

Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

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E-NAHMAanalysis 2004-1116 Disaster Recovery Guidance

In HUD Notice 04-22, the Office Housing has provided up-to-date policy and procedural guidance related to disaster recovery after a presidentially-declared disaster. The Notice was issued November 10, 2004. Highlights follow:

- The relief provided in the Notice is available only to those certified as eligible by the Federal Emergency Management Agency (FEMA);
- Expectations for quick processing waiver requests and forwarding a policy for releasing project funds, etc. are spelled out for HUBs;
- “Displaced residents may be moved to the top of the waiting list in Section 221(d) and 236 projects for permanent rental housing as long as the residents are FEMA certified as disaster victims;”
- With the owner’s approval, families in HUD-assisted units may temporarily host FEMA-certified displaced residents;
- In Section 8-assisted units, owners may allow the eligible family to temporarily house a non-eligible FEMA-certified individual/family as a guest(s) without interruption of the subsidy;
- HUD’s guidance to owners regarding leases for temporary residents calls for a 30-day renewable lease that terminates when the resident’s permanent housing unit becomes available or when they are no longer FEMA–certified as eligible;
- Rents for temporary residents should remain the same as were in effect for the units immediately before the Presidential declaration. If those rents exceed the FEMA-approved rental assistance, it is the resident’s responsibility to pay the difference;
- HUD encourages owners to allow the use of community space, kitchens, and restrooms for “shelters or disaster recovery-related activities;”
- REAC physical inspections will be postponed for at least 30 days from the date of the federally-declared disaster in designated counties;
- Owners in the declared disaster areas may request up to a 30 day extension to file their annual financial statement to the REAC Multifamily Financial Assessment Subsystem;
- Per HUD, “Program occupancy requirements do not apply for tenants who are afforded temporary housing;”

- HUD encourages owners to use vacant units as temporary housing for FEMA-certified displaced residents, although vacant Section 202/811 units can only be used for temporary housing if there is no waiting list;
- The Department encourages owners not to evict current residents who have not returned to their units after the repairs are completed if there is “a reasonable basis for not returning;”
- Regarding occupancy and eviction, “Owners are encouraged to allow residents who have been displaced from their unit to have a right of first refusal for a reasonable time after their unit is repaired and ready for re-occupancy. Owners must inform residents in writing when their unit is habitable and can be re-occupied. Residents should be given a reasonable time frame to return to their unit. Owners are encouraged not to evict residents who have returned to their unit and who have reduced income due to a job loss as a result of the declared disaster. Payment plans for delinquent rents are encouraged. However, if a former resident moves to other permanent housing, the owner may rent the unit;”
- HUD will approve the use of reserves and residual receipts for repairs;
- “HUD has instructed mortgagees to allow maximum flexibility for owners with delinquent project loans in the impacted areas;”
- For HUD-held and 202 mortgage servicing, the Department will approve a temporary forbearance plan if project funds are being used for repairs while waiting for insurance benefits or disaster assistance;
- Owners may sign temporary leases in other buildings for tenants for whose project-based Section 8 assisted unit is uninhabitable. The owner can voucher the contract rent for the temporary unit. “The owner then pays the contract rent on the temporary dwelling until the resident’s permanent rental unit has been restored to a habitable condition and the owner notifies the resident that they may resume occupancy of their unit.” The resident remains responsible for paying his/her share of the rent for the temporary unit;
- If a displaced resident fails to return to a repaired unit assisted with project-based Section 8, the owner may rent the unit to an eligible Section 8 applicant. “Before doing so, however, the owner must inform the tenant in writing that their assistance is terminated. In the event that the owner rents the unit to an eligible Section 8 applicant, the owner must first terminate the lease that the owner executed on behalf of the displaced resident. In addition, should the temporarily displaced resident move from the temporarily leased unit before their permanent rental unit is repaired and made available for their return, the owner can no longer voucher for the temporary unit.”
- “Once the original unit is fully repaired and ready for occupancy, all Section 8 provisions apply.”
- In project based Section 8 buildings, an owner may rent a vacant unit to a FEMA-certified displaced resident, but, “the owner can only voucher and the Department may only pay Section 8 housing assistance payments for units occupied by eligible Section 8 families.” Housing assistance payments will not be made to the owner if the FEMA-certified resident is not eligible for Section 8;
- Owners are encouraged to make vacant units in FHA-Insured projects in development phase available for temporary housing and permanent housing, if possible;
- The Hub Director may execute insurance loss drafts;
- Office of Affordable Housing Preservation (OAHP) (Formerly OMHAR) will grant extensions for properties in declared disaster areas going through the mark-to-market process;

- HUD will allow reserve escrows to be used to supplement cash flow during the emergency period, but the reserves must be repaid;
- HUD advised owners to inform the Departmental Enforcement Center (DEC) in writing if they can't respond in a timely manner to correspondence or notices issued by the DEC due to the declared disaster;
- The Office of Multifamily Housing Asset Management is the point of contact for questions about this notice.

To read the notice, please see [http://hudclips.org/sub_nonhud/cgi/nph-brs.cgi?d=HSGN&s1=04-22\\$\[NOI\]&SECT5=HSGN&SECT1=TXTHLB&l=50&u=../cgi/newsdoc_run.cgi&p=1&r=1&f=G](http://hudclips.org/sub_nonhud/cgi/nph-brs.cgi?d=HSGN&s1=04-22$[NOI]&SECT5=HSGN&SECT1=TXTHLB&l=50&u=../cgi/newsdoc_run.cgi&p=1&r=1&f=G).