



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 H-2011-24

Issued: September 13, 2011

Expires: September 30, 2012

Cross References: Notice H-2010-04

SUBJECT: Reissuance of 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 reissues the revised 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. This reissuance 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 Notice H-10-04 protocol requiring that a flag be placed in APPS when a property receives a physical inspection score that is below 60 was not accomplishing the results it was designed to achieve. Prior to the publication of Notice H-10-04, a flag was placed in APPS when a property received a physical inspection score that was below 60 to alert HUD staff that there was a potential risk that should be evaluated when a participant applies to do new business with the Department. The Notice H-10-04 protocol also dictated that a Hub/Program Center should resolve the flag if the property received a physical inspection score of 60 or above after it has been re-inspected. However, in many cases, the Notice H-10-04 protocol actually hindered new business from taking place because the Department cannot complete a timely re-inspection of the property even though the Owner(s) has certified that he or she has identified all deficiencies and completed all repairs.

The reissued 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 true indicators of potential risks to the Department.

III. The Revised Protocol

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

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

The Hub/Program Center will not place a flag in APPS but the Hub Director or his or her designee will meet with the Owner in person or by telephone. As a result of the discussions, the Hub Director or his/her designee will issue a Notice of Violation (NOV) and/or Notice of Default (NOD) 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/she fails to take the necessary corrective action. The Hub Director will also issue a NOD and/or NOV of a business agreement(s). The NOD and/or NOV 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 CFR. Part 5.703” and the comprehensive survey to the HUD Office cited in the Notice (see Attachment 1). The NOD and/or NOV 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 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 will inform the Office of Asset Management, Business Relationships and Special Initiatives Division that the project will be subject to the annual inspection process and will 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 NOD and/or NOV,

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.

and order a new inspection through the Office of Asset Management, Business Relationships and Special Initiatives Division. The new inspection will be scheduled as soon as possible after the end of the 60-day cure period referenced in the NOD and/or NOV. If upon re-inspection the property once again receives a score that is below 60, the Hub/Program Center must once again flag the Owner in APPS and complete a Compliance, Disposition, and 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 Office of Asset Management, Business Relationships and Special initiatives Division for approval.²

- c. If the Hub/Program Center does not receive the “Project Owner’s Certification” within the 60-day timeframe, the Hub Director or his/her designee(s) must place a flag in APPS and request a re-inspection of the property through the Office of Asset Management, Business Relationships and Special Initiatives Division. The Department will strive to ensure that the property is re-inspected as soon as possible after the end of the 60 day cure period referenced in the NOD and/or NOV. If upon re-inspection the property once again receives a score that is below 60, the Hub/Program Center must once again flag the Owner in APPS and submit a CDE plan which recommends what actions should be taken to obtain Owner compliance with the terms of all business agreements to the Office of Asset Management, Business Relationships and Special Initiatives Division, for approval within 30 days of the release on the last inspection report. The Department 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 Office of Asset Management, Director, Business Relationships and Special Initiatives Division, 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 NOD and/or NOV 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 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/Program Center has already made an elective

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.

referral to the DEC, then the Hub/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/Program Center has not made an elective referral to the DEC, then the Hub/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.

/s/

Carol J. Galante
Acting Assistant Secretary for Housing -
Federal Housing Commissioner

Attachments [1](#) & [2](#)