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# **UNIT 8 ASSET DEFAULTS, CLAIMS, AND FORECLOSURES**

## **CHAPTER 8.3 MONITORING HUD-HELD MORTGAGES**

### **8.3.1 PURPOSE**

#### **A. General**

This chapter sets forth policies and procedures applicable to the servicing of multifamily housing projects with the U.S. Department of Housing and Urban Development (HUD)-held mortgages. The objectives of servicing HUD-held projects are to:

- 1) protect tenants;
- 2) ensure that all funds due to HUD are collected;
- 3) ensure the owner maintains or improves the value of the collateral;
- 4) maximize HUD's recovery; and
- 5) preserve or create affordable housing.

#### **B. Definition of a HUD-Held Mortgage**

For the purposes of this chapter, a HUD-held mortgage is broken down into two broad categories. The categories and notes within those categories are described as follows:

- 1) Amortizing notes that require monthly payments and are generally secured by first mortgage liens against a property. These notes are usually:
  - a) evidencing a defaulted loan that was insured under a multifamily section of the National Housing Act which has been assigned to HUD; or
  - b) From Section 221(d)(3) and Section 221(d)(4) projects including below market interest rate (BMIR)) loans assigned pursuant to the provisions of Section 221(g)(4).
- 2) Non-amortizing notes that require only annual payments based on a surplus cash analysis and are usually secured by second mortgage liens, but can also be either first or third mortgage liens against a property. These notes are usually:
  - a) note(s) originated under the Mark-to-Market (M2M) program (or Demonstration program);

- b) note(s) originated under the Green Retrofit program; or
- c) note(s) generated as part of a partial payment of claim (PPC) or loan modification (see Chapter 8.2 of this Handbook).

#### C. Applicability

- 1) The following notes are not covered under this chapter:
  - a) any mortgage originated through a direct loan to a nonprofit owner/sponsor pursuant to Section 202 or a capital advance mortgage pursuant to Section 811 of the National Affordable Housing Act or Section 202; and
  - b) flexible subsidy operating assistance loans or capital improvement (CI) flexible subsidy loans (including HELP loans).
- 2) The Multifamily Notes Servicing Branch of the Office of Financial Services is responsible for servicing HUD-held mortgages. The billing and application of payments, as well as the process of providing reports, are accomplished through a third-party business service provider; however, all communications are coordinated through the Multifamily Notes Servicing Branch.

#### D. Identification of Status Codes

A status code is assigned to every HUD-held loan. Status codes must be updated promptly upon a change in status. The following are the codes for active loans along with the documentation required by the Multifamily Notes Servicing Branch:

- 1) Code 1 is labeled "operational" and is described as:
  - a) the default code used when no other code is documented for an active loan; and
  - b) the initial code used when the Multifamily Notes Servicing Branch receives the package of claim settlement documents from the Multifamily Claims Branch.
  - c) This code must identify only HUD-held loans in first lien position and must be further broken out by the contractor to identify those with monthly payments due to principal and interest under the terms of the note and those which are cash flow notes (e.g., M2M, demonstration, workout, etc.).
- 2) The following are true for loans categorized as Code 2 ("under workout"):
  - a) loans include an executed workout agreement; and

- b) the documentation needed to put a loan into this code is the original signed workout agreement.
- 3) Code 3, "action pending outside of regional center/satellite office", is:
- a) utilized for business operation plan goal purposes to describe projects in any of several statuses, including recommended for foreclosure, indicating that further action needs to be taken somewhere other than at the regional center/satellite office, such as at the Office of Recapitalization (Recap), the Departmental Enforcement Center (DEC), or the Multifamily Property Disposition Center (PD Center); and
- b) assigned based on the management codes described in section [8.3.1.E](#) below.
- 4) Code 4, "in foreclosure", involves the following:
- a) this code indicates that the PD Center issued a decision letter to foreclose following the outcome of the foreclosure hearing and asked the Multifamily Notes Servicing Branch to provide the documents to proceed with the foreclosure; and
- b) the PD Center must send a request to the Multifamily Notes Servicing Branch to prepare a statement of indebtedness and forward legal instruments.
- 5) Code 5 is labeled "in bankruptcy" and is described as such:
- a) this code is used when a court-ordered bankruptcy stay is in effect; and
- b) the regional center/satellite office sends the Multifamily Notes Servicing Branch the original court document evidencing the stay.
- Note:** When the bankruptcy stay is lifted, the regional center/satellite officer sends the Multifamily Notes Servicing Branch a copy of the order lifting the stay in order to change the status from Code 5 to another status code.
- 6) Code 6, "accruing/non-paying second/third note", is described as:
- a) this code is used for a loan which is not in first lien position or for cash flow mortgages where no amortizing first mortgage exists; and
- b) the Multifamily Notes Servicing Branch must receive the original note and the original recorded security instrument.

1        E. Management Codes

2            1) In addition to status codes, there are several management codes. Inputting  
3            several of the management codes may result in the status code changing to  
4            Code 3. The management codes are as follows:

5            a) HL - foreclosure hearing letter sent

6            b) EC - in DEC

7            c) MM - referred to Recap for restructuring (M2M)

8            d) IL - in litigation (other than bankruptcy)

9            e) NS - in note sale

10          f) OH - on hold at HUD's direction

11          2) A transmittal form, attached as [Exhibit 8.3-5](#), must be sent to HUD, Office of  
12          Asset Management and Portfolio Oversight (OAMPO), and the Field Asset  
13          Management and Program Administration Division, to change the  
14          management code. The Multifamily Notes Servicing Branch modifies status  
15          codes when required documents are submitted.

16    **8.3.2 SERVICING FOR AMORTIZING NOTES**

17          A. General

18            1) While emphasis must be placed on HUD-held mortgages in default,  
19            mortgages that are current under the terms of the mortgage require the same  
20            monitoring that insured mortgages receive. The regional center/satellite office  
21            director is directly responsible for servicing HUD-held mortgages.

22            2) Regional center/satellite Directors ensure that delinquency reports are  
23            reviewed and necessary follow-up action is taken. Coordination is often  
24            necessary with the Real Estate Assessment Center (REAC), DEC,  
25            performance-based contract administrators (PBCA), and any other office to  
26            ensure that tenants are protected and that the value of the collateral is  
27            maintained.

28            3) The project owners should be informed that all inquiries concerning operation  
29            of the project are to be addressed by the account executive. [Exhibit 8.3-1](#) is a  
30            sample letter that must be submitted to the property owner and management  
31            company immediately after assignment to HUD. A face-to-face meeting with  
32            the owner and management agent should be scheduled as a follow up to the  
33            letter to ensure understanding and compliance.

1            B. Monthly Accounting Reports

2            1) Upon receipt of a notice of election to assign a mortgage, monthly accounting  
3            reports (forms [HUD-93479, 93480, and 93481](#)), including project net cash,  
4            must be submitted by the project owner. These reports assist in determining  
5            the owner's compliance with HUD requirements, identifying diversions of  
6            project assets, and assessing the owner's performance. The monthly  
7            accounting reports are analyzed upon receipt by the account executive.

8            2) Account Executives must ensure that the owner submits the required monthly  
9            payments, including the payment of service charges on PPC second  
10           mortgages. If the owner does not submit the required monthly payments or is  
11           in violation of any financial commitment, the account executive contacts the  
12           project owner and informs him/her of the importance of timely and accurate  
13           payments. If the owner fails to respond, the account executive develops a  
14           plan of corrective action and contacts the owner with the necessary  
15           requirements.

16           C. Financial Statements

17           Audited annual financial statements (AFS) are prepared, submitted, and  
18           reviewed in accordance with the loan documents and instructions in [HUD](#)  
19           [Handbooks 4370.1, \*Reviewing Annual and Monthly Financial Reports\*](#) and  
20           [4370.2, \*Financial Operations and Accounting Procedures for Insured Multifamily\*](#)  
21           [Projects](#).

22           D. Hazard Insurance

23           Unlike the procedures for insured loans, HUD, as the mortgage holder, does not  
24           escrow hazard insurance premiums. Project owners must establish an insurance  
25           escrow account in accordance with Chapter 2.3 of this Handbook to ensure an  
26           adequate balance when the premiums are due. This includes any deductible  
27           amount required by the insurance carrier.

28           E. Taxes

29           HUD bills project owners for real estate taxes in an amount sufficient to have  
30           adequate escrow balances to pay taxes before the due date. Generally, this  
31           means that the entire amount due to the state or local government must be fully  
32           escrowed 30 days before the due date so that the taxes are paid before the  
33           penalty date.

34           F. Reserve for Replacement (RfR)

35           RfRs or other funded reserves are maintained in accordance with the mortgage  
36           document and instructions in this Handbook. The Multifamily Notes Servicing  
37           Branch must receive all changes to an owner's deposits and uses of RfR or

residual receipt funds using form [HUD-9250](#), Funds Authorizations, preferably via a scanned email attachment.

The form 9250 can also be used to change the monthly deposit, including suspensions, that are reflected in the monthly billing statement. Changes (via form [HUD-9250](#) only) require a 30-day advance notice and cannot reflect any retroactive billing (back deposits). All form [HUD-9250s](#) must be signed by an approving official, and include the phone number of the account executive or other contact person.

#### G. Use of Project Funds

An owner may not use project funds to pay an attorney, agent, or representative to develop a workout proposal for HUD to consider and/or to advocate that HUD approve the plan. Further, project funds may not be used to defend a foreclosure action or to pay for a bankruptcy action.

#### H. Management and Occupancy Review

If a Management and Occupancy Review (MOR) has not been completed within one year prior to assignment, then a review must immediately be completed. The MOR should also include an inventory of personal property and an inspection of a representative sample of units.

### **8.3.3 CLAIM PROCESSING**

#### A. Claim Processing

1) General servicing activities by account executives begin immediately upon assignment of the note or in many cases before assignment, such as requiring the owner to submit monthly accounting reports. However, for a period of 3-4 months or longer, HUD processes the claim made by the lender/servicer. Significant steps in the claim processing include:

- a) receipt of form [HUD-2742](#), Fiscal Data in Support of Claim for Multifamily Mortgage Insurance Benefits, is submitted to the Multifamily Claims Branch; this must be submitted within 45 days after the date of assignment for final processing and payment of claim, although two 15-day extensions are allowed;
- b) contractor review of fiscal data (approximately 30 days);
- c) simultaneous Office of General Counsel (OGC) clearance; and
- d) final review by the Multifamily Claims Branch staff (approximately five days).

- 2) Notes that are in the claims processing stage should have a status code of operational (except when there is a court-ordered bankruptcy stay in effect) in the HUD-held servicing system.

#### B. Final Settlement

HUD's Office of Asset Management and Portfolio Oversight (OAMPO) receives notification of all notes that reach final settlement. Within 10 days of notification, HUD's Asset Management Disposition Coordinator works with the account executive to identify and contact units of local government (ULG) that may have an interest in preserving or creating affordable housing. [Exhibit 8.3-2](#) represents a sample letter to be sent to ULGs depending on the probable disposition strategy as detailed below.

### 8.3.4 SERVICING CASH FLOW MORTGAGES

#### A. Disposition Policy

It is HUD's policy that cash flow notes are held and not sold.

#### B. Assumption, Subordination, or Assignment

The Assistant Secretary for Housing-Federal Housing Commissioner issued Housing Notice [H 2012-10](#), "Guidelines for Assumption, Subordination, or Assignment of Mark-to-Market (M2M) Program Loans in Transfer of Physical Assets (TPA) and Refinance Transactions", that covers handling of cash flow notes primarily in a TPA situation or refinance of properties in the inventory of Office of Recapitalization (RECAP).

#### C. Monitoring Collection

For the benefit of the HUD account executive, OAMPO monitors the collection for cash flow mortgages. The process is slightly different for M2M and demonstration notes versus PPC second mortgages.

- 1) For M2M and demonstration notes, a post-closing portfolio management contractor (directed by OAMPO staff) monitors payments on cash flow notes in order to complete reviews of the surplus cash calculations from the owner's AFS filings. The post-closing portfolio management contractor does the following:
  - a) reviews the owner's AFS and compares actual performance to M2M underwriting expectations;
  - b) investigates significant variances and recommends adjustments;



- c) contacts the account executive to confirm, adjust, and approve the preliminary surplus cash analysis;
- d) contacts the owner to provide clarifying information; and
- e) prepares the final surplus cash analysis to be approved by the account executive.

- 2) For PPC second mortgages and Green Retrofit program servicing, OAMPO staff conducts similar reviews to those conducted by the post-closing portfolio management contractor to determine whether the correct annual surplus cash payments are made to HUD.

#### D. Reserve for Replacement Accounting Considerations

- 1) For all cash flow notes, it is critical that owners properly pay for repair or replacement of capital items through the RfR account. Requests for RfR withdrawals should be submitted immediately to HUD within the same fiscal year so as not to affect surplus cash. Housing Notice titled [H 2011-30](#), "Use of Reserve for Replacement Accounts in Restructured Mark-to-Market (M2M) Properties", discusses the handling of RfR withdrawals.
- 2) In summary, adjustments are made to the surplus cash calculation that may affect the annual surplus cash payment due to HUD when an owner does not request a withdrawal from the RfR account within the same fiscal year. The amount not requested that was expended from operating accounts is added back to the surplus cash calculation, which may result in an increase to the amount due to HUD for that fiscal year.

**Exhibit 8.3-1                      Sample Letter to Property Owner and Management Company  
Immediately after Assignment to HUD**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Date:

Owner Name.

Address

City, State Zip

**SUBJECT:**        Project/FHA No:  
Property Name – City, State

Dear Sir or Madam:

This is to inform you that the captioned mortgage was assigned to the Secretary on August 2, 2016.

Each month the Department will provide you with a summary of the monthly mortgage transactions. Follow the instructions in the REMARKS area of the billing statement when making your payment. For your information, all mortgage account balances and escrow balances may not be reflected on the initial billing.

**Also, enclosed is a copy of the Internal Revenue Service Form W-9 "Request for Taxpayer Identification and Certification Number." You are required to complete this form with the mortgagor/owner's TIN number and mail it to Dynaxys, LLC in the enclosed envelope. RESERVE FOR REPLACEMENT (R/R) ESCROW FUNDS WILL NOT BE INVESTED UNTIL THE FORM W-9 IS RECEIVED.**

Enclosed is your **first billing statement** and a billing summary sheet (HUD form-221) explaining the account items and the billing payment procedures. Payments are due as indicated on the monthly statement.

Payments must be submitted electronically via Pay.gov. The Multifamily Notes Agency Form on Pay.gov can be accessed via the URL:

<https://pay.gov/public/form/start/69573921>

When final settlement of the claim with the former mortgagee has taken place, the escrow balances and any other necessary adjustments are made to the account. You will receive an adjusted billing statement at that time.

1    The Department will escrow for and make payment of all real estate taxes and any other charges  
2    periodically levied by local taxing authorities having jurisdiction over the property, the non-payment of  
3    which would represent a lien superior to the mortgage held by the Secretary. Tax bills should be  
4    forwarded to the address listed below for payment. The Department will not be responsible for any tax  
5    penalties or interest charges incurred or discounts forfeited as a result of the tax bill being received too  
6    late (15 days before the penalty or discount date) to process payment in sufficient time to avoid the  
7    penalties and interest charges or to take advantage of the discount.

8  
9    The Department will also escrow money for the Reserve for Replacement account. If your mortgage  
10   payments are current, you may write or call your Loan Servicer and request details about investing the  
11   money.

12  
13   The Department will **NOT** escrow money for hazard property insurance. Remittance of payment for all  
14   hazard property insurance invoices is now your responsibility. Any hazard property insurance escrow  
15   funds received at final settlement from the former mortgagee will be applied to either the tax escrow  
16   account or to balances due on the note if there is no tax escrow account.

17  
18   Your loan servicing company is \_\_\_\_\_ – Telephone: \_\_\_\_\_. Contact information for your  
19   individual Loan Servicer is included on your monthly billing statement. You may contact your servicer for  
20   any information in regard to your mortgage account.

21  
22  
23   Future notices will be forwarded to your address shown on this letter. If you wish the notices sent to  
24   another address, please inform us within 10 days of receipt of this letter. All inquiries concerning  
25   mortgage account balances, changes in address or tax bills should be forwarded to:

26  
27                                Notes Servicer  
28                                Mortgage Loan Servicing  
29                                Project/FHA No: 014-43055  
30                                Address  
31                                City, State Zip

32  
33  
34   Sincerely,

35  
36  
37  
38   \_\_\_\_\_  
39   Chief, Multifamily Notes Servicing Branch  
40   Address:

41  
42  
43   cc: Management Company  
44        Official Record File  
45  
46

Unit 8	Asset Defaults, Claims, and Foreclosures
Chapter 8.3	Monitoring HUD-Held Mortgages
Exhibit 8.3-1	Sample Letter to Property Owner and Management Company Immediately after Assignment to HUD

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1  
2

**Exhibit 8.3-2            Sample Letter to Units of Local Government**

Dear:

The U.S. Department of Housing and Urban Development (HUD) has recently acquired the mortgage for \_\_\_\_\_, a loan for a multifamily building located in the jurisdiction of \_\_\_\_\_.

In determining the disposition of this asset, HUD is requesting that the City provide input on any strategies which could benefit your City and its citizens. In addition, as part of the disposition process, HUD has the statutory authority (*12 U.S. Code § 1715z-11a - Disposition of HUD-owned properties*) to allow units of local government to either purchase the mortgage note or acquire the property if HUD was the highest bidder at a foreclosure sale.

If you are interested in discussing asset strategies or are interested in either purchasing the mortgage note or the property, please contact \_\_\_\_\_ in the Asset Sales Office, within 10 days of the date of the letter.

Sincerely,

Director of Multifamily Asset Management  
(unless Healthcare, then signed by HealthCare  
Director)  
Multifamily Housing Programs

**Exhibit 8.3-3            Loan Eligibility Checklist**

**Multifamily and Healthcare Loan Sale**

Property Name:

FHA Project Number:

HUD Asset Manager:

HUD Asset Manager Phone No.:

Prepared by:

Date Prepared:

1. Is the mortgage under a provisional workout arrangement?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, give effective and ending dates:

2. Has mortgage been referred to PD Center for foreclosure?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, has a foreclosure sale date been set?

If so, what is the date?

3. Has the owner been referred to the DEC?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, when?

4. Is HUD mortgagee-in possession?

Yes \_\_\_\_\_ No \_\_\_\_\_

5. Has the owner filed bankruptcy?

Yes \_\_\_\_\_ No \_\_\_\_\_

Date of bankruptcy filing:

1        Name and phone number of HUD attorney:

2        Name and phone number of Justice Department attorney:

3        Additional comments / status

4        (e.g., cash collateral order obtained, cash deposited with court or borrower,  
5        receiver/trustee appointed, reorganization plan filed with court):

6

7

8        6. Is owner in litigation with HUD?

9        Yes \_\_\_\_\_ No \_\_\_\_\_

10       Name and phone number of HUD attorney:

11       Nature and status:

12

13

14       7. Is this a “sensitive” loan?

15       Yes \_\_\_\_\_ No \_\_\_\_\_

16       Are there issues surrounding the project that may make the loan not suitable for sale  
17       or less valuable? For example, have tenants, neighbors, or local or state officials  
18       expressed an interest in purchasing the project or having it demolished? Are there  
19       tenant protection issues to be considered, e.g., large percentage of low-income  
20       tenants living in an unsubsidized project? If so, please describe.)

21

22

23

24       8. Is the department taking enforcement actions of any sort such as civil money  
25       penalties, limited denial of participation, suspension, or debarment?

1        Yes\_\_\_\_\_                      No\_\_\_\_\_

2        If so, please describe:

3

4

5    9. Is there an investigation or audit underway that you are aware of?

6        Yes\_\_\_\_\_                      No\_\_\_\_\_

7        If so, please describe:

8

9

10    10. Is the owner in violation of the regulatory agreement or any other business  
11        agreements it has with HUD on this project or any other HUD related project?

12        Yes\_\_\_\_\_                      No\_\_\_\_\_

13        If so, please describe:

14

15

16    11. Does the project contain tax credits?

17        Yes\_\_\_\_\_                      No\_\_\_\_\_

18    12. Was a subsidy layering analysis done?

19        Yes\_\_\_\_\_                      No\_\_\_\_\_

20    13. Is the property subject to any type of rental assistance program?

21        Yes\_\_\_\_\_                      No\_\_\_\_\_

22        If so, please describe:

23



1

2        If there is a Section 8 HAP contract, does it require the owner to submit annual  
3        financial statements?

4        Yes\_\_\_\_\_                      No\_\_\_\_\_

5        What is the current expiration date of the Section 8 HAP contract?

6

7        14. Does the loan have a related loan (either insured or HUD-held) that you think should  
8        also be included in the sale? Related loans are on projects that share easements or  
9        services with the subject project.

10       Yes\_\_\_\_\_                      No\_\_\_\_\_

11       If so, please give the project name, FHA project number, and why you think it should  
12       be included in this sale.

13

14       15. Is this loan subordinate to another HUD-held or insured loan?

15       Yes\_\_\_\_\_                      No\_\_\_\_\_

16       If yes, please give the FHA project number for the first and any other superior loans.

17

18       16. Are there any associated loans? Associated loans are two or more loans on the  
19       same property that must be sold, transferred and assigned only in conjunction with  
20       one another.

21       Yes\_\_\_\_\_                      No\_\_\_\_\_

22       If yes, please give the FHA project number for each.

23

24       17. Please describe any special issues you are aware of regarding the project. This  
25       would include issues such as:

1 the project is vacant or has not been completed, there are construction  
2 defects, the project is not compliant with the Fair Housing Act and other  
3 accessibility requirements, major lawsuits ongoing or there has been  
4 extensive property damage due to fire or hurricane, etc. Also note whatever  
5 is known about the status of the problem (e.g., insurance proceeds are being  
6 held in escrow, all of the nursing home beds have been de-licensed, etc.).

Project is vacant or has not been completed. Yes\_\_\_\_\_ No\_\_\_\_\_

7 If Yes, please explain:

There are construction defects. Yes\_\_\_\_\_ No\_\_\_\_\_

8 If Yes, please explain:

There is extensive property damage due to fire, Hurricane, etc Yes\_\_\_\_ No\_\_\_\_

9 If Yes, please explain: (include any monies held in escrow and their location.)

Project is subject of litigation. Yes\_\_\_ No\_\_\_

10 If Yes, please explain:

11

12 Additional comments:

13

14

**Exhibit 8.3-4            Regional Center Letterhead**

Requirement for the National Property Disposition Committee Recommendation Memo

MEMORANDUM FOR: \_\_\_\_\_, Director, Property Disposition Division,  
6AHMLAT

THROUGH: (if needed)  
FROM:        Hub Director

SUBJECT:    National Property Disposition Memorandum  
              Project Name:  
              FHA:

**PROJECT LOCATION/BUILDING INFORMATION**

Description of the property, including physical address, type of complex (walk-up, high-rise, scattered site, etc.), number of buildings, year built, rehab year and any pertinent site information including any commercial units at property. If a group home, describe how it is configured. Attach a copy of the Economic Market Analysis Study (EMAD) or market analysis from underwriting if less than 5 years old.

**PROJECT OWNERSHIP/MANAGEMENT**

Discuss type of entity (non-profit, LLC, LD, etc.) and ownership contact. Give management agent information and any issues you've had with either.

**PROJECT HISTORY**

Date project was constructed, initial occupancy, final endorsement (date insured); type of FHA insured mortgage (Section of Act), original loan amount, interest rate, unpaid principal balance, date of default, date of assignment. Are there any subordinate loans? Are there any pending actions such as an audit, bankruptcy, investigations, and/or sanctions against ownership or other related party ongoing?

Discuss any assistance received: Section 8, Rental Supplement, 236 IRP, or Flexible Subsidy. Include contract number and name of contract administrator; include information regarding any Tax Credit or other Restrictions or Agreements (including Historic TC and HOME funds).

1    PHYSICAL CONDITION

2    Discuss the current condition of the property, latest REAC score (ensure a copy of the  
3    REAC inspection is in HUDs approved scanning system). Provide a copy of a recent  
4    PCNA (less than 5 years old).

5    Provide information concerning any damages to the property which have resulted in an  
6    insurance claim that HUD is holding; include the amounts being held. Are there  
7    imminent repair needs; will there be a need for an advance of funds from HUD to cover  
8    any such needs?

9    Describe neighborhood: stable, blighted, upwardly or downwardly transitional, or area of  
10   minority concentration. Provide net rentable square feet and land/lot size (acreage.)

11   CLIENTELE

12   Describe clientele: low-income, very low-income, market, or specialized such as elderly,  
13   disabled, etc. If the clientele are individuals with disabilities, describe whether the  
14   project is an integrated setting according to Olmstead. If the project is vacant, provide  
15   details as to how residents were relocated and why. Provide current and historical  
16   occupancy levels (at least 5 years). If project is occupied, is relocation a possibility? Is  
17   there an active tenant organization at the property? If so, provide name of organization  
18   and any recent involvement/meetings with said organization.

19   FINANCIAL INFORMATION

20   Provide a summary of information related to the current expenses, operating budget for  
21   the project. Are there existing circumstances which cause a higher operating cost, e.g.,  
22   high crime, vandalism, deferred maintenance issues, recent weather disasters affecting  
23   the project, etc.? Describe how the current ownership/management is performing with  
24   regard to managing expenses. Include tax information: are taxes current or delinquent;  
25   when are taxes due again and is the owner in position to pay? Will an advance be  
26   required for the payment of taxes or are there funds in the reserve to cover taxes?  
27   Attach a copy of the latest profit and loss for the project, latest MAR review and an  
28   appraisal of the fair market value (if less than 5 years old).

29   PROBLEMS CAUSING DEFAULT

30   Discuss type(s) of default: fiscal, default of mortgage/HAP covenants, physical. Is  
31   default due to poor management, non-responsive owner, lack of preventative  
32   maintenance, environmental issues, or a soft market? Provide a clear explanation of  
33   why the property failed (owner failing to make mortgage payments does not explain why

1    they were not made). Is there a work-out agreement or modification in place? What  
2    provisions of the agreement or modification is not in compliance? Is there an action plan  
3    in place? Provide time in default.

#### 4    EFFORTS TO RESOLVE

5    Provide a narrative of actions taken to cure deficiencies, violations: e.g., property is  
6    eligible for OAHP but declined; HUD requested change of management and owner  
7    refused. Outline history of problems and any/all actions to cure.

#### 8    DISPOSITION RECOMMENDATION

9    Provide the recommendation for disposition, either note sale or property disposition  
10   (PD). If recommendation is foreclosure include conditions of sale such as highest,  
11   qualified bidder with HAP contract (if already covered under a HAP); sell with  
12   affordability restrictions and repair requirements; sell without restrictions, repair to State  
13   and local codes, and/or any demolition which may be required. If the recommendation is  
14   non-preservation, the submission must include documentation to justify the  
15   recommendation, such as EMAD study, info from the local Housing Authority/City  
16   regarding occupancy rates. Further, the Hub should advise PD if it believes that a unit of  
17   local government (ULG) has expressed or may have an interest in acquiring the project  
18   because of its proximity to other community development activities or properties the  
19   ULG is involved with, at the time of a foreclosure recommendation.

20

**Exhibit 8.3-5            Transmittal Form to Change Management Code**

MEMORANDUM FOR: HUD Office of Asset Management and Portfolio Oversight  
(OAMPO), Field Asset Management and Program Administration Division

FROM: \_\_\_\_\_, Director, MF Hub/Program Center

SUBJECT:    Project No.  
              Project Name:  
              Adding/Changing a Subcode for a HUD-held Mortgage

Please add or change the subcode for the subject project to the following (check the appropriate one):

☐ **HL** – Foreclosure hearing letter sent.

☐ Remove loan from **HL** status.

☐ **EC** - In Departmental Enforcement Center (DEC); a copy of the referral memorandum or email to the DEC, or evidence of automatic referral from FASS or PASS, is attached.

☐ Remove loan from **EC** status.

☐ **MM** - Referred to RECAP for possible restructuring (Mark-to-Market); a copy of the referral memorandum is attached.

☐ Remove loan from **MM** status.

☐ **IL** - In litigation (other than bankruptcy); a copy of the appropriate documentation is attached.

☐ Remove loan from **IL** status.

☐ **NS** - Identified for a note sale; evidence that the office or staff conducting the note sale has designated the note for a note sale is attached.

☐ Remove loan from **NS** status.

☐ **OH** - On hold at HUD's direction; a copy of this documentation is attached.

☐ Remove loan from **OH** status.

HUB OR PROGRAM CENTER CONTACT: \_\_\_\_\_

Tel. No.: \_\_\_\_\_

COMMENTS: \_\_\_\_\_

- 1 \_\_\_\_\_
- 2 \_\_\_\_\_
- 3 \_\_\_\_\_
- 4 Attachment