

Project-Based Rental Assistance, Coronavirus (CV)

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Administering Agency: HUD's Office of Multifamily Housing Programs and Office of Recapitalization

Number of Persons/Households Served: Over 1.2 million

Population Targeted: Extremely low- to moderate-income households

THE "CARES ACT"

The "CARES Act" appropriated \$1 billion in supplemental funding for Project-Based Rental Assistance (PBRA) properties, \$50 million for Section 202 Housing for the Elderly properties, and \$15 million for Section 811 Housing for Persons with Disabilities properties. HUD's Office of Multifamily Housing Programs (Multifamily) labeled them collectively as COVID-19 Supplemental Payments (CSP). The purpose was to prevent, prepare for, and respond to coronavirus, including to provide additional funds to maintain normal operations and to take other necessary actions during the coronavirus pandemic, including assistance to owners and sponsors of properties receiving project-based rental assistance. Multifamily posted a [Memorandum](#) dated May 28 announcing action to provide \$800 million of the \$1 billion supplemental appropriation to approximately 16,500 properties with Section 8 PBRA contracts.

Multifamily posted [Notice H 20-08](#) on July 23 announcing that the office was making up to \$190 million available for Section 8 properties, \$25 million for Section 202 properties, and \$9 million for Section 811 properties. The Notice indicated that the intent of the supplemental funds is to offset decreased tenant rent payments as tenants experience reduced or lost income due to the coronavirus pandemic. As a tenant's income decreases the tenant may request an interim income recertification which lowers the

tenant's rent obligation. The supplemental funds will help owners maintain normal operations.

Multifamily Guidance

Notice H 20-08 listed examples of eligible activities and purchases for which costs could be reimbursed by CSP:

- Increased cleaning and disinfecting common areas and property management offices as a preventative measure.
- Intensive deep cleaning and sanitization services in response to the presence of COVID-19 cases at a property, which may include treatment in units being prepared for re-occupancy.
- Office technology and other equipment needs to facilitate social distancing.
- Personal protective equipment (PPE) such as face masks and goggles, gloves, hand hygiene products for use by staff and for residents entering leasing offices or using common areas.
- Facility modifications and equipment related to maintaining adequate social distancing, such as installing cough/sneeze barriers or modifying or limiting access to communal spaces.
- Site control measures to enforce orders to shelter-in-place, stay-at-home orders, or visitor-restriction policies.
- Temporary staffing, contract services, and/or supply expenditures to maintain or improve on-going service coordination in properties designated to serve elderly people or people with disabilities.
- Temporary staffing increases to process higher-than-normal volumes of interim

income recertifications requested by tenants due to loss of income.

Multifamily had two categories of CSP payments, each with separate pools of CSP funds. *Tier I Standard Payments* reimbursed costs up to a capped amount, based on a formula that considered property size, whether the property had a service coordinator funded from HUD rent receipts, and whether the property’s rental assistance contract or other controlling documents specified that the property house elderly residents. Owners could request larger sums under *Tier II Exceptional Cost Payments* to address cost increases associated with responding to reported COVID-19 outbreaks among property residents or in response to extensive community exposure that created a greater threat to residents’ health and safety within the property. There was no cap on *Tier II* payments. Owners could apply for CSP funds to cover expenses incurred between March 27 and July 31.

Multifamily posted [Notice H 2020-11](#) on November 24 announcing the continued availability of CSP. The Notice established a second request window for property owners to apply for CSP funds to cover expenses incurred between August 1 and November 30. Applications were due December 11. Notice H 2020-11 had the same list of eligible expenditures and same two-tier structure as Notice H 2020-08.

QUESTIONS AND ANSWERS (Q&AS)

Multifamily issued a series of Questions and Answers (Q&As) starting on March 16, 2020 and continuing with eight updates through October 14. Multifamily will likely continue updating FAQs as needed as the pandemic continues. There are far too many FAQs to mention, but six are presented here. In addition, important Q&As about tenant income recertifications, REAC physical inspections, and Management and Occupancy Reviews (MORs) are covered below in a separate section of this article. All numbers here are based on the October 14 FAQs. (Note that

sometimes the FAQ numbers change over time as Multifamily reorganizes FAQs.)

General Multifamily Housing

RESIDENT HEALTH

Q6 addresses whether an owner or agent can require residents to wear face coverings at the property and treat a failure to wear a face covering as a lease violation. Multifamily states that if there is or will be a requirement to wear a face covering, “house rules” must be reasonable and consistent with state and local law and directives from public health officials. Failure to comply with face covering requirements may be treated as a lease violation if the house rules are identified in the lease as an attachment to the lease agreement. Owners and agents may amend their lease terms and/or house rules. Owners and agents must notify existing tenants who have completed their initial lease terms of modifications to the House Rules 30 days prior to implementation. Tenants who have not yet completed their initial lease terms must be notified 60 days prior to the end of their lease terms.

Asset Management

POLICY AND OPERATIONS

Financial Audits, Tenant Income Recertifications, and Utility Analysis

Q12 confirms that a resident who is unemployed or furloughed can continue to receive an income deduction for childcare expenses.

Applications, Vacancies, Move-ins

Q16 addresses owners concerned about accepting and processing new applications and the resulting move-in to units. HUD indicates that instead of conducting in-person interviews during the application process, owners may choose to conduct interviews remotely using available technology or barriers. Owners may accept electronic signatures on owner-adopted verification forms in order to perform both owner-adopted and HUD-required screening criteria as long as they obtain original signatures on the verification forms at a later date.

Staffing and Building Operations

Q30 addresses the potential issue of maintenance staff concerned about entering someone's home who could be ill. Multifamily indicates that staff can ask a resident if it is safe to enter, and staff who do not feel it is safe to enter are not required to do so. In addition, HUD suggests that non-essential or non-health and safety repairs be deferred on a unit-by-unit basis. If a repair is necessary for the health and safety of a resident but a staff person is not comfortable entering the unit as a result of potential COVID-19 exposure, the owner/management staff should consult local health guidance regarding the appropriate precautions to take.

Q31 states that property owners or managing agents may close or only offer limited hours/access to rental offices and indoor common spaces (e.g., community rooms) based on guidance from local or state jurisdictions and the particular circumstances at their property. HUD defers to them to determine the best course of action, given the importance of ensuring the safety of residents, staff, and the property.

Q37 states that owners may have the authority to restrict visitors from HUD-assisted Multifamily housing properties, but should review state and local laws to determine the permissibility of banning visitors. If an owner plans to implement a visitor restriction or ban through amended policies or house rules, HUD recommends it be done as part of a broader, publicly announced plan to respond to the pandemic. Owners should consider that residents will still need to receive essential services, such as food deliveries, medications, and personal care assistants. Restrictions should conform to CDC guidance and recommendations from state or local health officials.

TENANT INCOME RECERTIFICATIONS

This section of the article reflects nearly all that is in Q9 and Q10 of the October 14 Q&A under “**Asset Management: Policy and Operations; Financial Audits, Tenant Income Recertifications, and Utility Analysis.**”

Q9: Will impacted residents still have to complete annual recertification and interim certification for lost income?

A: Families residing in properties that participate in one of HUD's Office of Multifamily Housing assisted housing programs must have their income reviewed at least annually to determine the amount paid by the family for the assisted unit. Owners and agents must continue to perform annual and interim recertifications, as requested by tenants, within the required timeframes and using current/anticipated data.

Considering the current coronavirus emergency, there may be “extenuating circumstances” that impede owners and tenants from complying with interim and annual recertification requirements. When the use of traditional procedures is not possible, the extenuating circumstance instructions provided in this Q&A and in HUD [Handbook 4350.3, REV-1](#) should be used. HUD considers the CDC's recommendations for controlling the spread of the virus, as well as shelter-in-place and similar orders, as extenuating circumstances.

Owners should begin, and if possible, complete the recertification actions within 90 days of being advised of an extenuating circumstance. When an extenuating circumstance is present, there is no change to a tenant's recertification anniversary date. The Total Tenant Payment/Tenant Rent and the assistance payment certified during the interim recertification are effective retroactively to the first day of the month following the date a family's income changed.

Use of Tenant Self-Certifications for Interim and Annual Recertifications

HUD will allow assisted tenants who have lost income due to the pandemic to self-certify for annual or interim recertifications. When self-certification is used, owners must document the tenant file to explain why third-party verification was not available. During the coronavirus National Emergency this certification can be provided to the owner by other means such as mail or email. When obtaining documents by email, owners may consider using guidance

in Notice H 20-10 [Note: the October 14, 2020 FAQ refers to “H 20-04,” but it was replaced on November 6 by H 20-10.]” to obtain electronic signatures and documents from tenants, when state and local laws permit. Acceptable methods of income verification for all recertifications, in order of acceptability, are provided in HUD Handbook 4350.3, REV-1, paragraph [5-13, B](#) and [Appendix 3](#).

Signatures

Notice H 20-10, issued on May 26, 2020, provided new guidance on the use of electronic signatures and the transmission and storage of electronic documents related to HUD’s asset management, Section 8 contract renewal, and occupancy policies. Any such forms and documents that comply with HUD guidelines may be signed, transmitted, and stored electronically. HUD encourages industry partners to consult with legal counsel about applicable state and local laws regarding the use of electronic signatures.

During the coronavirus National Emergency HUD will allow owners who prefer not to adopt the flexibility provided by Notice H 20-10 to continue to accept alternate signatures (e.g., copies or images of signatures sent by email, fax, or other electronic means) as long as original, “wet” signatures are obtained within 90 days from the termination of national, state, or local orders restricting movement to essential activities, whichever comes later.

Documentation for Certifications

Tenants experiencing extenuating circumstances due to the pandemic can provide the owner with documentation for the recertification. With the publication of Notice H 20-10, tenants can provide this documentation by email or other electronic delivery at the owner’s discretion when state and local laws permit.

Documentation includes, but is not limited to, paystubs, Social Security (SS)/Supplemental Social Security (SSI)/State Supplemental Program (SSP) awards, bank statements, and public assistance documents. Documents containing or conveying personally identifiable information (PII) must be encrypted or transmitted in a secure

manner to safeguard this information.

Q10: If a tenant fails to notify an owner or agent of a decrease in income, can the decrease in the tenant’s contribution (‘tenant rent’) be retroactive to when the decrease in income occurred?

A: Following the instructions found in HUD Handbook 4350.3, REV-1, [paragraph 7-10, B](#), tenants may request an interim recertification due to any changes in family income that may affect their Total Tenant Payment (TTP) or tenant rent and assistance payment occurring since the last income recertification. Following a recertification, owners/agents must then retroactively apply any reduction in rent starting with the first day of the month after the date of the action that caused the decrease in income. For example, if a tenant lost their job on March 4, 2020, then the owner/agent would reflect this change in income starting with the first day of the following month, which would be April 1, 2020. See the policy in HUD Handbook 4350.3, REV-1, [paragraph 7-11](#) for further information on owner/agent responsibilities when a tenant reports a decrease in income.

REAC PHYSICAL INSPECTIONS AND MANAGEMENT AND OCCUPANCY REVIEWS (MORS)

This section of the article reflects nearly all that is in Q1, Q2, and Q3 of the October 14 Q&A under “**Asset Management: Property Reviews, Inspections, and Rent Comparability Studies.**” More information about REAC is in the separate section of this article, “**REAC Inspections**” below.

Q1: In light of concerns about site visits to HUD properties, what is the status of REAC inspections on MFH properties?

A: In a memorandum dated August 10, 2020, the Real Estate Assessment Center (REAC) announced HUD’s intent to resume physical inspections on or about Monday, October 5, 2020. This required providing the required 14-day notification period beginning in late September. HUD will prioritize states and localities where

inspections are likely to begin, based on the latest COVID-19 public health data from Johns Hopkins University and health risk scoring methodology from the Harvard Global Health Institute. REAC has developed a guide that categorizes states and localities into four risk categories: (1) Low Risk; Green, (2) Moderately Low Risk; Yellow, (3) Moderately High Risk; Orange, and (4) High Risk; Red.

HUD will prioritize those properties not assessed in the last three years and properties identified as high-risk. Beginning Friday, August 7, 2020, this guide and a list of counties categorized by risk level was posted on our website and is updated weekly or as additional information becomes available.

Q2: As a condition of the Notice of Violation or Notice of Default, an owner or agent is required to perform a 100% unit inspection of the property and respond to HUD with the results and a plan to address the deficiencies within 60 days. If an owner/agent is having difficulty getting into units due to the pandemic, will HUD grant an extension or waiver to the 100% unit inspection requirement?

A: HUD will continue to review and approve or deny owner repair plans when all deficiencies cannot be corrected in 60 days. However, with the resumption of physical inspections on or about October 5, 2020, (*However, see the section below about HUD's approach REAC inspections*). HUD will not approve any extensions where an owner/agent is having difficulty entering units. In these cases, owners receiving a Notice of Violation (NOV) and/or Notice of Default (NOD) based on a project's physical conditions must follow the corrective actions enumerated in the NOV/NOD within the time specified. At a minimum, the owner must conduct a 100% survey of the property and submit their survey report to HUD. The NOV/NOD may require the correction of all physical deficiencies by a specified date or that the owner submit a repair plan for HUD's review and approval.

At the completion of all repairs, the owner must

submit a certification to HUD that all corrections have been made and that the project is in compliance with all of HUD's requirements, including HUD's physical condition standards of 24 CFR § 5.703. During any REAC inspection, or in conducting any required survey or repairs, owners should document any resident's refusal of access and cite the reason(s). This documentation should be provided with any surveys or certifications submitted to HUD.

Further, HUD regulations require that all Exigent Health and Safety (EH&S) deficiencies be corrected immediately. Upon receipt of notice of EH&S deficiencies, the owner is required to submit a certification to HUD within three business days that all EH&S deficiencies have been corrected. This is required regardless of the REAC inspection score and/or whether or not the owner receives an NOV/NOD. If a resident refuses access to correct EH&S deficiencies, this should also be documented and submitted with the EH&S correction certification.

Q3: In light of concerns about site visits to HUD properties, what is the status of Management and Occupancy Reviews (MORs) performed by Traditional and Performance-Based Contract Administrators (TCA/PBCAs) and HUD staff?

A: Effective May 22, 2020, HUD lifted the suspension of MORs performed by PBCAs, TCAs, and HUD staff in locations where there are no restrictions by state or local law or ordinance to prevent them from performing these reviews. This supplemental guidance additionally establishes an alternative manner in which a MOR may be conducted.

- HUD will, until December 31, 2020 (or such later date as HUD may determine), allow PBCAs, TCAs, and HUD staff to conduct on-site MORs, without entering resident units.
- For REAC follow-up, in determining whether Exigent Health & Safety (EH&S) and other deficiencies have been corrected, the PBCA/TCA/HUD staff must attempt follow-up on those affected units via contact directly with

the resident by way of phone or email and document the results or attempt(s) made on the MOR report.

- A physical on-site visit to the property must still occur to document the physical conditions, general appearance, and security of the property, and the visit should include a visual assessment of each building, including the common areas, and the grounds of the property.
- An on-site, entrance/exit interview with the owner/agent should occur, except in instances where the owner/agent and PBCA agree to conduct these portions of the review remotely (via virtual meeting or, if sufficient internet is not available, by telephone). In instances where these interviews are conducted remotely, the method must be documented in the MOR Report.

Tenant file reviews may be conducted remotely when owners/agents voluntarily create and transmit electronic tenant files to the PBCA in accordance with all requirements of Notice H 2020-10. Personally identifiable information (PII) must be encrypted or transmitted and stored in a secure manner to prevent its release. PBCAs/TCAs/HUD staff must continue to conduct MORs in accordance with their approved workplans regardless of owners' willingness to provide electronic tenant files.

All other portions of the MOR, including the Desk Review and On-site Review, including the review of tenant files, must be completed in their entirety.

REAC INSPECTIONS

HUD's Real Estate Assessment Center (REAC) posted *COVID-19 FAQs: Public & Multifamily Housing Property Inspections* on November 11, posing 56 easy-to-read questions with answers regarding conducting REAC physical inspections during the coronavirus pandemic. The frequently asked questions (FAQs) address both HUD-assisted private Multifamily properties and public housing. Below are highlights of the FAQs of most interest to residents and advocates.

Question 1. REAC repeats information in a Memorandum from August 10 about how properties will be selected for REAC inspection. REAC will select properties for inspection in counties considered low-risk for six consecutive weeks based on the latest COVID-19 data from Johns Hopkins University and health risk scoring methodology from the Harvard Global Health Institute.

REAC developed a map that categorizes states and localities by four risk categories: low risk (green), moderately low risk (yellow), moderately high risk (orange), and high risk (red). A map posted on the [REAC webpage](#) brings up an Excel spreadsheet showing each state and county health risk score when clicking on a state. As of December 14, only American Samoa was rated low risk, and Northern Mariana Islands was rated moderately low risk. Guam, Maine, New Hampshire, Puerto Rico, and the Virgin Islands were rated moderately high risk. All the rest were rated high risk.

Question 2. Properties in high-risk counties that are overdue for a REAC inspection will be inspected no earlier than January 1, 2021.

Question 8. Only in-person inspections for Uniform Physical Condition Standards (UPCS) will be conducted, but REAC might consider remote inspections in the future.

Question 10. REAC inspectors must: be tested for COVID-19 on a regular basis; wear Personal Protective Equipment (PPE), including masks and gloves; frequently use hand sanitizer; practice physical distancing, and follow local and state guidelines.

Question 21. Inspectors must change or sanitize gloves between unit inspections.

Question 22. Neither HUD nor the REAC inspector will provide residents with PPE.

Question 19. Property representatives may require an inspector to have their temperature taken if recommended or required by local or

state guidelines.

Question 20. A REAC inspector may ask about any known COVID-19 cases currently at a property.

Question 23. Only one property representative escort and an inspector are allowed to enter a unit during inspection.

Question 24. If a resident in a sample unit for inspection who is at high risk does not want an inspector to enter their home, the inspector will select an alternate unit.

Question 26. If an inspector observes an Exigent Health and Safety (EHS) condition, the deficiency must be corrected.

FORECAST FOR 2021

Multifamily is likely to issue additional guidance in the form of Notices and Q&As until the pandemic completely subsides.

FOR MORE INFORMATION

National Low Income Housing Coalition, 202-662-1530, www.nlihc.org.

Multifamily's "Multifamily Housing COVID-19 Guidance" webpage, <https://bit.ly/3p01E17>.