

**FHA Multifamily Housing Policy Handbook  
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**Unit 2 Ongoing Asset Management**  
**Chapter 2.02 Physical Conditions**

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# UNIT 2.0 ONGOING ASSET MONITORING

## 2.2 PHYSICAL CONDITION

### 2.2.1 PURPOSE

#### A. Introduction

This unit sets forth the U.S. Department of Housing and Urban Development's (HUD) policies and procedures for assessing and monitoring the condition of HUD's portfolio. Physical inspections provide information to help ensure that HUD housing is in decent, safe and sanitary condition and in good repair. HUD housing must be maintained in a manner that meets the physical condition standards set forth in 24 CFR . Part 5, Subpart G, and 24 C.F.R. Part 200, Subpart P, to be in decent, safe and sanitary condition and in good repair. These standards address the major areas of housing, including the site, building exterior, building systems, dwelling units, common areas, and health and safety considerations.

#### B. Background

The Uniform Physical Condition Standards (UPCS) set forth in 24 CFR, Part 5, Subpart G, and 24 CFR, Part 200, Subpart P establish administrative processes HUD uses to notify owners of HUD's physical condition assessment of the owner's multifamily housing.. Under certain circumstances, HUD provides the owners an opportunity to seek a technical review of HUD's physical condition assessment of the owner's multifamily housing, and HUD may take action in cases where the multifamily housing is found not to be in compliance with HUD's physical condition standards. The UPCS also establishes a uniform physical inspection protocol based on a software program developed by the Real Estate Assessment Center (REAC). The uniform physical inspection protocol , allows HUD to determine compliance with the UPCS. The UPCS ensures that HUD program participants carry out their legal obligations to maintain HUD properties in a decent, safe and sanitary condition and in good repair. The uniform physical inspection protocol ensure that, to the greatest extent possible, there is uniformity and objectivity in the evaluation of the physical condition of HUD properties.

#### C. Timing of Inspections

Properties with Federal Housing Administration (FHA) insurance that are newly endorsed or refinanced are inspected two years from the final endorsement date. Thereafter, and for all other properties subject to physical inspections, the timing of the inspection follows the "3-2-1 Rule" found in 24 CFR 200.857:

- 1) Properties that score 90 points or higher are inspected every three years.
- 2) Properties that score 80 to 89 points are inspected every two years.

- 38           3) Properties that score 79 or less points are inspected annually.
- 39           4) Properties that score a 59 or below are subject to the protocol outlined in  
40           section [2.2.7](#) below.

### 41   **2.2.2 APPLICABILITY**

42           The requirements of this unit apply to:

- 43           1) housing assisted under the HUD programs listed in 24 CFR, Part 200,  
44           Subpart P, §200.853(a);
- 45           2) housing with mortgages insured or held by HUD, or housing that is receiving  
46           assistance from HUD under programs listed in 24 CFR, Part 200, Subpart P,  
47           §853(b);
- 48           3) Public Housing Agencies (PHA) and other entities described in 24 CFR, Part  
49           5, Subpart G, §5.701(c); and
- 50           4) public housing (housing receiving assistance under the U.S. Housing Act of  
51           1937, other than under Section 8 of the Act).

52           Additional details are available in the Physical Condition Scoring Notice  
53           published in the Federal Register, Vol. 77, pg. 47708 (Aug. 9, 2012).

### 54   **2.2.3 INSPECTION TYPES AND RESPONSIBLE ENTITIES**

#### 55    A. Lender Inspections

56           In general, the lender of an FHA-insured multifamily housing property is  
57           responsible for performing a physical inspection of each of the FHA-insured  
58           properties in its portfolio using HUD's UPCS protocol and UPCS certified  
59           inspectors. Exceptions to this rule may arise when one or more of the last  
60           physical inspection score(s) of a property are below 60. Under that circumstance,  
61           a HUD quality assurance (QA) inspector may be called on to perform the  
62           inspection. Section [2.2.3.C](#) below describes the circumstances when a QA  
63           inspector would perform an inspection at an FHA-insured property, instead of the  
64           lender.

#### 65    B. Reverse Auction Inspections

66           This process is called the Reverse Auction program because the lowest bidder is  
67           awarded the right to conduct an inspection. The Reverse Auction process covers  
68           projects that are HUD-held, have a 202 Direct loan, an 811/202 Capital Advance,  
69           and projects with only Section 8 contracts.

- 70 1) HUD's Reverse Auction program is a process of identifying properties  
71 needing inspection, procuring bids to conduct the inspections, reviewing and  
72 accepting inspections, and authorizing payment to contractors.
- 73 2) A contractor is a small business that participates in the Reverse Auction  
74 program by bidding on a group of properties to be inspected. The auction is  
75 conducted on a reverse auction vendor website.
- 76 3) Contractors bid on inspection assignments throughout the nation, including  
77 Puerto Rico, U.S. Virgin Islands, and Guam.
- 78 4) An inspector is an individual, certified by HUD in the UPCS, and who  
79 performs on-site property inspections. Inspectors may be contractors,  
80 employees of a contractor, subcontractors to a contractor, or employees of a  
81 subcontractor.
- 82 5) At the close of the reverse auction, purchase order awards are made to the  
83 lowest bid offered by an eligible contractor.
- 84 6) Active, certified inspectors then schedule and conduct the inspection, and  
85 upload the inspection observations to HUD.
- 86 7) Once the completed inspection is accepted by HUD, payment is authorized  
87 and made electronically to the contractor's vendor account.

#### 88 C. Quality Assurance (QA) Inspections

89 QA inspections are conducted by HUD inspection staff. There are generally three  
90 types of QA inspections:

- 91 1) Full inspections are conducted by QA staff, where the most recent UPCS  
92 score was 59 or below. QA inspectors perform inspections in instances such  
93 as problem resolution of issues of interest to the Secretary and Assistant  
94 Secretary; sensitive inquiries from senior level HUD managers; members of  
95 Congress; mayors and other state and local government officials; and  
96 concerned citizens. They are also called upon to conduct special inspections  
97 that arise as a result of:
- 98 a) foreclosure proceedings;
- 99 b) 212 or 8bb Section 8 budget authority transfers; and
- 100 c) resident complaints, etc. as requested by multifamily field staff, based on  
101 their assessment of property condition.
- 102 2) A limited quality assurance (LQA) review is performed by HUD QA staff  
103 following a completed inspection to determine whether the inspection was a

- 104 true representation of the physical condition of the property at the time the  
105 inspection took place.
- 106 a) As a result of the LQA review, the inspector's performance is rated either  
107 "within standard" or "outside standard," based on the inspector's ability to  
108 follow the UPCS.
- 109 b) An "outside standard" performance designation is referred to HUD's  
110 Inspector Administration for follow-up action.
- 111 c) Compilation of "outside standard" QA reviews may not only result in  
112 inspector de-certification, but also could result in REAC rejecting the  
113 inspections, which requires a re-inspection of the property.
- 114 3) A collaborative QA (CQA) review occurs when a QA inspector accompanies a  
115 certified contractor inspector during an inspection to:
- 116 a) evaluate the quality of the inspection and the capabilities of the individual  
117 contracted inspector;
- 118 b) determine whether the inspector conducted a valid inspection using the  
119 appropriate inspection protocol; and
- 120 c) serve both as an assessment of the inspector's use of the inspection  
121 protocol, either "within standard" or "outside standard," and as an  
122 opportunity for the inspector to enhance skills through the feedback  
123 provided by the QA inspector.

#### 124 **2.2.4 APPEALS**

125 Multifamily property owners and their management agents have the option to appeal a  
126 physical inspection score for reasons, such as a belief that the inspection was not  
127 conducted in accordance with the UPCS, that inspection data may have been recorded  
128 in error, or deficiencies related to extraordinary events, such as a natural disaster, that,  
129 if corrected, would result in an improvement in the property's overall score.

130 There are two different processes available to appeal a physical inspection score:  
131 technical review and database adjustment.

##### 132 **A. Technical Review**

- 133 1) A technical review may be requested if, during the physical inspection, an  
134 objectively verifiable and material error(s) occurred that, if corrected, would  
135 result in an improvement in the property's overall score. Material errors are  
136 those that exhibit specific characteristics and meet specific thresholds. The  
137 three types of material errors are:

- 138 a) Building data errors – The inspection includes the wrong building or a  
139 building that is not owned by the property.
- 140 b) Unit count errors – The total number of units considered in scoring is  
141 incorrect as reported at the time of the inspection.
- 142 c) Non-existent deficiency errors – The inspection cites a deficiency that did  
143 not exist at the time of the inspection.
- 144 2) HUD does not consider a technical review for the following conditions:
- 145 a) disagreements over the severity of a defect, such as deficiencies rated  
146 Level 3 that the owner/manager believes should be rated Level 1 or 2<sup>1</sup>;
- 147 a) deficiencies that were repaired or corrected during or after the inspection;
- 148 b) deficiencies recorded with no associated point loss (e.g., inoperable  
149 smoke detectors) or deficiencies for survey purposes only (e.g., FHEO); or
- 150 c) deficiencies caused by residents.
- 151 3) The following are steps for submitting a technical review.
- 152 a) An owner/manager can initiate the technical review process by notifying  
153 the Office of Public and Indian Housing (PIH)-REAC in writing within the  
154 appropriate time period and supplying objective and verifiable  
155 documentation that a deficiency was recorded in error. Examples of  
156 objective and verifiable documentation are:
- 157 i) dated pictures or video;
- 158 ii) signed and dated written material from an objective source such as a  
159 local fire marshal or building code official, or similar evidence; or
- 160 iii) written documentation, other than from the fire marshal or local code  
161 official, from a licensed professional whose expertise corresponds to  
162 the appealed item. This written documentation must be signed by the  
163 licensed expert and include their active and verifiable license number.
- 164 b) Examples include, but are not limited to, the following:

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<sup>1</sup> The inspector must rate each observed deficiency as a Level 1, Level 2, or Level 3 deficiency according to the definition in the UPCS Dictionary of Deficiency Definitions.

165 i) An exposed wire deficiency must be inspected and verified/certified by  
166 a licensed electrician that there are no exposed wires, or the wires  
167 exposed do not carry electricity.

168 ii) A fire sprinkler defect must be inspected and verified/certified for non-  
169 deficiency by a fire suppression company.

170 iii) A foundation deficiency. A mechanical engineer attesting to the  
171 structural integrity of the building will not be honored.

172 c) Only those appeals, signed by the owner/manager or the  
173 owner/manager's lawyer(s) are processed. HUD is not required to review  
174 a request for appeal after the specified number of days has expired. A  
175 request for a technical review must be received by REAC within 30 days  
176 from the physical inspection report release date. The information and  
177 proper documentation for a technical review must be mailed to the  
178 following address:

179 U.S. Department of Housing and Urban Development/PIH/REAC  
180 ATTN: Technical Assistance Center/Technical Review/Database  
181 Adjustment  
182 550 12th Street S.W., Suite 100  
183 Washington, D.C. 20410

184 d) If the evaluation determines that an objectively verifiable and material  
185 error(s) has/have been reasonably documented by the owner/manager  
186 and, if corrected, would result in a significant improvement in the  
187 property's overall score, HUD will take one or a combination of the  
188 following actions:

189 i) schedule a new inspection;

190 ii) correct the physical inspection report; or

191 iii) issue a corrected physical condition score.

192 e) A notification letter will be sent to the owner/manager explaining what  
193 action, if any, has occurred and why the technical review is accepted or  
194 denied.

195

196

## 197 B. Database Adjustment

198 A request for a database adjustment initiates a review of the results of a physical  
199 inspection. A database adjustment may be requested for circumstances affecting



200 the inspected property that are out of the ordinary, reflect an inconsistency with  
201 ownership, or are allowed by city/county/state codes. Circumstances that may be  
202 addressed by a database adjustment are as follows:

203 1) Local conditions and exceptions – Circumstances include inconsistencies  
204 between local code requirements and the UPCS inspection protocol, such as:

205 a) conditions permitted by local variance or license (e.g., child guards  
206 allowed on sleeping room windows by local building codes); or

207 b) preexisting physical features that do not conform to or are inconsistent  
208 with HUD’s physical condition protocol.

209 2) Ownership issues – Items that are captured and scored during the inspection  
210 that are not owned or the responsibility of the owner/manager. Examples  
211 include:

212 a) sidewalks, roads, fences, retaining walls, and mailboxes owned and  
213 maintained by adjoining properties or the city/county/state; and

214 b) resident-owned appliances that are not maintained by the owner/manager.

215 The owner/manager must notify the proper authorities regarding the deficient  
216 item and any appliances provided to the tenant must be noted in the lease  
217 agreement.

218 3) Adverse conditions beyond the owner's control – Deficiencies negatively  
219 affecting the inspection score are caused by circumstances beyond the  
220 owner/manager’s control, such as:

221 a) damage from a natural disaster; or

222 b) a third party private or public entity working near a property.

223 The responsibility to correct such conditions still belongs to the  
224 owner/manager.

225 4) Rehabilitation work in progress – Projects undergoing extensive rehabilitation  
226 work, underway at the time of the physical inspection, may qualify for a  
227 database adjustment. All elements of the unit that are not undergoing  
228 rehabilitation at the time of the inspection (even if work is planned) are subject  
229 to HUD’s UPCS without adjustment.

230 5) All requests for database adjustments can be made either prior to or after the  
231 physical inspection. Owner/managers must send a request for a database  
232 adjustment either before the inspection takes place (a pre-database  
233 adjustment) or within 45 days of the physical inspection report release date  
234 (post-database adjustment) to the following address:

235 U.S. Department of Housing and Urban Development/PIH/REAC  
236 Attn: Technical Assistance Center/Technical Review/Database Adjustment  
237 550 12th Street S.W. Suite 100  
238 Washington, DC 20410

239 C. Response to a Request for Database Adjustment

240 If HUD's evaluation determines that the request is justified and, if corrected,  
241 would result in an improvement in the property's overall score, HUD will take one  
242 or a combination of the following actions:

- 243 1) schedule a new inspection;  
244 2) correct the physical inspection report; or  
245 3) issue a corrected physical condition score.

246 A notification letter is sent to the owner/manager explaining what action, if any,  
247 occurred and why the database adjustment request is accepted or denied.  
248 [Exhibit 2-1](#) contains examples of appealed items and appropriate documentation.

249 **2.2.5 MANAGING EXIGENT HEALTH AND SAFETY (EH&S) CONDITIONS**

250 A. Exigent Health and Safety (EH&S) Hazards

251 The eight EH&S hazards that may be identified, in accordance with the UPCS  
252 include:

- 253 1) detected propane, natural gas, or methane gas odors;  
254 2) exposed wires or openings in electrical panels;  
255 3) water leaks on or near electrical equipment;  
256 4) blocked or unusable emergency fire exits or fire escapes;  
257 5) window security bars preventing exit;  
258 6) carbon monoxide hazard or a missing or misaligned chimney on a gas/oil-  
259 fired hot water heater/HVAC;  
260 7) expired fire extinguishers; or  
261 8) missing or inoperative smoke detectors.

262 B. Notification

263 HUD will provide the owner/manager with written notification of all health and  
264 safety hazards identified by the inspector at the time of the inspection. Those

265 deficiencies must be corrected immediately, and the owner or representative  
266 must advise HUD within three business days, following the date of the inspection.  
267 A letter with the required standard certification language on the owner's  
268 letterhead is required. See [Exhibit 2-2](#) for a sample Project Owner's Certification  
269 that all EH&S Items have been corrected.

270 1) Should an owner not correct all EH&S and provide HUD with the EH&S  
271 certification within 3 business days, the regional or satellite office may make  
272 an elective referral to the Departmental Enforcement Center (DEC) based on  
273 the owner's noncompliance. If an elective referral to the DEC is not made,  
274 some other suitable action must be taken.

275 2) The assigned account executive must enter the receipt of the certification  
276 letter (or non-receipt) in the Integrated Real Estate Management System  
277 (iREMS) by selecting the appropriate event under the Physical  
278 Inspection/EH&S Event Tracking Detail screen, indicating the owner  
279 confirmed that the EH&S deficiencies have been corrected, mitigated, or the  
280 owner/manager failed to confirm that EH&S deficiencies were corrected or  
281 mitigated.

## 282 **2.2.6 PHYSICAL INSPECTION REQUESTS/POSTPONEMENTS/CANCELLATIONS**

### 283 A. Physical Inspection Process

284 1) HUD begins the physical inspection process by determining which properties  
285 need to be inspected and in what timeframes.

286 a) The Physical Assessment Sub-system (PASS) obtains a property profile  
287 from other HUD systems and stores it in the PASS database.

288 b) Each inspection is then assigned a unique inspection number and an ideal  
289 date for when the inspection should occur.

290 c) The inspector then uses the ideal date described in 24 C.F.R. § 200.855  
291 to negotiate a mutually agreeable date and time for the inspection with the  
292 owner or his or her authorized representative.

293 i) In most cases, the inspector is responsible for negotiating a mutually  
294 agreeable date and time for the inspection with the authorized property  
295 representative.

296 ii) QA inspections may also be scheduled by HUD staff in Headquarters.

297 2) While scheduling is intended to be by mutual agreement, HUD expects the  
298 date scheduled to be within a reasonable proximity of the dates proposed by  
299 the inspector. An inspector should contact an owner or an owner's authorized  
300 representative at least 15 days in advance to schedule a date and time for a  
301 physical inspection.

302 B. Inspector Cancellation of a Previously Scheduled Physical Inspection

303 Inspectors may cancel previously scheduled REAC physical inspections in the  
304 situations listed below. In all of these situations, the inspection will be  
305 rescheduled:

306 1) If an inspector has successfully scheduled a date and time for an inspection,  
307 but must cancel the inspection due to an unexpected emergency, such as a  
308 severe weather advisory or sickness, it is the inspector's responsibility to  
309 notify the owner or authorized owner's representative and to secure a REAC  
310 Technical Assistance Center (TAC) reference number for that inspection.

311 2) If an inspection is scheduled, but the owner or authorized agent does not  
312 show up, wishes to cancel the inspection, or refuses to allow the inspection,  
313 the inspector should call the REAC TAC for guidance or to secure a REAC  
314 TAC reference number for the cancellation.

315 3) If an inspector arrives at a property for a scheduled inspection and learns that  
316 the residents have not been notified according to the instructions found in 24  
317 C.F.R. § 200.857(g), the inspector should immediately contact the REAC TAC  
318 for guidance.

319 C. HUD Cancellation/Postponement of a Physical Inspection

320 1) At any time, if an owner or an owner's authorized property representative  
321 determines that it is necessary to postpone or cancel a previously scheduled  
322 inspection, or they are contacted by an inspector to schedule an inspection,  
323 but cannot do so, they must contact the regional or satellite office to request a  
324 cancellation or postponement. The request for cancellation or postponement  
325 of the inspection must provide the following information:

326 a) if the inspection is already scheduled, the REAC inspection number and  
327 the date the physical inspection is scheduled to take place;

328 b) a brief explanation of why the physical inspection should be cancelled;

329 c) the date and scores of the last two physical inspections (if the last score  
330 was below 60 the request is likely to be denied); and

331 d) an estimate or recommendation of when the physical inspection should  
332 take place.

333 2) If the regional or satellite office agrees with the owner's or representative's  
334 recommendation, it will send a recommendation to postpone or cancel the  
335 inspection to the appropriate physical inspection coordinator in Headquarters.  
336 The Headquarters physical inspection manager will review and approve or  
337 deny the request and inform REAC of the cancellation or postponement by

338 providing a copy to the regional or satellite office and the appropriate physical  
339 inspection coordinator.

340 **2.2.7 GUIDELINES FOR DECLARING DWELLING UNITS OR BUILDINGS OFF-LINE PRIOR TO A**  
341 **PHYSICAL INSPECTION**

342 A. Process for Declaring Units Off-line

343 1) At an owner's request, a HUD regional or satellite office may, after consulting  
344 with the appropriate physical inspection coordinator in the Business  
345 Relationships and Support Contracts division, Office of Multifamily Asset  
346 Management, designate certain buildings or dwelling units as incapable of  
347 being inspected or off-line prior to a REAC physical inspection, if they  
348 determine that there is good cause for doing so.

349 Some of the reasons an owner may request to take a building or unit off-line  
350 include:

351 a) recent fire/water damage;

352 b) undergoing rehabilitation;

353 c) police restricted area;

354 d) demolished; or

355 e) other hazard.

356 2) If the regional or satellite office determines that there is good cause to  
357 approve an owner's request to take certain buildings or units off-line, it should  
358 consult with the appropriate physical inspection coordinator in Headquarters  
359 providing the following information:

360 a) the total number of buildings or units at the property;

361 b) the reason why the regional or satellite office recommends that certain  
362 units or buildings be taken off-line;

363 c) the identity of the buildings or units to be considered off-line; and

364 d) a time-frame for when they will be back on-line.

365 3) If Headquarters concurs, the regional or satellite office should send a letter to  
366 the owner identifying which units or buildings may be taken off-line. The  
367 owner will then provide this letter to the inspector on the day of the inspection  
368 before he or she verifies building information, the status of each building, and  
369 generates the inspection sample. The regional or satellite office will use the

370 letter format shown in [Exhibit 2-3](#) for their letters notifying an owner that  
371 certain units or buildings may be taken off-line.

372 4) Buildings or units that are designated as off-line must remain in the building  
373 and unit count. If a building that is designated as off-line is selected as a  
374 sample building, the inspector will visually verify that the condition(s) for the  
375 off-line request is/are still in effect and select an alternate. If a dwelling unit  
376 that is designated as off-line is selected as a sample unit, the inspector will  
377 visually verify that the condition(s) for the off-line request is/are still in effect  
378 and select an alternate. However, HUD is concerned about hazardous  
379 conditions that pose a threat to the health and safety of a property's residents,  
380 and an inspector should record any health or safety hazards that an off-line  
381 building or unit poses to residents.

382 5) Declaring a unit or building off-line or off-limits for a physical inspection is a  
383 temporary measure that may only be considered for a single, pending  
384 inspection. Buildings and dwelling units that are designated as off-line should  
385 always be restored to use and occupancy as soon as possible.

#### 386 **2.2.8 REQUIRED ACTIONS FOR MULTIFAMILY HOUSING PROJECTS RECEIVING** 387 **SCORES BELOW 60 ON A PHYSICAL INSPECTION REPORT**

388 Section 230 of the Consolidated Appropriations Act of 2014 and Section 226 of HUD's  
389 Consolidated and Further Continuing Appropriations Act of 2015 requires HUD to take  
390 certain steps in cases where a multifamily housing property receives a score of 59 or  
391 below on a REAC physical inspection report. This section provides guidance to ensure  
392 compliance with these two sections of the law, which are identical. Guidance on how to  
393 comply with this law was published in Housing Notice H-2015-02. Since Multifamily  
394 Housing's instructions on how to comply with the law are described in Housing Notice  
395 2015-02, this section will use that document as the reference point.

##### 396 A. Applicability

397 Housing Notice H-2015-02 directs HUD to take certain procedural steps when  
398 multifamily housing projects score 59 or less on the REAC physical inspection.  
399 Most of the law codifies the procedures that HUD Housing and the DEC already  
400 follow.

401 The Notice applies to insured and noninsured projects with project-based  
402 assistance under Section 8 of the United States Housing Act of 1937 or a  
403 "contract for similar project-based assistance." HUD considers "similar project-  
404 based assistance" to include contracts for all multifamily housing projects that  
405 use the manual voucher submission and review process to submit assistance  
406 vouchers to HUD's Tenant Rental Assistance Certification System (TRACS). In  
407 addition to properties with project-based Section 8 assistance, Section 230  
408 applies to properties that are subject to one of the following rental assistance  
409 contracts:

- 410 1) Rent Supplement contract
- 411 2) Section 202 Project Rental Assistance contract
- 412 3) Section 811 Project Rental Assistance contract
- 413 4) Section 202/162 Project Assistance contract
- 414 5) Senior Preservation Rental Assistance contract

415 The law does not apply to units assisted under the Section 8 Project-Based  
416 Voucher program (Section 8(o)(13) of the National Housing Act) or to public  
417 housing units assisted under Section 9 of the National Housing Act.

418 HUD also determined that there is no justification for treating multifamily projects  
419 with project-based assistance that receive physical inspection scores below 60  
420 any differently than multifamily projects without project-based rental assistance  
421 (e.g., projects with only an FHA-insured mortgage, a HUD-held mortgage, a  
422 Section 202 Direct Loan or Capital Advance, or a Section 811 Capital Advance).  
423 Therefore, HUD applies the procedures to all multifamily housing projects subject  
424 to the UPCS and inspection requirements found in 24 CFR Part 5, Subpart G,  
425 and 24 CFR, Part 200, Subpart P.

#### 426 B. Triggers for Action

427 Section 230(a) requires HUD to take specific actions upon the following triggers:

- 428 1) when a project “receives a REAC score of 30 or less”;
- 429 2) when a project “receives a REAC score between 31 and 59” and the owner  
430 “fails to certify in writing that all deficiencies have been corrected”; or
- 431 3) when a project “receives a REAC score between 31 and 59” and “receives  
432 consecutive scores of less than 60 on REAC inspections.”

433 HUD defines the date the project “receives a REAC score” to mean the date that  
434 HUD releases the REAC inspection report. The release date is the date the  
435 inspection is determined to be “within standard” and released to the owner, HUD  
436 staff, and HUD’s database. This release date is also noted on the email message  
437 that HUD sends to the owner electronically. With respect to section [2.2.8.B.3](#)  
438 above, HUD considers any inspection report that was released on or after the  
439 date of the law’s enactment (i.e., Jan. 17, 2014) to be the first inspection in any  
440 series of inspections that will constitute “consecutive” scores.

441 In addition to the triggers above, nothing limits HUD from taking action if the  
442 triggers aren’t met but HUD still has concerns for physical condition of a project.

#### 443 C. Initial Notice to Owner

444 HUD takes certain steps when one of the triggers for action is met. HUD notifies  
445 the owner and provides an opportunity for response within 30 days.

446 1) REAC provides the owner with a letter that accompanies the inspection report  
447 notifying the owner of the results of the inspection.

448 a) This REAC letter fulfills the initial owner notification requirement.

449 b) The letter provides the owner, within 30 days of the release date, an  
450 opportunity to respond to the inspection report by requesting a technical  
451 review (see 24 CFR, Part 200, Subpart P, §200.857(d)(1)), or an  
452 opportunity for a database adjustment within 45 days of the release date  
453 (24 CFR, Part 200, Subpart P, §857(e)(3)); and.

454 c) If the owner does not submit an appeal, or if the final score after the  
455 appeal process remains 59 or below, then HUD will move to take the  
456 actions described in section [2.2.8.D.1](#) below.

457 D. Development of a Compliance, Disposition, and Enforcement plan (CDE) Plan

458 1) Section 230(b)(1) and Notice H-2015-02 require that if any violations remain,  
459 HUD shall develop a Compliance, Disposition, and Enforcement (CDE) plan  
460 within 60 days, providing a timetable for correcting all deficiencies. HUD  
461 interprets Section 230(b) to require HUD to develop a CDE plan within 60  
462 days from the inspection release date. Due to concerns over the safety of

463 2) A score below 60 indicates that the owner is not providing decent, safe and  
464 sanitary condition and in good repair housing, and therefore, in default of the  
465 project's Regulatory Agreement, the Housing Assistance Payment (HAP)  
466 contract, or both. To protect the health and safety of the residents, it is  
467 imperative that HUD provide notice of the default as soon as possible and to  
468 provide the owner with a period of time and steps needed to cure the default.  
469 Therefore, the DEC analyst or the multifamily account executive strives to  
470 issue the Notice of Violation of Regulatory Agreement (NOV) and/or a Notice  
471 of Default (NOD)/CDE plan within 10 days of the release of the inspection  
472 report, regardless of whether the owner submits an appeal. If, at any time  
473 during this process, an owner's request for a technical review or database  
474 adjustment appeal results in a score above 59, then HUD will consider all of  
475 the circumstances, and if appropriate, take no further action, and return the  
476 project to routine asset management servicing.

477 E. NOVs and NODs Contain the Section 230 CDE Plan

478 When a project receives a physical inspection score above 30, but less than 60,  
479 HUD will not immediately place a flag in the Active Partners Performance System  
480 (APPS), but will, within 10 days of the release of a physical inspection report,  
481 strive to meet with the owner in person or by telephone and discuss a NOD/NOV  
482 for substandard physical condition. The NOVs and NODs set out instructions to



483 the owner on how to comply with this requirement. If the owner does not comply,  
484 HUD will pursue appropriate enforcement and disposition of the project, and the  
485 owner will be explicitly told the consequences of non-compliance. As such, the  
486 portion of the NOV/NOD that sets out the CDE plan is clearly labeled as such  
487 under the heading “Compliance, Disposition and Enforcement Plan” in the space  
488 immediately preceding the NOV’s/NOD’s instructions to the owner to:

489 1) Conduct a survey of 100 percent of the project, identifying all physical  
490 deficiencies.

491 2) Correct the physical deficiencies identified at the project from the survey,  
492 including, but not limited to, those deficiencies identified in the REAC  
493 inspection.

494 3) Execute a certification that the project is in compliance with HUD’s UPCS of  
495 24 CFR 5.703, state and local codes, and submit the completed survey and  
496 certification form to the HUD account executive within 60 days of receipt of  
497 HUD’s notice; and

498 4) Provide tenants with a “Notice of Compliance, Disposition and Enforcement  
499 Plan” for the project, and provide HUD with a certification of compliance with  
500 this directive.

501 Should the necessary repairs extend beyond the 60-day cure period, specified in  
502 the NOV/NOD, the CDE plan portion instructs the owner to submit a repair plan  
503 with the completed survey and provide a reasonable timetable for when the  
504 deficiencies will be completed, stating the cost and source of funds to be used for  
505 repairs. HUD will work with the owner to determine if the owner’s request to  
506 amend the plan is acceptable and adequately protects the tenants’ and HUD’s  
507 interests. Any such changes to the timetable will be considered amendments to  
508 the CDE plan. A sample “Notice of Default of Housing Assistance Payments  
509 (HAP) Contract and Compliance, Disposition and Enforcement Plan” is included  
510 as [Exhibit 2-4](#).

511 F. Providing a “Notice of Compliance, Disposition and Enforcement (CDE) Plan”

512 Section 230(b)(1) further requires HUD to provide notice of the plan to the owner,  
513 tenants, the local government, any lenders, and any contract administrator (CA).  
514 Therefore, all NOV/NODs containing the CDE plan heading also contain  
515 instructions to the owner to provide the project’s tenants with a notice of the CDE  
516 plan. A sample “Notice of Compliance, Disposition and Enforcement (CDE) plan”  
517 is attached as [Exhibit 2-5](#).

518 **Note:** HUD does not require owners to provide tenants with a copy of  
519 NOV/NODs containing the CDE plan, but HUD does require owners to provide  
520 tenants with the CDE plan.

521 The preparer of the NOV/NOD, containing the CDE plan (either the multifamily  
522 housing account executive, for scores from 59 to 31, or the DEC analyst, for  
523 scores of 30 or below), instructs the owner to deliver the CDE plan portion to  
524 each tenant and provide HUD with a certification that such delivery has been  
525 completed. In addition, the notice preparer will send a copy of [Exhibit 2-5](#), “Notice  
526 of Compliance, Disposition and Enforcement (CDE) plan” to the appropriate unit  
527 of local government, any lenders (if known to HUD), and any CA for the project.

528 Many of our HAP contracts require delivery of a copy of the actual notice to the  
529 lender, if HUD is not the lender, and the CA. In these circumstances the AE or  
530 the DEC should send the lender both the NOV/NOD/CDE Plan Notice and the  
531 Notice of CDE Plan to the lender.

### 532 G. Re-inspection Requests

533 Multifamily account executives and DEC analysts process requests for re-  
534 inspection as follows:

535 1) If the owner of a project with a score of 31 to 59 responds to an NOV/NOD by  
536 providing HUD with a copy of the 100 percent survey of the project and the  
537 project owner’s certification that the project is in compliance with HUD’s  
538 UPCS and state and local codes (see [Exhibit 2-6](#)), or an acceptable repair  
539 plan in cases where the repairs cannot be completed within a 60-day cure  
540 period, then a re-inspection may be scheduled on or about one year from the  
541 date of the last inspection.

542 2) If the owner fails to respond by submitting the project owner’s certification and  
543 the 100 percent survey of the project’s deficiencies or an acceptable repair  
544 plan, HUD strives to conduct a re-inspection as soon as possible after the 60-  
545 day cure period mentioned in the NOV/NOD expires.

546 3) Projects that receive a score of 30 or below on a physical inspection will also  
547 be scheduled for a re-inspection as soon as possible after the cure period  
548 mentioned in the NOV/NOD expires, regardless of whether they submit the  
549 project owner’s certification and the 100 percent survey or an acceptable  
550 repair plan.

551 4) As noted above, in cases where the deficiencies noted on the last REAC  
552 inspection report and the owner’s 100 percent survey cannot be completed in  
553 60 days, the NOV/NOD instructs the owner to submit a repair plan with the  
554 100 percent survey and to request an extension of time to complete the  
555 repairs. This repair plan must provide the cost and source of funds that will be  
556 used to make the repairs. If the repair plan is approved, it will serve as an  
557 amendment to the CDE plan. If the repair plan is not approved, a re-  
558 inspection will be scheduled as soon as possible after the 60-day cure period  
559 mentioned in the NOV/NOD expires.

560 5) Should the results of a re-inspection show that the project continues to be in  
561 poor physical condition (most often but not always reflected by a score of 59  
562 or less), then HUD moves to the next appropriate steps to enforce  
563 compliance. Such actions include considering imposition of civil money  
564 penalties (CMP), abatement of the Section 8 contract, or other rental  
565 assistance subsidy, in whole or in part, and possible assignment of an FHA  
566 loan or foreclosure.

#### 567 H. Failure to Comply with the Terms of a CDE Plan

568 1) After the issuance of the NOV/NODs (CDE plans), the physical referral  
569 remains open until the REAC re-inspection report is released. If the DEC  
570 determines that the project's physical condition (as reflected by the re-  
571 inspection report) demonstrates that the owner has not complied with an  
572 expired CDE plan, HUD will proceed with CMPs, if applicable. A subsequent  
573 REAC score of 59 or less is deemed to violate the CDE plan.

574 HUD's Office of Multifamily Housing (MFH) tracks all REAC inspection scores  
575 of properties that scored 59 or less, and if the next REAC re-inspection score  
576 is also less than 60 (i.e., "the project receives consecutive scores of less than  
577 60 on REAC inspections"), MFH will follow the procedures set out in section  
578 [2.2.8.H.2](#) below. A subsequent REAC score of 59 or less is deemed to violate  
579 the CDE plan.

580 2) If the owner fails to comply with the terms of the CDE plan, Section 230(b)(2)  
581 allows HUD to replace project management with a management agent  
582 acceptable to HUD, and requires HUD to take one or more of the following  
583 four actions. HUD must provide notice of these actions to the owner, local  
584 government, and any performance-based contract administrators (PBCA),  
585 CAs, and, if known and readily available, lenders:

586 a) Impose CMPs: If the project is not already in the DEC for the physical  
587 deficiencies, MFH staff must make an elective referral to the DEC using  
588 iREMS;

589 b) Abate: This includes a partial abatement of any Section 8 HAP or other  
590 rental assistance contract until all deficiencies have been corrected. The  
591 multifamily account executive must request approval from the director,  
592 Business Relationships and Support Contracts division to suspend, abate  
593 or terminate the HAP contract. If the rental assistance contract is to be  
594 terminated, the regional director must also request approval to relocate  
595 the residents from the director, Office of Asset Management and Portfolio  
596 Oversight (OAMPO).

597 c) Encourage a transfer of the project or transfer and assignment of the HAP  
598 contract to a new owner. HUD cannot mandate the transfer of a project or  
599 assignment of a HAP contract. However, the regional or satellite office can

600 strongly encourage an owner to explore this option in lieu of an  
601 enforcement action such as abatement, relocation of the residents, and/or  
602 foreclosure. Regional or satellite office staff may even help facilitate this  
603 process by contacting potential transferees and holding discussions with  
604 the current owner regarding a possible transfer. Any formal request for a  
605 transfer of physical assets (TPA) must be approved by HUD using the  
606 current procedures for doing so found in Chapter 13 of HUD Handbook  
607 4350.1, *Multifamily Asset Management and Project Servicing*; or

608 d) Seek judicial appointment of a receiver to manage the property, or seek a  
609 judicial order of specific performance to cure all project deficiencies.

610 Upon initiating any of the enforcement actions noted above, HUD staff will  
611 issue [Exhibit 2-7](#), "Notice of Enforcement Action" to the parties identified in  
612 section [2.2.8.F](#) above. This means, for example, that if the DEC issues a  
613 Complaint for CMPs to the owner, the DEC will also instruct the owner to  
614 provide a "Notice of Enforcement Action" to all tenants with the appropriate  
615 section marked for the initiation of an administrative proceeding for CMPs.  
616 The DEC must also send a similar notice of enforcement action to the local  
617 government, lender (if known), and CA. Similarly, in situations where MFH  
618 issues the owner an abatement of the HAP contract, the multifamily account  
619 executive will instruct the owner to provide a "Notice of Enforcement Action"  
620 to all tenants with the appropriate sections marked. The multifamily account  
621 executive must also send a "Notice of Enforcement Action" to the local  
622 government, lender (if known and readily available), and CA.

623 In addition to these Section 230 actions, the following actions will also be  
624 considered:

625 a) In the case of an insured, HUD-held, Section 202 Direct Loan, Capital  
626 Advance, or a Section 811 Direct Loan, the regional director may also  
627 request approval from the Director, Business Relationships and Support  
628 Contracts division, to proceed with assignment or foreclosure of the direct  
629 loan or capital advance following the procedures below:

630 i) issue the foreclosure hearing (21-day) letter to the owner(s) of the  
631 property;

632 ii) conduct the foreclosure hearing;

633 iii) notify units of local governments (ULG) and the residents of the  
634 proposed foreclosure action;

635 iv) participate in discussions with the ULG for Right of First Refusal (RFR)  
636 sales;

637 v) prepare Contract of Sale for RFR sales;

- 638 vi) order comprehensive repair surveys (CRS) (including inspection of  
639 completed repairs following the foreclosure sale);
- 640 vii) order Section 8 vouchers;
- 641 viii) relocate tenants (**note**, Headquarters approval required before  
642 initiating relocation);
- 643 ix) conduct the sales analysis to determine the sales price and the terms  
644 and conditions of the foreclosure sale;
- 645 x) prepare Bid Kits;
- 646 xi) prepare Property Disposition HAP contract;
- 647 xii) approve the high bidder(s) (with input from Field on  
648 2530's/management agent); or
- 649 xiii) coordinate sales closing; and Administration and oversight of Upfront  
650 Grant (UFG).
- 651 e) The regional or satellite office director may recommend that HUD exclude  
652 the owner from further participation in HUD programs, using a limited  
653 denial of participation (LDP), a suspension, or a debarment.
- 654 I. Section 230 Reporting Requirements
- 655 Section 230 also requires HUD to report to Congress semi-annually. The report  
656 must cover any project that receives a physical inspection score of 30 or less,  
657 and all projects that receive consecutive scores of 59 or below. The report also  
658 includes the enforcement actions being taken to address the poor physical  
659 condition of a project (i.e., under a CDE plan, CMPs imposed, abatement, and  
660 termination of HAP contract, etc.), and all actions being taken to protect the  
661 residents.

662 **Exhibit 2-1 Technical Reviews and Database Adjustments**

663 <http://www.hud.gov/offices/reac/products/pass/PDFs/guidelines-adj.pdf>

664 **Technical Reviews and Database Adjustments**

665 Multifamily property owners/agents (POAs) and Public Housing Agencies (PHAs) have the  
666 option to appeal a physical inspection score for reasons such as a belief that the inspection was  
667 not conducted in accordance with the Uniform Physical Condition Standards (UPCS) inspection  
668 protocol, that certain inspection data may have been recorded in error, or deficiencies are related  
669 to extraordinary events such as a natural disaster, that, if corrected/adjusted, will result in an  
670 improvement in the property's overall score. There are two different processes available to appeal  
671 a physical inspection score: technical reviews and database adjustments.

672 **2.2.9 WHAT IS A TECHNICAL REVIEW (TR)?**

673 A technical review may be requested if, during the physical inspection, an objectively verifiable  
674 and *material* error(s) occurred that, if corrected, would result in an improvement in the property's  
675 overall score. Material errors are those that exhibit specific characteristics and meet specific  
676 thresholds. The three types of material errors are:

- 677
- 678 • **Building Data Errors** -The inspection includes the wrong building or a building that is not  
owned by the property.
  - 679 • **Unit Count Errors** -The total number of units considered in scoring is incorrect as reported at  
680 the time of the inspection.
  - 681 • **Non-Existent Deficiency Errors** -The inspection cites a deficiency that did not exist at the time  
682 of the inspection.

683 **2.2.10 WHAT DOES NOT QUALIFY FOR A TECHNICAL REVIEW?**

684 PIH-REAC will not consider the following for a technical review:

- 685
- 686 • disagreements over the severity of a defect, such as deficiencies rated Level 3 that the  
POA/PHA believe should be rated Level 1 or 2;
  - 687 • deficiencies that were repaired or corrected during or after the inspection;
  - 688 • deficiencies recorded with no associated point loss (for example, inoperable smoke detectors)  
689 or deficiencies for survey purposes only (for example, FHEO) ; or
  - 690 • deficiencies caused by residents.

691 **2.2.11 WHAT ARE THE STEPS FOR SUBMITTING A TECHNICAL REVIEW?**

692 A POA/PHA can initiate the technical review process by notifying PIH-REAC in writing within  
693 the appropriate time-period and supplying objective and verifiable documentation that a  
694 deficiency was recorded in error. Examples of objective and verifiable documentation are dated  
695 pictures or video, signed and dated written material from an objective source such as a local fire  
696 marshal or building code official, or similar evidence. Written documentation, other than from  
697 the fire marshal or local code official, must be from a licensed professional whose expertise

698 corresponds to the appealed inspectable item. This written documentation must be signed by the  
699 licensed expert and include his/her license number. For example, if a property was noted for an  
700 exposed wire, the deficiency must be inspected and verified/certified by a licensed electrician  
701 that there are no exposed wire or the wires exposed do not carry live electricity; a fire sprinkler  
702 defect must be inspected and verified/certified for non-deficiency by a fire suppression company  
703 or a foundation crack non - deficiency must be verified by an engineer whose discipline  
704 corresponds with the noted deficiency.

705 As of October 31, 2007, appeals signed by the owner, his/her management agent and /or lawyers  
706 retained by the owners are the only acceptable appeals that will be processed. REAC is not  
707 required to review a request for appeal after the specified number of days has expired so it is  
708 important to note the time-period available for appeal.

709 **Public Housing:** PHAs must submit a request for a technical review and must be received at  
710 REAC **within 30 days** from the physical inspection report release date. This change is  
711 effective for inspections released on or after March 25, 2011. The request must include an email  
712 address of the request originator.

713 **Multifamily:** POAs must submit a request for a technical review and must be received at  
714 REAC **within 30 days** from the physical inspection report release date. The request must  
715 include an email address of the request originator.

716 The information and proper documentation for a technical review must be mailed to the  
717 following address:

718 U.S Housing and Urban Development/PIH/REAC  
719 **Attn:** Technical Assistance Center/ TR/DBA  
720 550 12th Street S.W.  
721 Suite 100  
722 Washington, DC 20410

723

#### 724 **2.2.12 WHAT IS A DATABASE ADJUSTMENT (DBA)?**

725 A request for database adjustment initiates a review of the results of a physical inspection. A  
726 database adjustment may be requested for circumstances affecting the inspected property that are  
727 out of the ordinary, reflect an inconsistency with ownership, or are allowed by city/county/state  
728 codes. Circumstances that may be addressed by a database adjustment are as follows:

- 729 • **Local Conditions and Exceptions** - Circumstances include inconsistencies between local code  
730 requirements and the UPCS inspection protocol, such as conditions permitted by local variance  
731 or license (e.g., child guards allowed on sleeping room windows by local building codes) or  
732 preexisting physical features that do not conform to or are inconsistent with PIH-REAC's  
733 physical condition protocol.
- 734 • **Ownership Issues** - Items that were captured and scored during the inspection that are not  
735 owned or the responsibility of the PHA/POA. Examples include sidewalks, roads, fences,

736 retaining walls, and mailboxes owned and maintained by adjoining properties or the  
737 city/county/state and resident-owned appliances that are not maintained by the PHA/POA. The  
738 PHA/POA must have notified the owner or proper authorities regarding the deficient item and  
739 any appliances provided to the tenant must be noted in the lease agreement.

- 740 • **Adverse Conditions Beyond the Owner's Control** - Deficiencies negatively affecting the score  
741 were caused by circumstances beyond the PHA's/POA's control such as damage from a natural  
742 disaster or a third party private or public entity working near a property. The responsibility to  
743 correct such conditions still belongs to the POA/PHA.
- 744 • **Modernization Work In Progress** - Property/projects undergoing extensive modernization work  
745 in progress, underway at the time of the physical inspection, may qualify for a database  
746 adjustment. Routine and/or remedial maintenance before or during the inspection are not  
747 appealable. All elements of the unit that are not undergoing modernization at the time of the  
748 inspection (even if modernization is planned) will be subject to PIH-REAC's physical inspection  
749 protocol without adjustment.

### 750 **2.2.13 WHAT DOES NOT QUALIFY FOR A DATABASE ADJUSTMENT?**

751 PIH-REAC will not accept any database adjustment requests without appropriate  
752 documentation. Deficiencies noted during the inspection that were corrected during or after the  
753 inspection do not qualify for a database adjustment. Database adjustments do not apply to  
754 circumstances addressed in the technical review process. Requests for technical reviews must be  
755 submitted separately from requests for database adjustments.

### 757 **2.2.14 WHAT ARE THE STEPS FOR SUBMITTING A DATABASE ADJUSTMENT?**

758 A POA/PHA can initiate the database adjustment process by notifying the correct office in  
759 writing within the appropriate time-period and submitting proper documentation (i.e., signed  
760 letter from local/ building/ fire code official for code variance; etc) to support the appeal. All  
761 requests for database adjustments can be made either prior to or after the physical inspection

762 **Public Housing:** PHAs must send a request for a database adjustment and must be received  
763 **within 45 days** from the physical inspection report release date to the local PIH **field**  
764 **office**. The local PIH field office will then review the database adjustment request and forward  
765 their recommendation to PIH/REAC. This change is effective for inspections released on or after  
766 March 25, 2011. The request must include an email address of the request originator.

767 **Multifamily Housing:** POAs must send a request for a database adjustment and must be  
768 received **within 45 days** from the physical inspection report release date to the following  
769 address. The request must include an email address of the request originator.

770 U.S Housing and Urban Development/PIH/REAC  
771 **Attn:** Technical Assistance Center/ TR/DBA  
772 550 12th Street S.W.  
773 Suite 100  
774 Washington, DC 20410



775 **Exhibit 2-2 Sample Project Owner's Certification that all Exigent Health and**  
776 **Safety Items Have Been Corrected**

777 <http://www.hud.gov/offices/reac/pdf/mfownerehscertification.pdf>

778

779

780

**PROJECT OWNER'S CERTIFICATION THAT ALL EXIGENT  
HEALTH AND SAFETY ITEMS HAVE BEEN CORRECTED**

781

**SEND OR FAX SIGNED COPY TO LOCAL MF OFFICE**

782

[Name of project owner:] \_\_\_\_\_

783

(the "project owner"), the owner of [Project Name:] \_\_\_\_\_,

784

[City:] \_\_\_\_\_, [State:] \_\_\_\_\_ [Project Number:] \_\_\_\_\_

785

(project), by and through its duly authorized representative identified below, hereby

786

certifies that:

787

1. All exigent health and safety (EH&S) items at the project have been corrected. Such EH&S items include those identified in the Notification of Exigent and Fire Safety Hazards Observed, dated \_\_\_\_\_.

788

789

790

2. The attached report accurately identifies the repairs that have been made to correct the EH&S items, the location of those repairs, and the date or dates the repairs were made. If repairs were not made, the dangerous condition was eliminated.

791

792

793

794

This certification is made by the project owner and is signed by a duly authorized representative of the project owner, who is so authorized as the [State fully relationship between signer of this certification and project owner:]

795

796

797

798

799

800

All of the foregoing statements, as well as the date, signature and identifying information of the signer and the project owner that follows, are HEREBY CERTIFIED as true and accurate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

801

802

803

Project Owner: \_\_\_\_\_

804

By: Signature: \_\_\_\_\_

805

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

806

Title: \_\_\_\_\_

807

DRAFT

808 **Exhibit 2-3 Sample Off-Line Letter**

809 [HUD office letterhead with address]

810

811 [Date]

812

813 **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

814

815 [Owner's representative name]

816 [Owner's name]

817 [Owner's address]

818

819 SUBJECT: Approval to Designate Buildings/Units Off-Line

820 Project Name: [Project Name]

821 Project Location: [Project City/Town]

822 Project Number(s): [FHA # & HAP #(s)]

823 iREMS Number: [iREMS #]

824 Dear [Owner's representative name]:

825 This responds to your [letter/e-mail/telephone call] on \_\_\_\_\_  
826 (date), requesting that certain dwelling buildings/units be designated as off-line for the  
827 Real Estate Assessment Center (REAC) Physical Inspection scheduled for  
828 \_\_\_\_\_ due to \_\_\_\_\_.

829 We will not postpone this inspection as 100% of the units receive Section 8  
830 subsidy and the property has a history of substandard physical inspection scores. We  
831 believe that these substandard physical inspection scores violate one or more of your  
832 business agreements with HUD and thereby place your Section 8 Contract in jeopardy.

833 Our Office concurs with your request, and we approve that the following  
834 buildings/units be designated as off-line:

835

| Building Name/No. and Unit No. | Reason Designated Off-Line |
|--------------------------------|----------------------------|
|                                |                            |
|                                |                            |
|                                |                            |

|  |  |
|--|--|
|  |  |
|  |  |

836 Please provide a copy of this letter as soon as the inspector arrives at your site  
837 The buildings/dwelling units noted above will only be considered off-line for the  
838 impending inspection scheduled for \_\_\_\_\_.

839 You have indicated that the buildings/units identified above will be returned to on-  
840 line status \_\_\_\_\_. Please provide written certification to our office  
841 that the buildings/units have been restored for use and occupancy on or before this  
842 date. HUD may schedule an inspection to confirm the satisfactory completion of the  
843 repairs. You are reminded that the owner may voucher only for those dwelling units that  
844 meet HUD's physical inspection standards at 24 C.F.R. Part 5, Subpart G.

845 Finally, should the property receive a physical inspection score of 70 or below on  
846 the next inspection, HUD may, at a minimum, direct the owner to change the  
847 management entity.

848 If you have any questions about this matter, please contact  
849 \_\_\_\_\_ at \_\_\_\_\_.

850 Sincerely,

851  
852  
853 [Name of signatory]  
854 [Title of signatory]  
855

856

857 **Exhibit 2-4 Sample Notice of Default of Housing Assistance Payments (HAP)**  
858 **Contract and Compliance, Disposition and Enforcement (CDE) Plan**

859 <http://portal.hud.gov/hudportal/documents/huddoc?id=15-02hsgn.pdf>

860 **SAMPLE NOTICE OF DEFAULT OF THE HOUSING ASSISTANCE PAYMENTS**  
861 **(HAP) CONTRACT AND COMPLIANCE, DISPOSITION AND ENFORCEMENT (CDE)**  
862 **PLAN**

863  
864 [HUD office letterhead with address]

865  
866 [Date]

867  
868 **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

869  
870 [Owner's representative name]

871 [Owner's name]

872 [Owner's address]

873

874 **SUBJECT: Notice of Default of the Housing Assistance Payments (HAP)**  
875 **Contract and Compliance, Disposition and Enforcement Plan**

876 Project Name: [Project Name]

877 Project Location: [Project City/Town]

878 HAP Contract Number(s): [HAP #(s)]

879 iREMS Number: [iREMS #]

880

881 Dear [Owner's representative name]:

882

883 This letter constitutes formal notice by the Secretary of the United States  
884 Department of Housing and Urban Development (HUD), that [owner's name], (owner),  
885 owner of [project's name] (project), is in default of the HUD Housing Assistance  
886 Payments (HAP) contract effective [original HAP date] with subsequent HAP Renewals,  
887 the latest HAP Basic Contract Multi-year Term Renewal with an effective date of [last  
888 renewal date]. Pursuant to paragraph [2.5(a)- verify paragraph #] of the HAP, the owner  
889 "agrees to maintain and operate the contract units and related facilities to provide  
890 decent, safe, and sanitary housing including the provisions of all the services,  
891 maintenance and utilities set forth ...". [Additionally, pursuant to paragraph [7(b)- verify  
892 paragraph #] of the HAP Renewal, the owner warrants that the rental units to be leased  
893 by the owner under the Renewal contract are in decent, safe, and sanitary condition (as  
894 defined and determined in accordance with HUD regulations and procedures) and shall  
895 be maintained in such condition during the term of the Renewal contract.] This standard  
896 is set forth in HUD regulation 24 CFR 5.703, *et. al.*

897 On [date of REAC inspection] the Real Estate Assessment Center (REAC)  
898 inspected the project and the project received a score of [inspection score]. The  
899 inspection report identified serious deficiencies that demonstrate the owner is in default

900 of the HAP contract [and HAP Renewal contract]. Some of the deficiencies cited in the  
901 REAC report include, but are not limited to, the following:

902 [Summarize the REAC inspection report here. Identify major health and safety  
903 issues from the Health and Safety Summary. Summarize systemic deficiencies from the  
904 Systemic Deficiencies section of the inspection report. The following is an example from  
905 a description used in the pilot:

906 Some of the deficiencies cited in the REAC report are:

- 907
- 908 • Grounds – Overgrown/Penetrating Vegetation
  - 909 • Doors – Damaged Frames/Threshold/ Lintels/Trim
  - 910 • Emergency/Fire Exits – Emergency/Fire Exits Blocked/Unusable
  - 911 • Infestation – Insects/Roaches
  - 912 • Electrical Hazards – Exposed Wires/Open Panels
  - 913 • Windows – Inoperable/Not Lockable.]
- 914

## 915 **Compliance, Disposition and Enforcement (CDE) Plan**

916 Accordingly, the owner shall take the following corrective actions within 60 days  
917 of the date of receipt of this notice:

- 918 (1) Conduct a survey of 100 percent of the project, identifying all physical  
919 deficiencies.
- 920 (2) Correct all of the physical deficiencies identified at the project from the  
921 survey, including, but not limited to, those deficiencies identified in the  
922 REAC inspection.
- 923 (3) Provide tenants with the enclosed “Notice of Compliance, Disposition and  
924 Enforcement Plan” for the project.
- 925 (4) Execute the enclosed certification that the project is in compliance with  
926 HUD’s physical condition standards of 24 CFR 5.703 with state and local  
927 codes, and that the owner has provided the tenants with the enclosed  
928 “Notice of Compliance, Disposition and Enforcement Plan”; and
- 929 (5) Submit the completed survey and certification within 60 days of receipt of  
930 HUD’s notice to:

931

932 U.S. Department of Housing and Urban Development  
933 [HUD office address]  
934 ATTN: [Name of Account Executive, Project Manager or DEC Analyst  
935 handling the matter]

936 Unless HUD agrees otherwise, in writing, the owner must correct all physical  
937 deficiencies identified in the survey of the project within 60 days of receiving the CDE  
938 plan. Should the necessary repairs extend beyond 60 days, the owner must submit to  
939 HUD at the address noted above, a repair plan with the completed survey and request a  
940 reasonable extension of time to complete the repair of all deficiencies found by the

941 survey, stating the cost and source of funds to be used for repairs. Any HUD approved  
942 extension to the 60-day deadline will be made in writing and will amend the CDE plan.  
943 HUD will work with the owner to determine if the owner's request to amend the CDE  
944 plan is acceptable and adequately protects the tenants' interests.

945 HUD will re-inspect the project to confirm that the owner is in compliance with the  
946 HAP contract.

947 If the owner fails to take the necessary corrective action, then the Section 8  
948 assistance may be reduced, suspended, abated, or terminated under the above  
949 referenced HAP contract, and any other remedies may be taken as provided by the  
950 parties' agreement(s), or as otherwise provided by law.

951 For the reasons described in this Notice and CDE plan, HUD will flag the owner  
952 in HUD's Active Partners Performance System (APPS). This flag may adversely affect  
953 the owner's eligibility for participation in HUD programs, under HUD's Previous  
954 Participation Certification procedure, by constituting a standard for disapproval.

955 HUD may continue its review of any other contractual agreements between the  
956 owner and HUD beyond the matters identified in this notice. If HUD determines that  
957 there are additional contractual violations or defaults, HUD's subsequent declaration of  
958 any such violations or defaults will not affect the requirements set out in this notice.

959 If there are any questions concerning this notice, please contact [HUD contact  
960 name], [HUD contact title], at [HUD contact telephone number].

961 Sincerely,

962  
963 [Name of signatory]  
964 [Title of signatory]  
965

966 Enclosures:

967 NOTICE OF A COMPLIANCE, DISPOSITION AND ENFORCEMENT (CDE) PLAN  
968 FOR [PROJECT NAME, FHA Number, iREMS Number]  
969 Certification  
970

971 **Exhibit 2-5 Sample Notice of Compliance, Disposition and Enforcement (CDE)**  
972 **Plan**

973 <http://portal.hud.gov/hudportal/documents/huddoc?id=15-02hsgn.pdf>

974 **Date:**

975 **NOTICE OF A COMPLIANCE, DISPOSITION AND ENFORCEMENT (CDE) PLAN**  
976 **FOR [PROJECT NAME, FHA Number, iREMS Number]**

977 Pursuant to Section 230 of the Consolidated Appropriations Act of 2014 , this is a  
978 notice from the United States Department of Housing and Urban Development (HUD)  
979 that HUD has issued to the owner of **[project name]** (project), a Compliance,  
980 Disposition and Enforcement (CDE) plan, for the project.

981 The CDE plan instructs the owner to:

- 982 (1) Conduct a survey of 100 percent of the project, identifying all physical  
983 deficiencies;
- 984 (2) Correct the physical deficiencies at the project, including, but not limited to,  
985 those deficiencies identified in the HUD Real Estate Assessment Center  
986 (REAC) inspection;
- 987 (3) Execute a certification that the project is in compliance with HUD's physical  
988 condition standards of 24 C.F.R. § 5.703 and state and local codes;
- 989 (4) Submit the completed survey and certification form to the HUD project  
990 manager within 60 days of receipt of HUD's notice; and
- 991 (5) Provide this notice to all tenants.

992 Unless HUD agrees otherwise in writing, the owner must correct all physical  
993 deficiencies identified in the survey of the project within 60 days of receiving the CDE  
994 plan.

995 If you are aware of any owner actions contrary to these instructions, contact [the  
996 appropriate Account Executive] at [telephone number.]

997



998 **Exhibit 2-6 Project Owner's Certification that the Physical Condition of the**  
999 **Project is in Compliance with HUD Contracts and the Physical**  
1000 **Condition Standards of 24 CFR § 5.703**

1001 <http://portal.hud.gov/hudportal/documents/huddoc?id=15-02hsgn.pdf>

1002 **PROJECT OWNER'S CERTIFICATION THAT THE PHYSICAL CONDITION OF THE**  
1003 **PROJECT IS IN COMPLIANCE WITH HUD CONTRACTS AND THE PHYSICAL**  
1004 **CONDITION STANDARDS OF 24 C.F.R. § 5.703**

1005 [Name of project owner:] \_\_\_\_\_  
1006 (the "project owner"), the owner of [project name:] \_\_\_\_\_, [City:]  
1007 \_\_\_\_\_, [State:] \_\_\_\_\_, Project No. \_\_\_\_\_ (the  
1008 "project"), by and through its duly authorized representative identified below, hereby  
1009 certifies that:

- 1010 1. All physical deficiencies of the project identified in the HUD inspection(s) of  
1011 the project performed on \_\_\_\_\_ and the attached project  
1012 owner's survey of the project performed on \_\_\_\_\_ have  
1013 been corrected, and the project is in compliance with the physical condition  
1014 requirements of all HUD contracts pertaining to the project and the physical  
1015 condition standards of 24 CFR 5.703. The term "project" includes all units,  
1016 common areas, building(s), grounds, and systems.
- 1017
- 1018 2. To the best of the project owner's knowledge, the project is in compliance  
1019 with all state and local codes.
- 1020
- 1021 3. All tenants residing at project have received a "Notice of Compliance,  
1022 Disposition and Enforcement (CDE) plan" relating to these physical  
1023 deficiencies.
- 1024
- 1025 4. This certification is made by the project owner and is signed by a duly  
1026 authorized representative of the project owner, who is so authorized by  
1027 reason of his/her position as the [State fully relationship between signer of  
1028 certification and project owner:]  
1029 \_\_\_\_\_  
1030 \_\_\_\_\_  
1031 \_\_\_\_\_.

1032 All of the foregoing statements, as well as the date, signature and identifying  
1033 information of the project owner and the signer that follows, are HEREBY CERTIFIED  
1034 as true and accurate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

1035 Project owner: \_\_\_\_\_

2.2 Physical Condition

Exhibit 2-6 Project Owner's Certification that the Physical Condition of the Project is in Compliance with HUD Contracts and the Physical Condition Standards of 24 CFR § 5.703

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1036 BY: Signature: \_\_\_\_\_

1037 Print Name: \_\_\_\_\_

1038 Title: \_\_\_\_\_

1039 WARNING: Federal statutes and regulations, including but not limited to 18 U.S.C.  
1040 §§ 287, 1001, 1010, and 1012; 31 U.S.C. §§ 3729 and 3802; and 24 C.F.R. Parts 24,  
1041 28, and 30, provide for criminal, civil or administrative penalties, sanctions or other  
1042 regulatory actions with respect to false, fictitious, or fraudulent statements or claims  
1043 presented in a matter within the jurisdiction of HUD.

DRAFT

1044 **Exhibit 2-7 Sample Notice of Enforcement Action**

1045 <http://portal.hud.gov/hudportal/documents/huddoc?id=15-02hsgn.pdf>

1046 **Date:**

1047 **NOTICE OF AN ENFORCEMENT ACTION AGAINST [PROJECT NAME, FHA**  
1048 **Number, iREMS Number]**

1049 Pursuant to Section 230 of the Consolidated Appropriations Act of 2014, the  
1050 United States Department of Housing and Urban Development (HUD) is providing this  
1051 notice that HUD has initiated an enforcement action against the owner of [project name]  
1052 for the failure to comply with HUD's requirements for maintaining the project in  
1053 acceptable physical condition.

1054 Specifically, the notice to the owner involved: [check appropriate action]

1055 \_\_\_\_\_ HUD's initiation of an administrative proceeding to impose civil  
1056 money penalties.

1057 \_\_\_\_\_ HUD's abatement, including partial abatement, of assistance  
1058 payments to the owner, under the Section 8 contract, until the  
1059 deficiencies are corrected.

1060 \_\_\_\_\_ HUD's filing of a lawsuit before a judge to appoint a receiver to  
1061 operate the Project and correct the deficiencies.

1062 \_\_\_\_\_ HUD's filing of a lawsuit before a judge seeking an order for specific  
1063 performance to the owner to correct the deficiencies.

1064 \_\_\_\_\_ Other

\_\_\_\_\_