handbook 4350.1](#) Chapter 25, section 10, in certain circumstances. All Project Rental Assistance Contracts (PRACs) may suspend offsets for Residual Receipts through December 31, 2020. Owners of properties receiving Section 8 HAP assistance payments must receive approval in advance to suspend offset payments. Asset Management Division Directors in the Multifamily Regional and Satellite Offices are authorized to suspend such offsets through December 31, 2020, for properties where COVID-19 expenses are anticipated to exceed available resources. After December 31, 2020, all properties must offset HAP vouchers for all Residual Receipts in excess of the minimum allowed retainable balance.

(Added on 5/21/20)

*Applications, Vacancies, and Move-ins*

**Q16: 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 pandemic. 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. State and local social distancing requirements may impact the ability to conduct an in-person interview. Owners and agents may choose to conduct the interviews remotely using available technology or appropriate social distancing barriers. Owners and agents may accept electronic signatures on owner-adopted verification forms in order to perform both owner-adopted and HUD-required screening criteria

in accordance with [Notice H 20-4](#). Owners and agents utilizing the provisions of this Notice must do so in accordance with applicable federal, state, and local laws.

(Updated on 7/31/20)

**Q17: 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 #9 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)

**Q18: 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)

**Q19: 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 Contract Administrator or HUD office, as appropriate, 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.

(Updated on 5/1/20)

**Q20: 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 4/14/20)

**Q21: When the sole tenant in a unit passes, and family members cannot, due to COVID-19 travel restrictions, promptly secure the resident's belongings, can the owner/agent continue to submit a voucher for the unit to allow the family extended time to collect the belongings?**

A: At this time, HUD is not extending subsidy payments past the earlier of 14 days after the date of the tenant's death or the date the unit was vacated. Owners and family of the deceased should follow Center for Disease Control (CDC) guidelines and the direction of local health officials when determining whether the possessions are safe to remove from the unit.

(Added on 5/1/20)

*Available Resources for Emergency Expenses and Debt Service*

**Q22: 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)

**Q23: 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)

**Q24: 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 Handbook 4350.1. In addition, HUD field staff will need to see evidence of the loss of rental receipts.

(Added on 3/24/20)

**Q25: 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?**

A: 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)

**Q26: 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)

**Q27: During the time of shelter-in-place orders, can project funds be used for direct services to residents, such as meals to those who are home-bound?**

A: No, in accordance with 24 CFR 880.601(e), direct services are not an eligible use of project funds.

(Added on 5/1/20)

**Q28: Is the purchase of masks an allowable use of project funds?**

A: Multifamily property owners and agents can access property operating accounts (which does not include any "new regulation" residual receipts or reserve for replacement accounts) for all

reasonable and necessary COVID-19 related preparedness and response actions, including supplies, staff hours, and overtime. Due to the extreme public health risk presented by COVID-19 during this national emergency, providing staff and residents access to protective gloves and masks, at the owners' discretion, is an allowable use of project funds.

(Added on 5/1/20)

### *Staffing and Building Operations*

**Q29: 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)

**Q30: 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 precautions to take.

(Added on 3/24/20)

**Q31: What if property owners or managing agents either close or only offer limited hours/access to rental offices and indoor common spaces (e.g., community rooms)? Would these actions result in any penalty?**

A: Owners and agents should make decisions on limiting access to their rental offices and indoor common spaces 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.

(Updated on 5/1/20)



**Q32: 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)

**Q33: 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)

**Q34: 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)

**Q35: 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)

**Q36: 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)

**Q37: 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: Capital Needs Assessments (CNAs) are a core part of the RAD review process, as they are used to establish a basis on which to estimate the property's 20-year capital needs. As such, the Office of Recapitalization will follow FHA Production's guidance on flexibility for CNAs found in Question #1 of the Multifamily Production section of this document.

(Updated on 7/31/20)

### *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)

**Q6: If a PHA/owner anticipates needing more time after a RAD closing to sign tenant leases, will HUD provide any flexibility around the timing of the effective date of the HAP contract as outlined in the Section 1.13.A of the [RAD Notice](#)?**

A: In order to provide PHAs and owners additional time to execute individual leases with tenants in light of social distancing measures, HUD will permit the HAP effective date to be the first day of the third full month after closing upon request (rather than the first day of either of the first two months following closing). For example, a closing that occurs on May 15<sup>th</sup> could elect a HAP effective date of June 1<sup>st</sup>, July 1<sup>st</sup>, or August 1<sup>st</sup>. This option will be available for any closing that occurs through March 31, 2021.

(Added on 10/14/20)

## **Multifamily Production**

### *Site Inspections and Appraisals*

**Q1: Will MFH Production relax its site visit requirements for third party Capital Needs Assessment (CNA) assessors and lenders?**

A: HUD will temporarily (until December 21, 2020 or until the COVID-19 National Emergency is lifted, whichever occurs first) permit lenders to submit a sampling of units that is less than what is prescribed by the [MAP Guide](#). At the time of property inspection, managers must provide the CNA assessors with a rent roll dated the day of the inspection in order to identify all vacant/down/model units, as well as any occupied units that residents have permitted entrance by the reviewer. The assessor should compare the list of available units to the MAP Guide sampling requirements identified in Appendix 5G.V.B.2 and determine the number of units that would not be inspected. To the extent that the units available for inspection do not meet the MAP

Guide minimum sampling requirements, then the following must occur for the lender to be able to submit the application:

1. At least one unit must be inspected per building.
2. At least one unit of each unit type (i.e., units with the same configuration) must be inspected.
3. Submission of maintenance, replacement, and capital improvement records from the property owner for the last three years, including a detailed “unit grid” identifying items replaced and dates of replacement.
4. When available, CNA reports prepared within five years of inspection should be used to supplement the current report. As-built drawings should be used to supplement findings when available.
5. If an accessibility/adaptability deficiency is identified in a specific unit, all units with an identical floor plan will be assumed to have a similar deficiency unless proven otherwise by a review of as-built plans and specifications or by conducting a virtual inspection.
6. Needs assessors should specifically identify intrusive inspection (i.e., an examination using standard diagnostic techniques, tools, and equipment) needs that were not met because of lack of access to a unit or required point of inspection. HUD should be consulted in advance to determine if it is acceptable to forego an intrusive inspection.

Notwithstanding the flexibilities described above, the CNA assessor may still recommend that a full physical inspection meeting the current unamended MAP Guide requirements be required based upon the age or condition of the property (e.g., considerable deferred maintenance).

Additionally, HUD may refuse to accept or cease processing an accepted application based on its assessment of the risk of unseen conditions given property age, REAC scores, management reports, tenant complaints, owner maintenance (or deferred maintenance), maintenance of the reserve for replacement account, or other relevant factors.

If the criteria above cannot be met for a CNA where the sampling size is less than that required by the MAP Guide, the needs assessor and lender must submit a justification that also offers an explanation for why the reduced sampling will not increase the risk to HUD. HUD reserves the right to require the assessor to inspect additional units or otherwise re-inspect the site prior to endorsement. Any critical or non-critical repairs identified as part of this additional inspection must be described in the CNA e-Tool and, if identified after HUD has issued the Firm Commitment, then the lender must describe them in a revised CNA in support of an amended Firm Commitment.

Please note that there is no change to previously issued inspection guidance in Appendix 5G of the [MAP Guide](#) requiring exterior building components and common areas.

(Updated on 10/14/20)

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

HUD requires that the Multifamily Accelerated Processing (MAP) underwriter responsible for underwriting the transaction to conduct the site visit, as this is key to the development of an underwriting conclusion by the lender. However, if the MAP underwriter cannot physically inspect the property for health or other reasons, alternatives exist to meet this requirement. Section [11.2.D of the MAP Guide](#) permits an analyst, underwriter trainee, or different MAP-approved underwriter acting under the direction of the underwriter (i.e., one that does not report to the originator) to perform the site and unit inspection. The underwriter or trainee who conducts the inspection must be identified in the narrative.

Similarly, other company or bank personnel with multifamily underwriting experience, familiar with the specific transaction, and acting under the direction of the MAP-approved underwriter may also conduct the site visit. The individual performing the inspection and their underwriting qualifications must be described in the lender's narrative.

HUD will not accept Originators conducting the site visit, nor will HUD solely rely on a virtual site inspection (although a virtual inspection may help to assess the condition of areas that were inaccessible during the site visit due to COVID-19 concerns). HUD will not accept an application without a lender-conducted site visit pursuant to this guidance.

(Updated 10/14/20)

**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)

**Q14: To get in front of potential supply chain disruptions with construction materials, some borrowers with FHA-insured mortgages may want to pre-purchase materials and store them on-site until they are ready to use. Can the lender waive the retainage on pre-purchased materials, even in the event of an identity-of-interest general contractor (GC)?**

A: HUD will consider waiving retainage on pre-purchased materials under certain circumstances. The contractor must submit justification for the storage of materials with no retainage, supported by the MAP lender. All pre-purchased materials must be properly stored in a secure location on the site and protected from weather. Additionally, all pre-purchased materials must be identified by original invoices from the manufacturer/supplier with an itemized cost. The owner's architect will need to inspect and certify acceptance of all delivered and stored items. All pre-purchased materials are expected to be installed no later than 90 days after date of delivery, and total pre-purchased materials are limited to an amount equal to 10% of the construction contract at any one time.

(Added on 5/1/20)

#### *Applications and Underwriting Requirements*

**Q15: 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)

**Q16: 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?**

A: 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 #18 in this section.

(Added on 4/14/20)

**Q17: 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?**

A: 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)

**Q18: For Section 223(f) market rate transactions, is the release of all Debt Service Reserves the later of (a) six (6) months and (b) three (3) consecutive months of program minimum Debt Service Coverage Ratio (DSCR)? Mortgagee Letter 2020-11, Section A, Paragraph (2) does not state when the escrow can be released.**

A: The release of the Debt Service Reserve is the later of six months, meeting the required program DSCR for three consecutive months, and completion of all non-critical repairs, if applicable.

(Added on 5/1/20)

**Q19: For Section 223(f) transactions, can HUD confirm that incomplete critical and non-critical repairs are subject to the repair escrow referenced in Mortgagee Letter 2020-11? Can these repairs be completed and verified prior to closing?**

A: Yes. HUD confirms that both critical repairs that were incomplete prior to closing and non-critical repairs are subject to the repair escrow; however, the borrower may choose to complete these repairs prior to closing. Upon verification by HUD, no repair escrow will be required.

(Added on 5/1/20)

**Q20: For Section 223(f) transactions, regarding the Cash Out Refinance Transactions section of Mortgagee Letter 2020-11, does this section mean that the cash out proceeds that would be withheld at endorsement (the 50% holdback) may be used to fund the required debt service reserve escrow?**

A: Yes. HUD will suspend the requirements of Section 8.11 of the MAP Guide requiring a hold back of 50% of cash-out proceeds for assurance of repair completion. Available cash may be used to fund all required escrows, with the remainder returned to the borrower (or its principals).

(Added on 5/1/20)

**Q21: Due to the COVID-19 National Emergency, if a lender is unable to obtain a capital needs inspector, can it delay the preparation of a Capital Needs Assessment for Section 223(a)(7) projects and submit applications to HUD to take advantage of historically low interest rates?**

A: During the COVID-19 National Emergency, HUD will temporarily permit the deferral of the submission of the capital needs assessment (CNA) for Section 223(a)(7) projects until the earlier of the following: when a capital needs assessment can be safely completed or one year after endorsement of the loan. The current reserve for replacement balance must be transferred in full at time of endorsement, and the lender must continue existing monthly payments into the reserve for replacement account until a CNA has been completed.

All distributions from surplus cash will be temporarily suspended from time of endorsement of the loan up to the submission, review and approval of the updated needs assessment. Once the CNA has been prepared, reviewed and approved by HUD, the borrower must first use surplus cash funds to offset repairs and/or to increase reserves. Depending on the financial analysis included as part of the CNA, the annual deposit to the reserve for replacement account may also be revised downward.

This flexibility to delay submission of the CNA is only available for projects with a REAC score of 80 or better. The lender must also certify in its narrative that to the best of the lender's knowledge, there are no physical needs that would otherwise exceed the repair limitations permitted by the Section 223(a)(7) program.

(Updated on 10/14/20)

*Loan Endorsement*

**Q22: 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)

**Q23: What accommodations can be made if a project cannot obtain a Certificate 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)

**Q24: Given the restrictions against gathering for in-person meetings, how can the signing requirement for the architectural plans and specifications be satisfied at endorsement?**

A: HUD will permit the development team to sign a letter-sized cover sheet in lieu of requiring signatures on the architectural plans and specifications. The cover sheet must include the following information:

1. Project name, FHA number, address, city, state, and zip code;
2. Signature line for each individual representative (project architect, supervisory architect, owner, contractor lender and the bonding agent) with the signer's printed name, title, and the date signed;
3. The title of the set of the plans and specifications that the cover sheet will be substituting. The required number of sets may vary for each Regional Office, but at minimum, there must be a set for the HUD Regional Office (Master), General Contractor (Field), HUD Inspector (Inspector), and the Lender. A separate cover sheet is required for each of the sets.
4. The coversheet must include the following certification language:

*"The undersigned acknowledges that the final plans and specs (date of the approved set) are approved and considered as part of the agreed-upon construction contract.*

*Further, by their signatures certify that the date identified below is the date of final revision for the plan set or the dates identified for individual sheets on an attached list of drawings."*

**Warning:** 18 U.S.C. 1001 provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any manner in the jurisdiction of any department or agency of the United States, shall be fined or imprisoned not more than five years or both.

The lender is responsible for preparing and circulating the coversheets and attaching the completed coversheets to each of the sets of the plans and specs to be delivered for closing and for delivering the assigned sets to the contractor, HUD Inspector, HUD office, and other involved parties.

The permission to use these replacement coversheets must be granted in writing by one of the following individuals: the HUD Regional Director, Production Director, or Technical Branch Chief.

(Added on 5/1/20)

## **Environmental Review**

### *General Multifamily Housing*

**Q1: How will Multifamily FHA deals and RAD conversions subject to an Environmental Review under Part 50, manage consultation under Section 106 for jurisdictions where these offices have temporarily closed?**

A: Certain State Historic Preservation Offices (SHPOs), Tribal Historic Preservation Offices (THPOs) and federally recognized tribes have indicated that they are unable to participate in the standard 30-day consultation period during an office closure. The National Conference of State Historic Preservation Offices maintains a database <https://www.achp.gov/coronavirus> with the operating status of each SHPO office and whether or not it can accept electronic submissions. There is no equivalent database for THPOs or for federally recognized tribes; therefore, federal agencies must reach out directly to assess their status.

According to the ACHP, the Section 106 deadlines for a SHPO and/or THPO response will be considered paused while an office is closed or work conditions are such that the SHPOs and/or THPOs are unable to carry out their Section 106 duties due to the COVID-19 outbreak. This pause would also apply to consultation with federally recognized tribes for projects that involve ground disturbance.

HUD will not issue a Firm Commitment (for FHA-insured loans), the RAD Conversion Commitment (RCC) (for public housing conversions), RAD Conversion Agreement (for Project Rental Assistance Contract (PRAC) conversions)), or RAD Approval Letter (for Section 8 Moderate Rehabilitation/Single Room Occupancy (Mod Rehab/SRO) conversions until it has met its obligations under Section 106.

HUD can generally accommodate a consultation process that requires more than 30 days. However, HUD will be monitoring this situation closely to minimize or avoid any adverse effect that office closures may have on applications. Please alert HUD if a project has an urgent time frame.



(Added on 5/21/20)

### *Multifamily Production*

**Q2: Will MFH Production 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: 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.

(Added on 4/2/20)

**Q3: 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)

**Q4: Will MFH Production allow any additional flexibility on physical 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 5/21/20)

### *Recapitalization and Rental Assistance Demonstration*

**Q5: For RAD conversions subject to an Environmental Review under 24 CFR Part 50 that require a Phase I Environmental Site Assessment (ESA), will HUD accept a report without a physical site inspection?**

A: If the environmental provider can access the site, but not the interior of buildings or units, HUD will accept an ESA with an exterior inspection only, if the ESA is in accordance with the ASTM E-1527-13 standard and the ESA preparer has another adequate means of viewing the interior. Acceptable alternative means include:

- Conducting phone interviews with facility staff in order to complete their typical inspection questionnaires. In this example, the physical inspection would be replaced by interior and exterior photos taken by management staff. A list of photo requirements

can be found [here](#). After the engineering firms receive and review the photos sent by the facility, a phone interview should be scheduled with facility staff to answer any questions that the engineer has about items in the photos and to complete their typical inspection questionnaires.

- Publicly available sources, including satellite photos, and drone video can be utilized as an additional resource to verify site specifics.

If traveling to the site is not feasible (e.g. due to governmental restrictions on travel or shelter in place/quarantine orders), HUD will accept the ESA without a physical site visit for projects already in HUD's portfolio, (i.e., not applicable to transfers of assistance) 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 are considered high-risk and will continue to require a physical 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).
- 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, or send photos and video of the site and grounds).

For projects that are new to HUD's portfolio through a transfer of assistance or that do not meet the low risk criteria, the ESA preparer must conduct a physical site visit. However, HUD will accept a draft ESA report with the Financing Plan or Conversion Plan that includes all information except the physical site visit as long as the preparer views the interior and exterior by other means. The final ESA with the site visit must be submitted before HUD will issue the RAD Conversion Commitment (RCC) (for public housing conversions), RAD Conversion Agreement (for Project Rental Assistance Contract (PRAC) conversions)), or RAD Approval Letter (for Section 8 Moderate Rehabilitation/Single Room Occupancy (Mod Rehab/SRO) conversions).

(Added on 5/21/20)

**Q6: For RAD conversions subject to an Environmental Review under Part 50, how should the PHA or owner conduct lead based paint (LBP), asbestos (ACM), and radon testing and reporting for the ESA if an environmental professional is unable to access dwelling units?**

A: The PHA or owner must take the following steps to conduct LBP, ACM, and radon testing if unable to access dwelling units:

- For any property built before 1978, an Operations & Maintenance (O&M) Plan will automatically be put into place for LBP and ACMs. The O&M Plan can be terminated if subsequent inspections with access to dwelling units determine it is not necessary.
- For properties requiring a lead based paint survey, asbestos survey, or radon testing, completion of the surveys/testing can be deferred until such time as the property can

be inspected, but must occur before HUD will issue the RCC (for public housing conversions), RAD Conversion Agreement (for PRAC conversions), or RAD Approval Letter (for Mod Rehab/SRO conversions).

- Recap will continue to hold Concept Calls for RAD public housing conversions and Kickoff Calls (After Conversion Plan Submission) for RAD multifamily conversions (PRAC/Mod Rehab/SRO) without testing being completed. If dwelling unit inspections have not occurred by the time of the Financing Plan, HUD will still accept and begin review of the Financing Plan, even with an incomplete ESA, as long as the Sources and Uses includes an “Environmental Contingency Fund” to cover potential abatement and/or mitigation measures:
  - **Lead Based Paint and Asbestos Contingency Fund:**
    - The Environmental Contingency Fund must include amounts to cover potential abatement and/or mitigation measures based on costs of such measures on comparable projects. The PHA must describe the approach it used to develop the Environmental Contingency Fund amount, including a description of how the comparable projects are an appropriate predictor of the potential abatement or mitigation costs for the converting project.
  - **Radon Contingency Fund:**
    - For a single-family residence, the PHA may use an estimate for testing of between \$100-\$275 per unit and between \$1,500-\$3,000 per unit for mitigations, or other amounts based on a professional recommendation and as approved by HUD.
    - For a multifamily building, the PHA may use an estimate for testing of between \$50-\$80 per unit and between \$2,500-\$4,000 per unit for mitigation, or other amounts based on a professional recommendation and as approved by HUD.
- Testing must be completed before HUD can issue the RCC (for public housing conversions), RAD Conversion Agreement (for PRAC conversions), or RAD Approval Letter (for Mod Rehab/SRO conversions) by at which point HUD and the PHA or owner can determine if the contingency will still be needed.

(Added on 5/21/20)

**Q7: What guidance or relief has HUD made available for Responsible Entities (RE) completing an Environmental Review under Part 58?**

A: HUD is temporarily allowing for flexibilities in the signature and certification process for the 7015.15 Request Release of Funds (RROF) and 7015.16 Authority to Use Grant Funds (AUGF) forms. Instructions for REs and HUD Field Offices can be found [here](#).

Additionally, HUD is expanding the options for public review of the Environmental Review Record (ERR). Instructions and guidance can be found [here](#).

(Added on 5/21/20)

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

### *General Multifamily Housing*

**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 [Q&A #14 of the Office of General Counsel Question & Answers, FHA Multifamily Housing Production Closings, Coronavirus \(COVID-19\)](#) (May 24, 2020).

Asset Management: Electronic signatures are allowed for all subsidy administration, including contract renewals, rent schedules, and HAP Assignments, and all other MFH submissions.

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 the requirements of [Notice H 20-4](#), as well as applicable federal, state, and local requirements.

(Updated on 7/31/20)

### *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)