



OFFICE OF HOUSING

Report to Congress on Oversight of
Property Owners and Multifamily
Properties Assessed through HUD's Real
Estate Assessment Center

November
2017

Introduction

The Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Section 226 and the Consolidated Appropriations Act, 2016, Division L, Title II, Section 225 directs HUD to “Report semi-annually on all properties covered by this section that are assessed through the Real Estate Assessment Center and have physical inspection scores of less than 30 or have consecutive physical inspection scores of less than 60. The report shall include: (1) The enforcement actions being taken to address such conditions, including imposition of civil money penalties and termination of subsidies, and identify properties that have such conditions multiple times; and (2) Actions that the Department of Housing and Urban Development is taking to protect tenants of such identified properties.” Furthermore, the Consolidated Appropriations Act, 2017, Division K, Title II, Section 223 makes several changes to the language as contained in the 2015 and 2016 appropriations acts. The new language requires HUD to report to Congress quarterly instead of semi-annually. The Department is working on making the changes necessary to compile reports that meet the new requirements and will submit its first quarterly report at the end of the first quarter of fiscal year 2018.

Summary

This report responds to the 2015/2016 reporting requirements by providing the following:

- (1) The number of projects that received physical inspection scores below 30.
- (2) The list of properties that are assessed through the Real Estate Assessment Center and have physical inspection scores less than 30 or have consecutive physical inspection scores of less than 60.
- (3) Summary of the enforcement actions being taken to address such conditions at each project, including imposition of civil money penalties and termination of subsidies, and identification of properties that have such conditions multiple times.
- (4) The number and type of actions that the Department of Housing and Urban Development is taking to protect tenants of such identified properties since the enforcement actions noted in item (3) and actions taken to protect residents.

Future Reports

The Consolidated Appropriations Act, 2017 Division K, Title II, Section 223 makes several changes to the language contained in the 2015/2016 appropriations acts. The new language requires the Department to report to Congress quarterly instead of semi-annually. The Department is working on making the changes necessary to compile reports that meet the new requirements and will submit its first quarterly report at the end of the first quarter of fiscal year 2018.

Qualifying Multifamily Projects

The 2015/2016 language requires the Department to take certain actions in cases when a multifamily housing project:

- (A) receives a Real Estate Assessment Center (REAC) score of 30 or less; or
- (B) receives a REAC score between 31 and 59; and
 - a. fails to certify in writing to HUD within 60 days that all deficiencies have been corrected; or

- b. receives consecutive scores of less than 60 on REAC inspections.

The 2015/2016 language also requires that HUD take one of the following actions if either A or B occur:

- require immediate replacement of project management with a management agent approved by the Secretary;
- impose civil money penalties;
- abate the section 8 contract, including partial abatement, as determined by the Secretary, until all deficiencies have been corrected;
- pursue transfer of the project to an owner, approved by the Secretary under established procedures, which will be obligated to promptly make all required repairs and to accept renewal of the assistance contract as long as such renewal is offered; or
- seek judicial appointment of a receiver to manage the property and cure all project deficiencies or seek a judicial order of specific performance requiring the owner to cure all project deficiencies.

Furthermore, the 2015/2016 language only applies to insured and noninsured projects with project-based assistance under Section 8 of the United States Housing Act of 1937 (“Act”) or a “contract for similar project-based assistance”. A table of the projects covered is provided below.

Type	Number of Projects	Number of Units
Assisted Only	10,039	816,709
202 and 811	7,345	218,451
Assisted and Insured	5,311	487,707
Other	361	31,152
Total:	23,056	1,554,019

As the table shows, 23,056 projects are covered by the 2015/2016 language. Of the 23,056 covered only 112 projects (0.49%) meet one of the triggers for action noted above.

Multifamily Actions

When a property does not meet HUD’s standards for physical condition, field staff take several actions to address the situation. The owner must certify that they have corrected any outstanding Exigent Health and Safety (EH & S) problems within 3 business days of the inspection. The owner is then issued a Notice of Violation (NOV) or a Notice of Default (NOD) and has 60 days to inspect all units at the property and correct all deficiencies, regardless of whether they were noted on the inspection report. After this “cure” period, the property is re-inspected, and if the score has risen to an acceptable range, the property returns to a standard inspection schedule.

If the re-inspection shows that the property still does not meet HUD’s physical condition standards, HUD staff take additional enforcement action such as requiring a change in management agent, working with the owner to sell the property, or terminating the contract.

Several factors are considered when determining the best course of action, including:

- What is best for the residents? Are there other housing options available if they are issued vouchers?
- What is best for the community? If the contract is terminated, the community will permanently lose an irreplaceable affordable housing resource.
- What is the owner capable of? Does the owner have capital resources or the capacity and commitment to refinance and rehabilitate the property?
- What are HUD's legal options under the contract(s) it has with the owner?

Each property's situation is unique, and these factors and more are carefully weighed as HUD staff decide how to proceed. In all cases, HUD's first concern is the well-being of the residents and arriving at the best long-term solution to benefit them and the community at large.

The REAC inspection process is not HUD's only means of monitoring properties that are experiencing challenges. Each of the 30,000 Multifamily properties is reviewed regularly by field staff to determine the property status. Review tools include annual audited financial statements, community and resident complaints, management and occupancy reviews, police reports, local code enforcement, and site visits. After that assessment, the property is given a score and assigned to staff based on the relative level of risk associated with that property, i.e., more troubled properties are assigned to more experienced staff. Staff have the ability to change a score based on subjective factors and the troubled portfolio is reviewed by Headquarters staff on a monthly basis.

REAC Changes and Scoring Impact

The great majority of inspections are performed by private contractors and each inspection is conducted in compliance with the Uniform Physical Condition Standards (UPCS). Each inspection report receives a Quality Assurance review before release and inspectors periodically have their inspections reviewed by Quality Assurance inspectors, who are HUD employees.

As a result of increased scrutiny by Quality Assurance staff, many contract inspectors were decertified in 2016 and 2017 after it was found that their inspections were not up to standard. REAC also issued Inspector Notice 2016-03 in July 2016, alerting their inspectors to a growing trend of non-industry standard repairs (for example, covering a hole with duct tape instead of patching the hole properly) and instructing them to cite any deficiencies they saw resulting from substandard repairs. These two improvements along with other process changes have helped identify properties with REAC scores that were not reflective of the true condition of the property.

Proposed REAC Improvements

HUD's Rapid Response and Resolution Team (RRRT) was formed in June 2016. RRRT participants were selected to represent all relevant departments across HUD, and involved high-level Headquarters leadership as well as front-line field staff. The team performed a comprehensive analysis of HUD's internal processes related to risk analysis, response to troubled properties, and communication with stakeholders. Best practices were shared across Multifamily and the Office of Public and Indian Housing (PIH), and the team made extensive recommendations for improvement. The intended result is to identify potentially troubled and troubled properties more quickly; expeditiously deal with the conditions that lead to the troubles at the property; and communicate more proactively with residents, communities, and local governments. A subcommittee of the

RRRT was devoted to the REAC physical inspection process.

While many recommendations of this team have been implemented, others are still in progress because they will require a change in a regulation or a statute. The long-term RRRT recommendations related to REAC are:

- Propose an amendment to REAC regulation(s) that would incorporate process changes:
 - Revise scoring weight assigned to units
 - Adjust the point-cap deduction
 - Expand photo capability to all deficiencies
 - Shorten the notification time-period to inspect a project with a prior score below 60
 - Identify a shorter abatement requirement for all Health & Safety (H&S) deficiencies
- Propose regulatory and statutory changes to improve HUD’s authority to enforce physical standards requirements in assisted multifamily housing properties.
- Propose an interpretive rule to clarify that owners with Housing Assistance Payments (HAP) contracts must maintain the property per local code requirements and failure to do so is a material violation of the HAP contract.
- Multifamily and PIH-REAC are working on an alternative to the current mechanism for procuring inspections. The current mechanism is called the Reverse Auction Process Program and it awards the right to conduct physical inspections to the lowest bidder. The Department is piloting an indefinite delivery/indefinite quantity (IDIQ) contract in the Midwest and Southwest regions. The program is in the pilot stage and upon further evaluation, may eventually replace the reverse auction program. The IDIQ will allow the Department to issue task orders for a large number of inspections over a longer period of performance and require the inspection companies to handle postponements and cancellations within the period of performance.

Qualifying Actions Taken

The chart below shows the actions taken in response to unacceptable REAC scores at Multifamily properties. Please note that of the 112 qualifying properties, 12 received the qualifying low scores within the past three months (since July 1, 2017). Owners have 45 days to appeal their score, and then 60 days to cure their deficiency, so enforcement actions may be at early stages at these 25 projects.

Total Multifamily Properties subject to Section 230	112
Properties scoring 30 or less	26
Properties with two consecutive scores under 60	71
Properties meeting both criteria	15
Actions Taken	260
NOV/NOD/CDE Plans issued	66
Properties referred to the Departmental Enforcement Center (DEC)	65
Owners flagged for noncompliance in the APPS system	68
Change in ownership/management completed or in progress	30
Abatement, relocation or foreclosure completed or in progress	13
Civil money penalties recommended	16
8(bb) Transfer of Budget Authority completed or in progress	2