# FHA Multifamily Housing Policy Handbook

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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 ensures 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.
3) Properties that score 79 or less points are inspected annually.

4) Properties that score a 59 or below are subject to the protocol outlined in section 2.2.7 below.

2.2.2 APPLICABILITY

The requirements of this unit apply to:

1) housing assisted under the HUD programs listed in 24 CFR, Part 200, Subpart P, §200.853(a);

2) housing with mortgages insured or held by HUD, or housing that is receiving assistance from HUD under programs listed in 24 CFR, Part 200, Subpart P, §853(b);

3) Public Housing Agencies (PHA) and other entities described in 24 CFR, Part 5, Subpart G, §5.701(c); and

4) public housing (housing receiving assistance under the U.S. Housing Act of 1937, other than under Section 8 of the Act).


2.2.3 INSPECTION TYPES AND RESPONSIBLE ENTITIES

A. Lender Inspections

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

B. Reverse Auction Inspections

This process is called the Reverse Auction program because the lowest bidder is awarded the right to conduct an inspection. The Reverse Auction process covers projects that are HUD-held, have a 202 Direct loan, an 811/202 Capital Advance, and projects with only Section 8 contracts.
1) HUD’s Reverse Auction program is a process of identifying properties needing inspection, procuring bids to conduct the inspections, reviewing and accepting inspections, and authorizing payment to contractors.

2) A contractor is a small business that participates in the Reverse Auction program by bidding on a group of properties to be inspected. The auction is conducted on a reverse auction vendor website.

3) Contractors bid on inspection assignments throughout the nation, including Puerto Rico, U.S. Virgin Islands, and Guam.

4) An inspector is an individual, certified by HUD in the UPCS, and who performs on-site property inspections. Inspectors may be contractors, employees of a contractor, subcontractors to a contractor, or employees of a subcontractor.

5) At the close of the reverse auction, purchase order awards are made to the lowest bid offered by an eligible contractor.

6) Active, certified inspectors then schedule and conduct the inspection, and upload the inspection observations to HUD.

7) Once the completed inspection is accepted by HUD, payment is authorized and made electronically to the contractor’s vendor account.

C. Quality Assurance (QA) Inspections

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

1) Full inspections are conducted by QA staff, where the most recent UPCS score was 59 or below. QA inspectors perform inspections in instances such as problem resolution of issues of interest to the Secretary and Assistant Secretary; sensitive inquiries from senior level HUD managers; members of Congress; mayors and other state and local government officials; and concerned citizens. They are also called upon to conduct special inspections that arise as a result of:

a) foreclosure proceedings;

b) 212 or 8bb Section 8 budget authority transfers; and

c) resident complaints, etc. as requested by multifamily field staff, based on their assessment of property condition.

2) A limited quality assurance (LQA) review is performed by HUD QA staff following a completed inspection to determine whether the inspection was a
true representation of the physical condition of the property at the time the inspection took place.

a) As a result of the LQA review, the inspector’s performance is rated either “within standard” or “outside standard,” based on the inspector’s ability to follow the UPCS.

b) An “outside standard” performance designation is referred to HUD’s Inspector Administration for follow-up action.

c) Compilation of “outside standard” QA reviews may not only result in inspector de-certification, but also could result in REAC rejecting the inspections, which requires a re-inspection of the property.

3) A collaborative QA (CQA) review occurs when a QA inspector accompanies a certified contractor inspector during an inspection to:

a) evaluate the quality of the inspection and the capabilities of the individual contracted inspector;

b) determine whether the inspector conducted a valid inspection using the appropriate inspection protocol; and

c) serve both as an assessment of the inspector’s use of the inspection protocol, either “within standard” or “outside standard,” and as an opportunity for the inspector to enhance skills through the feedback provided by the QA inspector.

2.2.4 Appeals

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

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

A. Technical Review

1) A technical review may be requested if, during the physical inspection, an objectively verifiable and material error(s) occurred that, if corrected, would result in an improvement in the property's overall score. Material errors are those that exhibit specific characteristics and meet specific thresholds. The three types of material errors are:
a) Building data errors – The inspection includes the wrong building or a building that is not owned by the property.

b) Unit count errors – The total number of units considered in scoring is incorrect as reported at the time of the inspection.

c) Non-existent deficiency errors – The inspection cites a deficiency that did not exist at the time of the inspection.

2) HUD does not consider a technical review for the following conditions:

a) disagreements over the severity of a defect, such as deficiencies rated Level 3 that the owner/manager believes should be rated Level 1 or 2;¹

a) deficiencies that were repaired or corrected during or after the inspection;

b) deficiencies recorded with no associated point loss (e.g., inoperable smoke detectors) or deficiencies for survey purposes only (e.g., FHEO); or

c) deficiencies caused by residents.

3) The following are steps for submitting a technical review.

a) An owner/manager can initiate the technical review process by notifying the Office of Public and Indian Housing (PIH)-REAC in writing within the appropriate time period and supplying objective and verifiable documentation that a deficiency was recorded in error. Examples of objective and verifiable documentation are:

i) dated pictures or video;

ii) signed and dated written material from an objective source such as a local fire marshal or building code official, or similar evidence; or

iii) written documentation, other than from the fire marshal or local code official, from a licensed professional whose expertise corresponds to the appealed item. This written documentation must be signed by the licensed expert and include their active and verifiable license number.

b) Examples include, but are not limited to, the following:

¹ 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.
An exposed wire deficiency must be inspected and verified/certified by a licensed electrician that there are no exposed wires, or the wires exposed do not carry electricity.

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

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

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

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

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

i) schedule a new inspection;

ii) correct the physical inspection report; or

iii) issue a corrected physical condition score.

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

B. Database Adjustment

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

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

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

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

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

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

   b) resident-owned appliances that are not maintained by the owner/manager. The owner/manager must notify the proper authorities regarding the deficient item and any appliances provided to the tenant must be noted in the lease agreement.

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

   a) damage from a natural disaster; or

   b) a third party private or public entity working near a property. The responsibility to correct such conditions still belongs to the owner/manager.

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

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

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

1) schedule a new inspection;

2) correct the physical inspection report; or

3) issue a corrected physical condition score.

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

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

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

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

1) detected propane, natural gas, or methane gas odors;

2) exposed wires or openings in electrical panels;

3) water leaks on or near electrical equipment;

4) blocked or unusable emergency fire exits or fire escapes;

5) window security bars preventing exit;

6) carbon monoxide hazard or a missing or misaligned chimney on a gas/oil-fired hot water heater/HVAC;

7) expired fire extinguishers; or

8) missing or inoperative smoke detectors.

B. Notification

HUD will provide the owner/manager with written notification of all health and safety hazards identified by the inspector at the time of the inspection. Those
deficiencies must be corrected immediately, and the owner or representative
must advise HUD within three business days, following the date of the inspection.
A letter with the required standard certification language on the owner’s
letterhead is required. See Exhibit 2-2 for a sample Project Owner’s Certification
that all EH&S Items have been corrected.

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

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

2.2.6 Physical Inspection Requests/Postponements/Cancellations

A. Physical Inspection Process

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

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

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

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

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

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

2) While scheduling is intended to be by mutual agreement, HUD expects the
date scheduled to be within a reasonable proximity of the dates proposed by
the inspector. An inspector should contact an owner or an owner’s authorized
representative at least 15 days in advance to schedule a date and time for a
physical inspection.
B. Inspector Cancellation of a Previously Scheduled Physical Inspection

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

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

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

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

C. HUD Cancellation/Postponement of a Physical Inspection

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

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

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

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

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

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

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

A. Process for Declaring Units Off-line

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

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

- recent fire/water damage;
- undergoing rehabilitation;
- police restricted area;
- demolished; or
- other hazard.

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

- the total number of buildings or units at the property;
- the reason why the regional or satellite office recommends that certain units or buildings be taken off-line;
- the identity of the buildings or units to be considered off-line; and
- a time-frame for when they will be back on-line.

3) If Headquarters concurs, the regional or satellite office should send a letter to the owner identifying which units or buildings may be taken off-line. The owner will then provide this letter to the inspector on the day of the inspection before he or she verifies building information, the status of each building, and generates the inspection sample. The regional or satellite office will use the
letter format shown in Exhibit 2-3 for their letters notifying an owner that
certain units or buildings may be taken off-line.

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

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

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

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

A. Applicability

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

The Notice applies to insured and noninsured projects with project-based
assistance under Section 8 of the United States Housing Act of 1937 or a
“contract for similar project-based assistance.” HUD considers “similar project-
based assistance” to include contracts for all multifamily housing projects that
use the manual voucher submission and review process to submit assistance
vouchers to HUD’s Tenant Rental Assistance Certification System (TRACS). In
addition to properties with project-based Section 8 assistance, Section 230
applies to properties that are subject to one of the following rental assistance
contracts:
1) Rent Supplement contract
2) Section 202 Project Rental Assistance contract
3) Section 811 Project Rental Assistance contract
4) Section 202/162 Project Assistance contract
5) Senior Preservation Rental Assistance contract

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

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

B. Triggers for Action

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

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

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

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

C. Initial Notice to Owner
HUD takes certain steps when one of the triggers for action is met. HUD notifies the owner and provides an opportunity for response within 30 days.

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

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

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

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

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

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

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

E. NOVs and NODs Contain the Section 230 CDE Plan

When a project receives a physical inspection score above 30, but less than 60, HUD will not immediately place a flag in the Active Partners Performance System (APPS), but will, within 10 days of the release of a physical inspection report, strive to meet with the owner in person or by telephone and discuss a NOD/NOV for substandard physical condition. The NOVs and NODs set out instructions to
the owner on how to comply with this requirement. If the owner does not comply, HUD will pursue appropriate enforcement and disposition of the project, and the owner will be explicitly told the consequences of non-compliance. As such, the portion of the NOV/NOD that sets out the CDE plan is clearly labeled as such under the heading “Compliance, Disposition and Enforcement Plan” in the space immediately preceding the NOV’s/NOD’s instructions to the owner to:

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

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

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

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

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

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

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

Note: HUD does not require owners to provide tenants with a copy of NOVs/NODs containing the CDE plan, but HUD does require owners to provide tenants with the CDE plan.
The preparer of the NOV/NOD, containing the CDE plan (either the multifamily housing account executive, for scores from 59 to 31, or the DEC analyst, for scores of 30 or below), instructs the owner to deliver the CDE plan portion to each tenant and provide HUD with a certification that such delivery has been completed. In addition, the notice preparer will send a copy of Exhibit 2-5, “Notice of Compliance, Disposition and Enforcement (CDE) plan” to the appropriate unit of local government, any lenders (if known to HUD), and any CA for the project.

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

G. Re-inspection Requests

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

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

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

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

4) As noted above, in cases where the deficiencies noted on the last REAC inspection report and the owner’s 100 percent survey cannot be completed in 60 days, the NOV/NOD instructs the owner to submit a repair plan with the 100 percent survey and to request an extension of time to complete the repairs. This repair plan must provide the cost and source of funds that will be used to make the repairs. If the repair plan is approved, it will serve as an amendment to the CDE plan. If the repair plan is not approved, a re-inspection will be scheduled as soon as possible after the 60-day cure period mentioned in the NOV/NOD expires.
5) Should the results of a re-inspection show that the project continues to be in poor physical condition (most often but not always reflected by a score of 59 or less), then HUD moves to the next appropriate steps to enforce compliance. Such actions include considering imposition of civil money penalties (CMP), abatement of the Section 8 contract, or other rental assistance subsidy, in whole or in part, and possible assignment of an FHA loan or foreclosure.

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

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

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

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

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

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

c) Encourage a transfer of the project or transfer and assignment of the HAP contract to a new owner. HUD cannot mandate the transfer of a project or assignment of a HAP contract. However, the regional or satellite office can
strongly encourage an owner to explore this option in lieu of an enforcement action such as abatement, relocation of the residents, and/or foreclosure. Regional or satellite office staff may even help facilitate this process by contacting potential transferees and holding discussions with the current owner regarding a possible transfer. Any formal request for a transfer of physical assets (TPA) must be approved by HUD using the current procedures for doing so found in Chapter 13 of HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*; or

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

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

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

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

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

ii) conduct the foreclosure hearing;

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

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

v) prepare Contract of Sale for RFR sales;
vi) order comprehensive repair surveys (CRS) (including inspection of completed repairs following the foreclosure sale);

vii) order Section 8 vouchers;

viii) relocate tenants (note, Headquarters approval required before initiating relocation);

ix) conduct the sales analysis to determine the sales price and the terms and conditions of the foreclosure sale;

x) prepare Bid Kits;

xi) prepare Property Disposition HAP contract;

xii) approve the high bidder(s) (with input from Field on 2530’s/management agent); or

xiii) coordinate sales closing; and Administration and oversight of Upfront Grant (UFG).

e) The regional or satellite office director may recommend that HUD exclude the owner from further participation in HUD programs, using a limited denial of participation (LDP), a suspension, or a debarment.

I. Section 230 Reporting Requirements

Section 230 also requires HUD to report to Congress semi-annually. The report must cover any project that receives a physical inspection score of 30 or less, and all projects that receive consecutive scores of 59 or below. The report also includes the enforcement actions being taken to address the poor physical condition of a project (i.e., under a CDE plan, CMPs imposed, abatement, and termination of HAP contract, etc.), and all actions being taken to protect the residents.
Exhibit 2-1  Technical Reviews and Database Adjustments

Exhibit 2-1  Technical Reviews and Database Adjustments


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

2.2.9 WHAT IS A TECHNICAL REVIEW (TR)?

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

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

2.2.10 WHAT DOES NOT QUALIFY FOR A TECHNICAL REVIEW?

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

- 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;
- deficiencies that were repaired or corrected during or after the inspection;
- deficiencies recorded with no associated point loss (for example, inoperable smoke detectors) or deficiencies for survey purposes only (for example, FHEO); or
- deficiencies caused by residents.

2.2.11 WHAT ARE THE STEPS FOR SUBMITTING A TECHNICAL REVIEW?

A POA/PHA can initiate the technical review process by notifying PIH-REAC in writing within the appropriate time-period and supplying objective and verifiable documentation that a deficiency was recorded in error. Examples of objective and verifiable documentation are dated pictures or video, signed and dated written material from an objective source such as a local fire marshal or building code official, or similar evidence. Written documentation, other than from the fire marshal or local code official, must be from a licensed professional whose expertise...
2.2 Physical Condition
Exhibit 2-1 Technical Reviews and Database Adjustments

2.2.12 WHAT IS A DATABASE ADJUSTMENT (DBA)?

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

- **Local Conditions and Exceptions** - Circumstances include inconsistencies between local code requirements and the UPCS inspection protocol, such as conditions permitted by local variance or license (e.g., child guards allowed on sleeping room windows by local building codes) or preexisting physical features that do not conform to or are inconsistent with PIH-REAC's physical condition protocol.

- **Ownership Issues** - Items that were captured and scored during the inspection that are not owned or the responsibility of the PHA/POA. Examples include sidewalks, roads, fences,
retaining walls, and mailboxes owned and maintained by adjoining properties or the
city/county/state and resident-owned appliances that are not maintained by the PHA/POA. The
PHA/POA must have notified the owner or proper authorities regarding the deficient item and
any appliances provided to the tenant must be noted in the lease agreement.

- **Adverse Conditions Beyond the Owner’s Control** - Deficiencies negatively affecting the score
were caused by circumstances beyond the PHA’s/POA’s control such as damage from a natural
disaster or a third party private or public entity working near a property. The responsibility to
correct such conditions still belongs to the POA/PHA.

- **Modernization Work In Progress** - Property/projects undergoing extensive modernization work
in progress, underway at the time of the physical inspection, may qualify for a database
adjustment. Routine and/or remedial maintenance before or during the inspection are not
appealable. All elements of the unit that are not undergoing modernization at the time of the
inspection (even if modernization is planned) will be subject to PIH-REAC’s physical inspection
protocol without adjustment.

2.2.13 WHAT DOES NOT QUALIFY FOR A DATABASE ADJUSTMENT?

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

2.2.14 WHAT ARE THE STEPS FOR SUBMITTING A DATABASE ADJUSTMENT?

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

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

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

U.S Housing and Urban Development/PIH/REAC
Attn: Technical Assistance Center/ TR/DBA
550 12th Street S.W.
Suite 100
Washington, DC 20410
Exhibit 2-2  Sample Project Owner’s Certification that all Exigent Health and Safety Items Have Been Corrected


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

SEND OR FAX SIGNED COPY TO LOCAL MF OFFICE

[Name of project owner:] _________________________________________

(the “project owner”), the owner of [Project Name:] _________________________, [City:] __________________, [State:] __________ [Project Number:] ________ (project), by and through its duly authorized representative identified below, hereby certifies that:

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 ____________________.

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.

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:]

_______________________________________________________________

_______________________________________________________________

_______________________________________________________________

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____.

Project Owner: ______________________________________

By: Signature: ______________________________

Print Name: ______________________________________

Title: ______________________________________
2.2 Physical Condition

Exhibit 2-2 Sample Project Owner’s Certification that all Exigent Health and Safety Items Have Been Corrected
Exhibit 2-3  Sample Off-Line Letter

[HUD office letterhead with address]
[Date]

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

[Owner’s representative name]
[Owner’s name]
[Owner’s address]

SUBJECT: Approval to Designate Buildings/Units Off-Line

Dear [Owner’s representative name]:

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

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

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

<table>
<thead>
<tr>
<th>Building Name/No. and Unit No.</th>
<th>Reason Designated Off-Line</th>
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</tbody>
</table>
2.2 Physical Condition
Exhibit 2-3 Sample Off-Line Letter

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

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

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

If you have any questions about this matter, please contact ______________________ at ______________________.

Sincerely,

[Name of signatory]
[Title of signatory]
Exhibit 2-4 Sample Notice of Default of Housing Assistance Payments (HAP) Contract and Compliance, Disposition and Enforcement (CDE) Plan


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

[HUD office letterhead with address]

[Date]

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

[Owner’s representative name]
[Owner’s name]
[Owner’s address]

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

Dear [Owner’s representative name]:

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

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

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

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

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

Some of the deficiencies cited in the REAC report are:

- Grounds – Overgrown/Penetrating Vegetation
- Doors – Damaged Frames/Threshold/ Lintels/Trim
- Emergency/Fire Exits – Emergency/Fire Exits Blocked/Unusable
- Infestation – Insects/Roaches
- Electrical Hazards – Exposed Wires/Open Panels
- Windows – Inoperable/Not Lockable.]

Compliance, Disposition and Enforcement (CDE) Plan

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

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

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

Unless HUD agrees otherwise, in writing, the owner must correct all physical deficiencies identified in the survey of the project within 60 days of receiving the CDE plan. Should the necessary repairs extend beyond 60 days, the owner must submit to HUD at the address noted above, a repair plan with the completed survey and request a reasonable extension of time to complete the repair of all deficiencies found by the
survey, stating the cost and source of funds to be used for repairs. Any HUD approved extension to the 60-day deadline will be made in writing and will amend the CDE plan. HUD will work with the owner to determine if the owner’s request to amend the CDE plan is acceptable and adequately protects the tenants’ interests.

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

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

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

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

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

Sincerely,

[Name of signatory]
[Title of signatory]

Enclosures: NOTICE OF A COMPLIANCE, DISPOSITION AND ENFORCEMENT (CDE) PLAN FOR [PROJECT NAME, FHA Number, iREMS Number] Certification
2.2 Physical Condition

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

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


Date:

NOTICE OF A COMPLIANCE, DISPOSITION AND ENFORCEMENT (CDE) PLAN

FOR [PROJECT NAME, FHA Number, iREMS Number]

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

The CDE plan instructs the owner to:

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

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

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

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


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

[Name of project owner:] ____________________________________________
(name of project owner), the owner of [project name:] ____________________, [City:] ________________, [State:] ____________, Project No. ___________________ (the “project”), by and through its duly authorized representative identified below, hereby certifies that:

1. All physical deficiencies of the project identified in the HUD inspection(s) of the project performed on ___________________ and the attached project owner’s survey of the project performed on ___________________ have been corrected, and the project is in compliance with the physical condition requirements of all HUD contracts pertaining to the project and the physical condition standards of 24 CFR 5.703. The term “project” includes all units, common areas, building(s), grounds, and systems.

2. To the best of the project owner’s knowledge, the project is in compliance with all state and local codes.

3. All tenants residing at project have received a “Notice of Compliance, Disposition and Enforcement (CDE) plan” relating to these physical deficiencies.

4. This certification is made by the project owner and is signed by a duly authorized representative of the project owner, who is so authorized by reason of his/her position as the [State fully relationship between signer of certification and project owner:]

____________________________________________________________
____________________________________________________________
____________________________________________________________.

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

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

BY: Signature: _________________________

Print Name: __________________________

Title: ________________________________

WARNING: Federal statutes and regulations, including but not limited to 18 U.S.C. §§ 287, 1001, 1010, and 1012; 31 U.S.C. §§ 3729 and 3802; and 24 C.F.R. Parts 24, 28, and 30, provide for criminal, civil or administrative penalties, sanctions or other regulatory actions with respect to false, fictitious, or fraudulent statements or claims presented in a matter within the jurisdiction of HUD.
Exhibit 2-7  Sample Notice of Enforcement Action


Date:

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

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

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

_____ HUD’s initiation of an administrative proceeding to impose civil money penalties.

_____ HUD’s abatement, including partial abatement, of assistance payments to the owner, under the Section 8 contract, until the deficiencies are corrected.

_____ HUD’s filing of a lawsuit before a judge to appoint a receiver to operate the Project and correct the deficiencies.

_____ HUD’s filing of a lawsuit before a judge seeking an order for specific performance to the owner to correct the deficiencies.

_____ Other

__________________________