



The CA Quarterly Review

North Tampa Housing Development Corporation

Spring 2019

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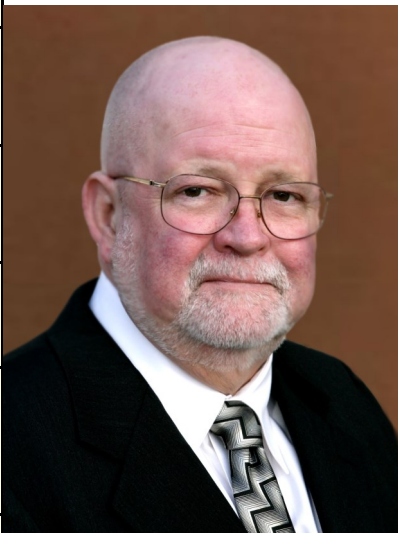
REMINDER!

Be sure to update NTHDC's address on form HUD-9887. The change of address must be listed on all 9887s going forward or a finding may be issued.

New address:

1509 West Swann Ave., Suite 250, Tampa, FL 33606.

From the Desk of Don Shea, NTHDC Director and Contract Administrator



If we had no winter, the spring would not be so pleasant; If we did not sometimes taste of adversity, prosperity would not be so welcome.

~Anne Bradstreet

We are pleased to enter this new season with you. Spring is a time of expectation stemming from new beginnings. Whether it is starting a new book or embarking on a new career, the opportunities for growth are up to you.

We want to encourage all Owner/Agents, if you have not already begun, to continue to review your individual disaster preparedness and be aware of HUD reporting obligations. This is not limited to presidentially declared disasters but any resident displacement and/or property damage. We recommend familiarizing yourselves with the Chapter 38 from the HUD 4350.1: Multifamily Emergency/Disaster Guidance. HUD has established a website for additional guidance: https://www.hud.gov/program_offices/housing/mfh/disasterguide. Additional information is available in the current edition of the CA Quarterly Review.

We look forward to continuing this great partnership to ensure affordable housing remains available to those in need. If we can be of assistance please do not hesitate to reach out to us. We look forward to hearing from you.

Don Shea
NTHDC Director and Contract Administrator



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Best Practices When Responding to an MOR

This article focuses on three aspects of the Owner response. It commences with the items that should be included with the response, continues with how a response should be organized, and concludes with the MOR appeal process.

What to Include in the Owner Response

If an owner/agent receives the Summary Report and there are no deficiencies noted on the report, no additional action is required. If an owner/agent receives the Summary Report and deficiencies are noted, the owner must take action to resolve the deficiencies. Targeted Completion Dates (TCDs) will be noted for all deficiencies identified during the review and will not exceed 30 calendar days. Owner/agents must provide documentation to support the deficiencies were corrected by the TCD noted on the Summary Report.

The Owner/agent response needs to include all items that had been requested in the corrective action portion for each finding identified in the report. Each finding needs to be addressed whether it has been completed or not and an explanation provided along with the progress on each finding that has not been completed. As required, follow-up will occur every 30 days until each discrepancy as noted on the report has been resolved. A proper response should have three basic components including the cover letter, supporting documentation, and a written certification on the cover letter under each finding item number that requests a written certification.

Cover Letter

Please include a reference line that lists the property's name, iREMS number, and contract number. The cover letter should provide an overview of the response and what is being submitted in the initial response. If appealing, be sure to clearly state at the beginning of the cover letter that the MOR is being appealed and specifically identify what is being appealed. Appealing an MOR does not usurp the requirements to respond to the items listed on the MOR with the target completion date as identified on the MOR report. The cover letter should provide the contact information for the staff member that has been assigned to close out the MOR and be signed by the owner and/or the owner's designee.

Supporting Documentation

Include all items requested for each corrective action and clearly label each supporting document with the finding item number they coincide with. If appealing, be sure to include supporting documents to support the appeal and clearly label the documents accordingly. Basic supporting documentation requested in a corrective action typically includes:

- 1) Policy and Procedures
Policy and procedures are written instructions to be followed by site staff for a particular item. A corrective action will tend to require either the creation of new procedures or the revision of existing procedures. When responding, be sure to include the updated procedure in the response.
- 2) Documents
Each corrective action will specifically describe the documents that were missing or erroneously completed the time of the on-site review. Responding to these types of corrective actions usually require the following tasks:
 - Locate missing document
 - Revise an existing document
 - Create a document
 - Execute a document
- 3) Specific Documentation
Specific documentation that is required to demonstrate a finding has been cured will be specifically described in each corrective action as to what to provide. Examples include:

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Best Practices When Responding to an MOR (continued)

- Completed work order or completed vendor invoice
 - Voucher adjustments
 - ⇒ Clearly identify what the adjustment is for on the voucher.
 - ⇒ Reviewer will determine if it is the correct amount and will verify with the Central Contract Specialist (CCS) that the adjustment processed.
 - Documentation of a tenant refund.
 - ⇒ Copy of check to tenant for total amount of refund
 - ⇒ If tenant requested the refund in the form a rent credit, a copy of the tenant ledger showing the total rent credit
- 3) Due to Privacy Act Issues
- Do not send copies of corrected 50059s to the PBCA as part of a close out. All adjustments to the voucher can be viewed, submitted, and reviewed via vouchering software tools
 - Do not submit any copies of EIV reports as a response to an MOR finding

Corrective Action Plans

Occasionally, a corrective action will require additional time to correct the deficiencies noted in the report. In these situations the PBCA will request a corrective action plan to resolve the noted deficiency. These findings can include a 100% file review to resolve a recurring issue identified in the file review, multiple maintenance issues, and/or high cost maintenance issues that need to be addressed, or for security issues. When submitting a corrective plan the Owner/ Agent will be requested to:

- 1) Include each item to be addressed or task to be performed.
- 2) Identify staff that will be responsible for follow up and staff that will assist in resolving each issue.
- 3) Include estimated start and completion times for each item included in the plan.

Written Certification

Written certifications need to be separate for each finding that asked for a written certification. A blanket certification that states we certify we will comply with all corrective actions listed on the MOR report is not acceptable. Written certifications may be accompanied by a request in the corrective action to provide summary of adjustments made or a summary of steps/action taken. Each written certification need to be specific as to what is being certified for what particular finding.

- 1) Rather than stating, "We certify we will comply with this corrective action"
- 2) State, "We certify that a 100% file review will be conducted and a Declaration of Citizenship obtained for all household members that do not have one on file prior to the next MOR."

Organization of Owner Response

Although there are limitless options when organizing a response, there are two optimal methods for an Owner/Agent to organize a response.

Method One

List each finding in order of the MOR report by finding item number on the cover letter and include the supporting documentation as labeled attachments for each finding in the order listed on the cover letter.

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Best Practices When Responding to an MOR (continued)

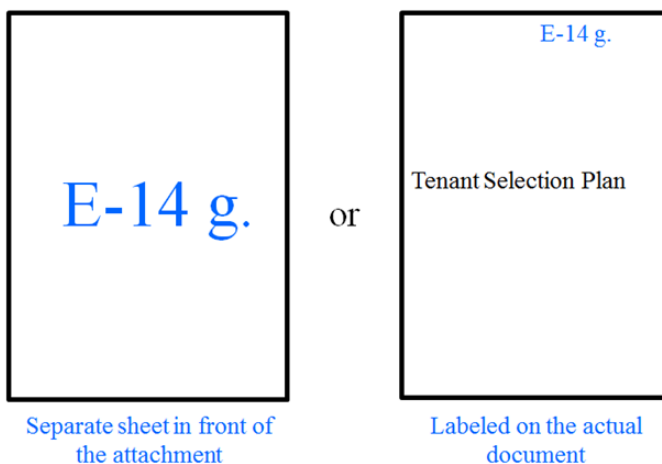
- 1) Include any necessary explanations for each individual finding under the appropriate finding item number on the cover letter.
- 2) Include a written certification on the cover letter under each finding item number that requests a written certification.
- 3) Label the attachment by either including a cover page for each attachment with the finding item number listed or by clearly writing the finding item number on the top of the attachment.
 - If using a highlighter to highlight finding item numbers or changes within an attached supporting document, please only use yellow. Other highlighter colors black out the highlighted information when copied or scanned.
- 1) Assemble the attachments in order as listed on the cover letter.

Method One Example

On cover letter, sample language in the case where a written certification is requested:

"E-14 g. Tenant Selection Plan has been revised to include student eligibility criteria for students at an institution of higher education and is attached. Please see attachment E-14 g. I certify that the Tenant Selection Plan has been provided to the site staff and has been implemented at the property moving forward. I also certify that the Tenant Selection Plan will be reviewed annually and updated as needed to ensure that it reflects current policies and procedures as well as current/new HUD requirements."

On attachment:



Method Two

Include a brief cover letter and then address each finding individually as a separate attached document for each finding item number that includes all explanation, written and signed certifications, and supporting documentation for each finding separately.

One example of this approach is to provide the cover letter and then assemble, in order of the MOR report, a separate bound attachment for each finding item number. A cover sheet should list the finding item number and subsequent pages should include the necessary explanation, written certification, and support documentation for that particular finding. Bind each of the individual items together with a paperclip, staple, or binder clip.

Another example is to assemble the report using separator pages labeled with the finding item number in order as listed on the MOR report. After each separator page include any necessary explanation, written certification (if required), and supporting documentation for that particular finding.

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Best Practices When Responding to an MOR (continued)

In summary, choose an organization style that best fits the needs of the particular response. The most important element to observe is to provide a framework for the reviewer to easily navigate and locate the materials that are being provided in the response.

Appealing an MOR

If an Owner/Agent receives an overall score of 'Below Average' or 'Unsatisfactory' as indicated on HUD form 9834 Summary Report, the Owner/Agent may appeal the rating using the following process:

Initial Appeal to the Contract Administrator (CA)

- 1) The initial appeal must be in writing, forwarded to the CA, and postmarked within 30 calendar days from the date of the report.
- 2) The appeal letter must explain the factual basis supporting a change in the rating, with sufficient specific examples provided to warrant further evaluation.
- 3) The CA is responsible for evaluating the additional information, including another on-site visit for only those items in dispute, if necessary and if resources are available.
- 4) The initial appeal decision must be in writing and transmitted to the Owner/Agent by the CA within a 45 calendar day period following receipt of the appeal.

Final Appeal to HUD

- 1) If the Owner/Agent does not agree with the CA appeal decision, they must submit a final appeal to the Multifamily Hub Director.
- 2) The final appeal must be in writing and postmarked within 15 calendar days of the transmittal date of the initial appeal decision letter from the CA.
- 3) The Multifamily Hub Director will be responsible for obtaining all information from the CA performing the original MOR and initial appeal decision.
- 4) The Owner/Agent may request a meeting with the Multifamily Hub Director (or, at the discretion of the Multifamily Hub Director, a representative) to present verbal arguments, however the meeting must be requested and scheduled during the 30 calendar day period following the transmittal date of the initial appeal decision letter.
- 5) The final appeal decision must be in writing and transmitted to the Owner/Agent by the HUD Multifamily Hub Director within a 45 calendar day period following receipt of the final appeal letter or 45 calendar days upon conclusion of the meeting with the Owner/Agent.

HUD Notice H-2019-04 Standardization of REAC Inspection Notification Timelines

On February 22, 2019 HUD issued [Notice H2019-04](#) announcing a standardized notification period for HUD-assisted properties subject to REAC inspections. This notice applies to inspections performed by government personnel or contractors on behalf of HUD and under REAC management.

Effective 30 days after publication of this notice, HUD employees and contract inspectors acting on behalf of HUD shall provide to Owners and Agents 14 calendar days of notification prior to a REAC inspection. Inspections that would fall on a federal holiday will be scheduled for the next business day.

The notice lists consequences for Owner/Agents who refuse an inspection, resulting in a recorded score of zero and the Owner/Agent being subject to any and all penalties and remedies, and clarifies a few limitations to the policy.

The notice intends to encourage Owners and Agents to adopt practicing year round maintenance procedures as opposed to last minute repairs in preparation for inspection compliance. The result being a more accurate reflection of the true housing conditions and operations at the time of inspection.



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Special Claims and the Proper Handling of PII

What is Personally Identifiable Information (PII)? It is information that can be used to identify an individual, either by itself or when combined with other information that is linked or able to be linked to a specific individual.

For example, your Social Security Number is unique and sufficient by itself to identify you. Your full name may not distinguish you from other people with the same name, but when used in combination with your Mother's maiden name or your Date of Birth, it may be sufficient to identify you.

The following are examples of types of PII that may be present in tenant documents:

- Social Security Number
- Date of birth
- Mother's maiden name
- Medical information
- Financial information
- Bank account numbers
- Passport numbers
- Criminal history
- Driver's license number

REMINDER!

Do not send any documentation that contains PII that has not yet been redacted. This is not unique to special claims and includes any information that can be used to identify a particular person.

Privacy is important at all times when handling PII. When submitting Special Claims to your Contract Administrator for processing, HUD requires specific documentation which may contain PII. For example, a copy of the original Move-in 50059 for the tenant who has vacated the unit is required. The 50059 may contain a SSN, Date of Birth, Financial Information, etc.

In order to safeguard this PII, Owners/Agents must redact all PII on documentation prior to transmitting it to your CA for processing. Redact is defined as: obscuring or removing text (sensitive information) from a document prior to publication or release. Common practices of redacting include: covering with tape or post-it note, white out, black marker line, etc. As long as the PII is not visible to outside reviewers it is considered safe.

The appropriate handling and safeguarding of personally identifiable information is our responsibility, which is why this is considered an excellent management best practice!





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Procedures in the Event of Resident Displacement and/or Property Damage

HUD has acquired a great amount of knowledge and best practices over the past several years on how to efficiently respond to a Presidentially Declared Disaster (PDD). As a result HUD has developed guidance that covers the many different aspects of a PDD. This guidance also applies to all HUD insured/ HUD assisted properties in situations where the Hub Director determines that an emergency exists.

To remind you of the procedures and tools available for owners and residents impacted by natural disasters, HUD has developed the [Multifamily Housing Guidance for Disaster Recovery](#) website. The information found here will make post-recovery efforts go more smoothly if an event occurs that impacts your residents and/or property.

For your convenience, Chapter 38: Multifamily Emergency/Disaster Guidance, from [HUD Handbook 4350.1](#) includes procedures to provide HUD staff, Owners, Management Agents, and communities with the tools that they need to react to emergency situations. HUD encourages you to review this material before an event occurs.

Following an event that impacts residents and/or properties, HUD has reporting obligations based on information staff obtains from Owners and Management Agents of HUD insured and/or assisted properties. Owners and Management Agents are obligated to always immediately report physical damage to a property interior or exterior that has resulted from a fire, flood, wind, severe cold, or other natural disaster or weather event. It is most convenient for all parties of Owners and Agents proactively report to HUD. Owners are encouraged to complete and forward damage assessments to HUD. Please use the forms as follows:

- For a FEMA Declared Emergency or Disaster: Preliminary Disaster Assessment (Appendix A-3 of Chapter 38 of Handbook 4350.1.)
- For an Event not declared by FEMA: Basic Damage Assessment

Please forward the appropriate Assessment Form within 24 hours of the damage. Either form should be legibly handwritten and emailed to your assigned Account Executive:

To find your assigned Ohio Account Executive, please go to the following website: <https://www.hud.gov/states/ohio/offices>

Updated reports should be submitted as additional information is available concerning resident displacement or regarding the level/amount of damage sustained. While the Department is not a payee on an insurance loss draft for a property with an insured mortgage, HUD must still be notified of the event and any damage sustained to the property.

Owner Responsibilities

Owner/Agents are responsible for:

- Developing an emergency relocation plan to relocate residents prior to a disaster event, especially at 202/811 Elderly or Disabled Properties and nursing homes;
- Developing a pre-disaster checklist that is shared with tenants in case of a disaster;
- Ensuring that the property and records are secured and that residents' possessions and valuables are secured and protected to the greatest extent possible;
- Contacting FEMA for on-going guidance and instruct residents to register with FEMA through 1-800-621-3362 (FEMA), or <https://www.fema.gov>;

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Procedures in the Event of Resident Displacement and/or Property Damage (continued)

- Applying for assistance with FEMA, Small Business Administration, Housing Finance Agency and others;
- Contacting the local HUD office following a disaster;
- Providing a status report for the residents and property condition;
- Ensuring that residents provide EMERGENCY contact numbers;
- Determining the extent of damage, security needs, resident property protection needs, etc.;
- Contacting the property's insurance provider to apply for property and business interruption claims;
- Maintaining inventory of all residents, property, phone numbers, mailing address, and emails;
- Determining which residents have been displaced due to unit damage or a failure of a major building system such as the electrical system, etc.; and
- Tracking each displaced resident's temporary location and maintain contact information for each displaced resident, particularly if the property will likely have units off-line for more than 30 days.

Reminders to Owners in Affected Areas

Owners should not evict tenants from their unit in order to make disaster related repairs. The Department encourages you to revisit the instruction provided in Chapter 38 of Handbook 4350.1 for related Emergency/Disaster Guidance.

Other Important Contact Information

- Federal Emergency Management Agency (FEMA) 1-800-621-3362 – <https://www.fema.gov/>
- American Red Cross - <http://www.redcross.org> 1 800 RED CROSS (1-800-733-2767)
- HUD's housing discrimination hotline: 800-669-9777 (Voice), 800-927-9275 (TTY)
- Ohio Emergency Management Agency <https://ema.ohio.gov/recoverybranch.aspx>
- Ohio Housing Finance Agency <http://ohiohome.org/>
- Department of Agriculture's Rural Housing <https://www.rd.usda.gov/oh>

Quick Tips: Safeguarding EIV Data

Don't forget to ensure proper EIV user authorization when:

- Selling or buying a project
- Assuming or terminating management of a project
- Employee is leaving the agency

Ideally, the process to terminate a coordinator/user's access to EIV should be written in the property's EIV policies and procedures. We strongly encourage Owner/Agents to review your EIV policies and procedures to ensure that the timeframe to do so is defined appropriately.

REMINDER!

- This process also applies when selling or no longer managing a project
- If assuming ownership or management of a property - ask the prior owner/agent if they have properly terminated coordinator/user access prior to transfer.

If you need further assistance in understanding how to assign/terminate EIV access rights in WASS, please contact HUD's Multifamily Help Desk by email at mf_eiv@hud.gov or by phone at 1-888-297-8689, option 5.



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Family Self Sufficiency Program

The Family Self Sufficiency (FSS) Program enables HUD-assisted families to increase their earned income and reduce their dependency on public assistance programs such as welfare assistance and rental subsidies. FSS promotes the development of local strategies to coordinate the use of HUD rental assistance programs with both private and public resources. This enables eligible families to make progress toward economic independence and self-sufficiency.

During a five year period, participants will work individually with a case manager to set and pursue goals related to education, job training, money management, childcare, and transportation. Through case management, the program provides life-skills guidance and links to network service providers. Participants are expected to make continual progress towards their educational and career goals while meeting the additional requirements of the FSS program in order to graduate successfully in five years. Families who wish to participate will sign a contract of participation (CoP) with the owner, for up to five years, and each individual participating member will have their goals set out in Individual Training and Services Plan (ITSP) that are part of the CoP.

A key component to the FSS program is an interest-earning escrow savings account that accumulates as earned income increases. Owners are required to set up the interest bearing accounts for all families participating in the program, with separate accounting for each family. The escrow account is funded by HUD through adjustments to rental subsidy payments to the owner. If family members' earned incomes and rental payments increase while participating in the FSS program, the owner will credit the incremental rent due to the increase in earned income amount to the family's escrow account. Families will receive the funds from that account after they have successfully completed the program. Families involved with the FSS program have used their escrow accounts to purchase homes, pay off debts, and finance higher education for themselves or for their children.

HUD Notice 2016-08 implements the policies and procedures applicable to a FSS program in a HUD-assisted multifamily housing property. Owners of privately-owned HUD assisted multifamily housing can voluntarily establish and operate an FSS program at their housing sites. Participation in the FSS program is voluntary for families living in these properties.

Should an owner of a multifamily Section 8 property choose to participate in the FSS program, they are responsible for the following activities:

- 1) Coordinating services with appropriate local entities;
- 2) Writing an Action Plan and submitting to HUD for approval;
- 3) Recruiting program participant and, if desirable, screening for motivation;
- 4) Creating and executing a Contract of Participation (CoP) with participating families;
- 5) Providing service coordination, case management, coaching, including referring, monitoring, and evaluating supportive services provided to FSS families;
- 6) Creating FSS escrow accounts and managing deposited funds;
- 7) Submitting quarterly reports to HUD, and
- 8) Complying with Fair Housing and Equal Opportunity Requirements

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Family Self Sufficiency Program (continued)

Families who choose to participate in the FSS program also have obligations, including:

- 1) The Head of Household will execute a CoP with the owner;
- 2) The Head of Household must seek and maintain suitable employment during the term of the contract (and any extension thereto);
- 3) The Head of Household and those family members who have decided to execute an individual ITSP will work with the owner to set goals and become part of the CoP;
- 4) FSS participants will complete the activities within the dates identified in each ITSP;
- 5) All family members must report increases in earned income immediately to property management staff;
- 6) All family members must become independent from welfare assistance and remain independent at least one year before the expiration of the term of the CoP; and
- 7) All family members must comply with the terms of the lease.

Should a property owner choose to participate in the FSS program, they must develop an action plan in consultation with both the public and private entities that will provide tenant services and/or other resources for the operation of the FSS program. The action plan must then be subsequently submitted to HUD for approval. As part of the approval process, HUD will assess the owner's capacity to effectively run an FSS program by reviewing the property's recent Management and Occupancy Review (MOR) and the Financial Assessment Subsystem (FASS) score. The owner must demonstrate a rating of Satisfactory or higher on the most recent MOR and must be current in the submission of the Annual Financial Subsystem (FASS) score. The owner must demonstrate a rating of Satisfactory or higher on the most recent MOR and must be current in the submission of the Annual Financial Statements (AFS) in the form required by HUD for the prior three-year period, and have all compliance flags resolved. Owners should not begin operating their FSS program before receiving the official approval from HUD.

The owners created Action Plan must describe the policies and procedures of the FSS program. It must also contain, at a minimum: information on family demographics, estimation of participating families, FSS family selection procedures, incentives plan, out reach efforts, FSS activities and supporting services, funding of the program, identification of family support needs, the owner's policies concerning terminating participation in the FSS program, the rights of the non-participating families, and the timetable for the program implementation. The owner can choose to include any information that will support the proposed plan.

For more information on the FSS program, including the basics of the program as well as in-depth procedures to implement the program at your property, refer to [HUD Notice 2016-08](#).

If you are not already receiving this publication via e-mail, or if you have ideas, suggestions or questions for future publications, we'd like to hear from you.

Please visit the [NTHDC website](#)

OR send an email to

michelle.thomas@cgifederal.com





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Succession Rights

Defining Succession Rights

A tenancy typically ends because of one of two scenarios: the resident moves out or they have passed away. Succession essentially means transferring or handing down the rights of the lease to another family member.

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

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

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

What is a Remaining Household Member?

The HUD Handbook defines ‘remaining household member’ in paragraph 3-16 of the HUD 4350.3:

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

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

- 1) The individual must be a party to the lease when the family member leaves the unit.
- 2) The individual must be of legal contract age under state law.
- 3) The remaining family member is defined in Section 202 and Section 811 as the surviving member or members of an elderly family or family with disabilities that was a party to the lease and living in the assisted unit with the now deceased member of the family at the time of his or her death.
 - a. The remaining family member, based on the death of the family member, is eligible to remain in the unit but must pay rent based on income. In this case, eligibility of the remaining family member, as defined by the death of the family member, is not reviewed.
 - b. If the individual who establishes eligibility for the project leaves the unit for any reason other than death in a Section 202/8, Section 202 PAC, Section 202 PRAC, or Section 811 PRAC project, the owner must determine if the individual still residing in the unit meet the eligibility requirements for the project, income, and age or disability. If the individual is not eligible for the project, he/she may not receive rental assistance and depending upon the type of project, he or she may or may not be allowed to remain in the unit. In a 202/8 or a Section 202 PAC project, the individual may remain in the unit but must pay contract rent. In a Section 202 or 811 PRAC project, the individual may not remain in the unit.

A Quick Note About Life Partners

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

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

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Succession Rights (continued)

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

Project Eligibility and Program Eligibility

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

The handbook is less specific with general program eligibility for other Section 8 projects-based developments. Consider a family development, in which the departing tenant may be the sole qualifying tenant or how the situation can be further exasperated when, due to a technicality, the individual may not have been listed on the lease or 50059. This lack of clarity may lead to a rather strict interpretation of the HUD guidance, which could lead to disagreements when the owner begins eviction processes and the individual maintains succession rights. These disputes may require judicial intervention and resolution.

Enforce the HUD Requirements

It is our responsibility as Owners, Managing Agents, and Contract Administrators of Project Based Section 8 properties to follow the HUD requirements regarding tenancy. If the courts determine that an individual is entitled to remain in the unit, the individual would still be subject to Section 8 regulations to determine continuation of subsidy.

An important reminder that this article is for informational purposes only and is not intended to replace consultation with legal counsel.

FAST Act “Streamlining Rule”

On December 12, 2017, HUD published an interim final rule in the Federal Register that amends the regulatory language for PIH and Multifamily Housing rental assistance programs. This interim rule went into effect on March 12, 2018. The rule aligns the current regulatory flexibilities with those provided in the Fixing America’s Surface Transportation (FAST) Act. In addition, it extends two of the administrative streamlining changes that were adopted in 2016 for the Housing Choice Voucher and Public Housing programs to Multifamily Programs.

The interim final rule implements FAST Act provisions that allow public housing agencies (PHAs) and multifamily housing owners to conduct full income recertification for families with 90 percent or more of their income from fixed-income sources every three years instead of annually. This interim final rule also aligns the current regulatory flexibilities with those provided in the FAST Act by modifying the earlier streamlining regulations. This makes the procedures for families meeting the fixed-income threshold as similar as possible to families who do not have 90 percent or more of their income from fixed sources, but still have some fixed income.

In addition to streamlining fixed income stipulations, the interim final rule also indicates that an owner may:

- Make utility reimbursements of \$45 or less per quarter (\$15 a month) on a quarterly basis.
- Accept family declaration of assets under \$5,000. Third-party verification of all family assets will be required every three years.

Use of streamlined procedures authorized by the rule are all at the option of the owner and are not required.

Click [here](#) to view 81 FR 12354 published March 8, 2016.

Click [here](#) to view 82 FR 58335 published December 12, 2017.



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Spring Cleaning: Records Retention Requirements

Since more tenants move in during the spring and summer months, this gives property managers and landlords a perfect reason to conduct a thorough spring cleaning of files. This article will discuss retention requirements as well as purging of documentation.

Applicant File Retention - HUD Handbook 4350.3 Chapter 4, 4-22

Applicant files must be maintained from the time the application is accepted, through the wait list period, and for three years after the applicant is removed from the wait list.

- The current application must be retained as long as the applicant is active on the waiting list.
- If the applicant was removed from the waitlist, then the application, Supplement to Application (HUD 92006), initial rejection notice, applicant reply, copy of the owner's final response, and all documentation supporting the reason for removal must be retained for three years.



Resident File Retention - HUD Handbook 4350.3, Chapter 5, 5-23

Resident files (all documentation) must be maintained for the term of tenancy plus three years thereafter.

- At a minimum, Owners must keep the following documentation in the resident file:
 - ⇒ All original, signed HUD 9887s and 9887As;
 - ⇒ A copy of signed consent forms;
 - ⇒ A copy of the EIV Income Report, the HUD 50059, and any other documentation obtained supporting rent and income determinations; and
 - ⇒ Any third party verifications

Retention of EIV Reports - HUD Handbook 4350.3, Chapter 9, 9-14

- The Income Report, Summary Report, and the Income Discrepancy Report along with any supporting documentation must be retained in the resident file for the term of tenancy plus three years.
- Any tenant provided documentation to supplement the Social Security Administration or National Database of New Hires data must be retained in the resident file for the term of tenancy plus three years.
- Results of the Existing Tenant Search must be retained with the application:
 - ⇒ If the applicant was not admitted, it must be retained with the application for three years.
 - ⇒ If the applicant was admitted, it must be retained in the resident file for the term of tenancy plus three years.
- The master file containing the New Hires Report, Identity Verification Reports, Multiple Subsidy Report, and Deceased Tenant Report must be retained for three years.

Once the retention period has expired for all of the above listed requirements, owners must dispose of the data in a manner that will prevent any unauthorized access to personal information (shred, burn, pulverize, etc.). It is recommended to review the above requirements once a year to ensure that any unnecessary documentation is not being kept and stored on site.

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Spring Cleaning: Records Retention Requirements (continued)

Many residents may reside at a property for multiple years and this could cause the resident file to become quite large. Owners may choose to reduce the file sizes located at the property; however, it is recommended to keep all move-in documentation along with the most recent five years' worth of certifications and supporting documentation. If file documentation is removed from the property it must be kept in secure storage, the documentation cannot be destroyed. It is recommended to include this policy in the Owner/Agents written management procedures.

Reminder on Utility Allowance Data

For many properties, this year marks the year for a required Baseline Utility Allowance Submission. A Baseline year requires the Owner/Agent to conduct a full analysis as detailed in [HUD Notice 2015-04](#) for all unit types. In this Baseline cycle, the outcome of the full utility analysis establishes the utility allowance for each bedroom type.

As a reminder, HUD does not require the Owner/Agent to submit full data (utility bills) to the Contract Administrator (CA). If the Owner/Agent obtained actual monthly utility bills from a tenant, the Owner/Agent may submit a spreadsheet summarizing the average of the monthly bills. It is recommended to utilize the tool published with HUD Notice 2015-04. However, Owner/Agents may develop their own worksheets to suit their needs, as long as they provide HUD/CA with adequate documentation. If Owner/Agents elect to submit a spreadsheet, the actual utility bills may be requested at the discretion of HUD/CA. These bills, regardless of whether they are provided to HUD/CA, must be retained by the Owner/Agent for three years.

Should you have any questions regarding the submission of a baseline analysis for your property, contact your [contract specialist](#).





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Live-in Aides

Have you had a tenant request a live-in aide? If so, you know verifying the need for a live-in aide is the easy part. Determining who can be a live-in aide and leasing/occupancy issues generate the most questions from Owners.

A live-in aide is defined as a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:

- 1) Is determined to be essential to the care and wellbeing of the person;
- 2) Is not obligated for the support of the person; and
- 3) Would not be living in the unit except to provide the necessary supportive services.

Both HUD and the Fair Housing Act prohibit Owners from following policies or practices that discriminate overtly on the basis of disability such as a policy which prohibits tenants from having live-in aides.

Who Qualifies for a Live-in Aide?

A tenant qualifies for a live-in aide when they meet the definition of “person with disabilities” or “disability (Handicap)” as defined for Civil Rights Protections and need assistance of a live-in aide to provide the necessary supportive services essential to their care and well-being.

Owners must obtain verification from the tenant’s physician, psychiatrist, or other medical practitioner of health care provided certifying that the live-in aide is needed to provide the necessary supportive services essential to the care and well-being of the person.

The owner must approve a live-in aide if needed as a reasonable accommodation to make the program accessible to or usable by the family member with a disability.

The owner may not require applicants or tenants to provide access to confidential medical records or to submit to a physical examination.

If a person’s disability is obvious, or otherwise known to the provider, and if the need for the requested accommodation is also readily apparent or known, then the provider may not request any additional information. The tenant file should be documented to support why verification was not obtained.

Who Can Be a Live-in Aide?

A live-in aide is chosen by the tenant and is a person who is determined to be essential to the care and wellbeing of the tenant, is not obligated for the support of the tenant, and would not be living in the unit except to provide the necessary supportive services.

The live-in aide must disclose and provide verification of their SSN and must be screened for drug abuse and other criminal activity, including State Lifetime registration as a sex offender. Owner established screening criteria may also be applied to live-in aides, except for the criterion regarding the ability to pay rent on time because live-in aides are not responsible for rental payments. Owners must process and EIV Existing Tenant Search for the live-in aide. If the live-in aide does not pass the owner’s screening criteria, the owner must consider an alternate live-in aide selected by the tenant.

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Live-in Aides (continued)

The most common question asked by Owners is whether or not a relative be a live-in aide. There is no rule against a relative being a live-in aide provided that the relative is:

- Essential to the care and wellbeing of the tenant;
- Is not obligated for the support of the tenant; and,
- Would not be living in the unit except to provide the necessary supportive services.

An adult child is eligible to move into a Section 202/8 project after initial occupancy only if they are essential to the care or well-being of the elderly parent(s). The adult child may be considered a live-in aide if they:

- Would not be living in the unit except to provide the necessary supportive services;
- Are not obligated for the support of the tenant;
- Are determined to be essential to the care and wellbeing of the tenant; and,
- There is a verified need for a live-in aide in accordance with the Handbook.

An adult child is not eligible to move into a Section 202 PRAC or Section 811 PRAC after initial occupancy unless they are performing the functions of a live-in aide and are eligible to be classified as a live-in aide for eligibility purposes.

Only the live-in aide can live in the unit with the tenant. No other member of the live-in aide's family can live in the unit. A live-in aide is "a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities."

Tenant files should be clearly documented regarding the status of the live-in aide.

Leasing/Occupancy Issues

When determining an appropriate unit size for the household, owners must count the live-in aide however, when determining family size for establishing income eligibility, the live-in aide is not included.

Although a live-in aide occupies the unit, the live-in aide is not considered a tenant. The live-in aide's income is excluded from the household's annual income and they may never be counted as a dependent.

Unreimbursed out-of-pocket expenses for services provided by the live-in aide such as nursing services (dispensing of medications or providing other medical needs) and personal care (such as bathing or dressing), are considered as eligible medical expenses. Homemaker services such as housekeeping and meal preparation are not eligible medical expenses.

The live-in aide qualifies for occupancy only as long as the individual needing supportive services requires the aide's services and remains a tenant. The live-in aide may not qualify for continued occupancy as a remaining family member.

Owners are encouraged to use a HUD-approved Live-in Aid Addendum. The live-in aide addendum must establish that a live-in aide is not eligible to remain in the unit once the tenant is no longer living in the unit, regardless of the circumstances for the tenant's departure. The live-in aide addendum may give the owner the right to evict a live-in aide who violates any of the house rules. Owners may choose to use a Live-in Aid "Agreement" which does not require HUD approval. Live in aid should not be listed on the lease except on the live-in aide addendum.

Owners are obligated to transfer tenants to different units as a reasonable accommodation to a household member's disability when a larger unit is needed to accommodate a live-in aide. Transfers which are needed as a reasonable accommodation should be made on a priority basis.

The information contained in this article was found in the HUD Handbook 4350.3 REV-1, Change 4, Chapter 3, Paragraphs 3-6 and 3-23 and Chapter 4, Paragraph 4-7. Additional live-in aide guidance can be found in Chapters 6 and 7.



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Member Spotlight Introducing Marva Bonner

I have been employed with CGI/NTHDC for 2 years. I have over 20 years in the affordable housing industry. The majority of my experience involves regulatory oversight within various governmental agencies. My skills include monitoring contracts writing grants, quality control, HUD program compliance, regulatory training, housing compliance audits, data analysis, implementation of review remediation and corrective action plans, reviewing tenant files, human resource management and performance based contract administration. I have worked and have extensive knowledge in several housing programs:

- Move To Work (Section 8 Pilot Program)
- Project Based Section 8
- Housing Choice Voucher Program
- Public Housing
- Low Income Housing Tax Credits
- Rural Development
- FL State Housing Initiative Programs (SHIP)
- Multifamily Housing Revenue Bond (MFRB)
- HOME



What I enjoy most about my career: My natural ability to meet and connect with on-site staff at the many housing communities/developments. My main objective is to ensure that the Owner/Agent gains a better understanding of the purpose of the Management Occupancy Review (MOR). In addition, is equipped with the adequate tools to move forward in maintaining compliance with the Housing Assistance Payments Contract.

My hobbies/interests include: Public speaking (traveling and speaking at various events), involved in civic organizations and activities, watching the farm channel, reading opinion editorials, walking, attending church activities and attending live Broadway shows.





ALL RESIDENTS OF H.U.D. SUBSIDIZED PROPERTIES

North Tampa Housing Development Corporation (NTHDC) is the HUD Contract Administrator and is responsible for responding to resident concerns. NTHDC Call Center has a team of Customer Relation Specialist (CRS) that will receive, investigate and document concerns such as, but not limited to the following:

- ◆ Questions or concerns regarding work order follow-up.
- ◆ Questions regarding the calculation of your rent.
- ◆ Address health & safety and HUD Handbook 4350.3 concerns.

Call Center Purpose:

- ◆ Call Center aids in ensuring HUDs mission of providing Decent, Safe and Sanitary Housing.
- ◆ Serve as a neutral third party to residents, owners and the public.
- ◆ Assist with clarifying HUD Occupancy Handbook 4350.3 requirements.

Call Center Contact Information and Business Hours:

- ◆ Hours of Operation: Monday – Friday, 8:30am to 5:30pm
- ◆ Contact Numbers: 800-982-5232 fax: 614-985-1502
- ◆ Written Summaries: 8760 Orion Place, Suite 110, Columbus, Ohio 43240
- ◆ Email: PBCAContactCenter@cgifederal.com
- ◆ Website: www.nthdc.org

Concerns can be submitted by the following:

- ◆ Phone
- ◆ Fax
- ◆ Mail
- ◆ Email
- ◆ Voicemail
- ◆ FOIA- Freedom of Information Act request must be submitted directly to HUD

Required Information to open an inquiry:

- ◆ Property name
- ◆ Caller's name (anonymous calls accepted)
- ◆ Caller's telephone number with area code
- ◆ Caller's address including apartment number
- ◆ A brief, detailed description of the caller's concern(s)

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