



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention of

All Multifamily Hub Directors
All Multifamily Program Center Directors
All Multifamily Operations Officers
All Multifamily Directors of Project Management
All Multifamily Field Counsel
All Contract Administrators

Notice H2010-04

Issued: January 22, 2010

Expires: January 31, 2011

Cross References:

Subject: Revised Protocol for Placing a Flag in the Active Partners Performance System (APPS) When a Property Receives a Physical Inspection Score Below 60 but Above 30

I. Purpose

This Notice revises the current protocol for placing flags in the Active Partners Performance System (APPS) when a property receives a physical inspection score that is below 60 but above 30. The revised protocol takes effect as of the date of this Notice. Properties that receive a physical inspection score of 30 or below will continue to be automatically referred to the Departmental Enforcement Center (DEC) and a flag will automatically be recorded in APPS.

II. Background

It has become clear that the current protocol requiring that a flag be placed in APPS when a property receives a physical inspection score that is below 60 is not accomplishing the results it was designed to achieve. At present, a flag is placed in APPS when a property receives a physical inspection score that is below 60 to alert HUD staff that there is a potential risk that should be evaluated when a participant applies to do new business with the Department. The current protocol also dictates that a Hub or Program Center should resolve the flag if the property receives a physical inspection score of 60 or above after it is re-inspected. However, in many cases, the current protocol actually hinders new business from taking place because the Department cannot complete a timely re-inspection of the property even though the Owner has certified that he or she has identified all deficiencies and completed all repairs.

The revised protocol, as outlined below, will help ensure that any flags placed in APPS after a property receives a first physical inspection score that is below 60 but above 30 are a true indicator of potential risk.

III. The Revised Protocol

As of the date of this Notice, Hub and Program Center staff will no longer be required to place a flag in the APPS system when a property receives a physical inspection score below 60 but above 30 on the first inspection. Instead, the Hub or Program Center will take the following actions:

The New Protocol for Physical Inspection Report Scores from 31 – 59

The Hub or Program Center will not place a flag in APPS but the Hub Director or his or her designee will strive to meet with the owner in person or by telephone and issue a notice of violation and/or notice of default of a business agreement(s) for substandard physical condition within 10 days of the release of a physical inspection report with a score below 60 but above 30.

- a. The Hub Director or his or her designee will meet with the Owner in person or by telephone to inform him or her that the inspection report identified serious physical deficiencies that demonstrate that the Owner is in default or violation of one or more business agreements and what actions may result if he or she fails to take the necessary corrective action. The Hub Director will also issue a notice of violation or notice of default of a business agreement(s). The notice of default or violation will inform the Owner that he or she: (1) must conduct a survey of the entire project and identify all physical deficiencies; (2) must correct all of the physical deficiencies at the project, including but not limited to, those deficiencies identified in the REAC inspection; and, (3) must execute and deliver the “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” and the comprehensive survey to the HUD Office cited in the notice (see attachment 1). The notice of default and/or violation must also inform the owner that HUD’s Office of Multifamily Housing will flag the owner and other parties responsible for the subject of the notice in HUD’s APPS if the owner does not submit the “Project Owner’s Certification” within the 60-day timeframe specified in the notice.
- b. If the owner submits the “Project Owner’s Certification” within the designated timeframe, the Hub Director or his or her designee(s) will not place a flag in APPS and inform the Business Relationships and Special Initiatives Division, Office of Asset Management, that the project will be subject to the annual inspection process and be inspected by the mortgagee or bid out in a Reverse

- Auction on or about the new ideal date the following year.¹ If the property receives another score below 60 the following year, the Hub Director or his or her designee must place a flag in the APPS system, issue a new notice of violation and/or default, and order a new inspection through the Business Relationships and Special Initiatives Division, Office of Asset Management. The new inspection will be scheduled as soon after the end of the 60 day cure period referenced in the notice of violation and/or default as possible. If upon re-inspection the property once again receives a score that is below 60, the Hub or Program Center must once again flag the Owner in APPS and complete a Compliance, Disposition, and/or Enforcement (CDE) plan which recommends what actions should be taken to obtain owner compliance with the terms of all business agreements and submit it to the Business Relationships and Special Initiatives Division, Office of Asset Management in Headquarters for approval.²
- c. If the Hub or Program Center does not receive the “Project Owner’s Certification” within the 60-day timeframe, the Hub Director or his or her designee(s) must place a flag in APPS and request a re-inspection of the property through the Business Relationships and Special Initiatives Division, Office of Asset Management, in Headquarters. The Business Relationships and Special Initiatives Division, Office of Asset Management, will strive to ensure that the property is re-inspected as soon after the end of the 60 day cure period referenced in the notice of violation and/or default as possible. If upon re-inspection the property once again receives a score that is below 60, the Hub or Program Center must once again flag the Owner in APPS and submit a Compliance, Disposition and/or Enforcement (CDE) plan which recommends what actions should be taken to obtain owner compliance with the terms of all business agreements to the Business Relationships and Special Initiatives Division, Office of Asset Management in Headquarters for approval within 30 days of the release on the last inspection report. The Business Relationships and Special Initiatives Division will strive to review and approve all CDE plans within 30 days of receipt.

In order to ensure that follow-up inspections are conducted at the appropriate time, the Hub Director or his/her designee must provide the Director, Business Relationships and Special Initiatives Division, Office of Asset Management with a bi-weekly report by email. This report will be used to ensure that the properties in question are inspected at the appropriate time. The report must list all of the properties in the Hub Director’s jurisdiction that were issued a notice of violation and/or default within a two week period and provide all of the information included on attachment 2. The subject line of the email must read “Hub Name – Bi-weekly Re-Inspection Report.” The bi-weekly report will be due on the first Monday after the end of every time and attendance

¹ The Hub Director retains the authority to request that a physical inspection be scheduled at anytime if he or she determines that there is good cause for doing so, such as tenant complaints, code violations, poor past performance, below average or unsatisfactory Management and Occupancy Review ratings, etc.

² An Office of Asset Management memorandum dated April 7, 2003, captioned, “Under 60 Compliance – Disposition and Enforcement,” discusses some of the enforcement actions that may be taken to obtain owner compliance as well as what disposition options are available if the owner refuses to comply with the terms of all business agreements.

reporting period.

Administrative Procedures for Processing Physical Inspection Scores Above 30 but below 60 if the Score was Released Before the Date of this Notice.

If a property received a physical inspection score that was below 60 but above 30 before the date of this Notice and the Hub or Program Center has already made an elective referral to the DEC, then the Hub or Program Center should continue to process the referral using the protocol that was in effect before the date this Notice was issued. In cases where a property received a physical inspection score that was below 60 but above 30 before the date of this Notice and the Hub or Program Center has not made an elective referral to the DEC, then the Hub or Program Center should remove any flags that were placed as a result of the physical inspection score and follow the new protocol outlined above.

It should be emphasized that this change to the protocol only applies to physical inspection scores that are between 31 and 59. For first inspection scores that fall below 31, there is no change in protocol. If you have any questions regarding the attached guidance, please contact the Office of Asset Management, Business Relationships and Special Initiatives Division at (202) 402-2629. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information relay service at (800) 877-8339.

The information collection requirements referenced in this Notice have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) for approval. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Attachments

David H. Stevens
Assistant Secretary for Housing -
Federal Housing Commissioner

Distribution: W-3-1,