U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

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OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

MEMORANDUM FOR: All Multifamily Hub Directors
All Multifamily Program Center Directors

FROM: Frederick Tombar III, Acting Deputy Assistant Secretary for Multifamily Housing Programs, HT

SUBJECT: Submission and Review Requirements and REMS Data Dependencies for Annual Financial Statements

Introduction:

Over the past several months, management decisions have been made regarding a variety of issues involving the submission of annual financial statements (AFS). This memorandum is intended to provide guidance, clarification and instructions regarding financial statement submission and review requirements, overdue tracking, extensions, waivers, deferments, etc.

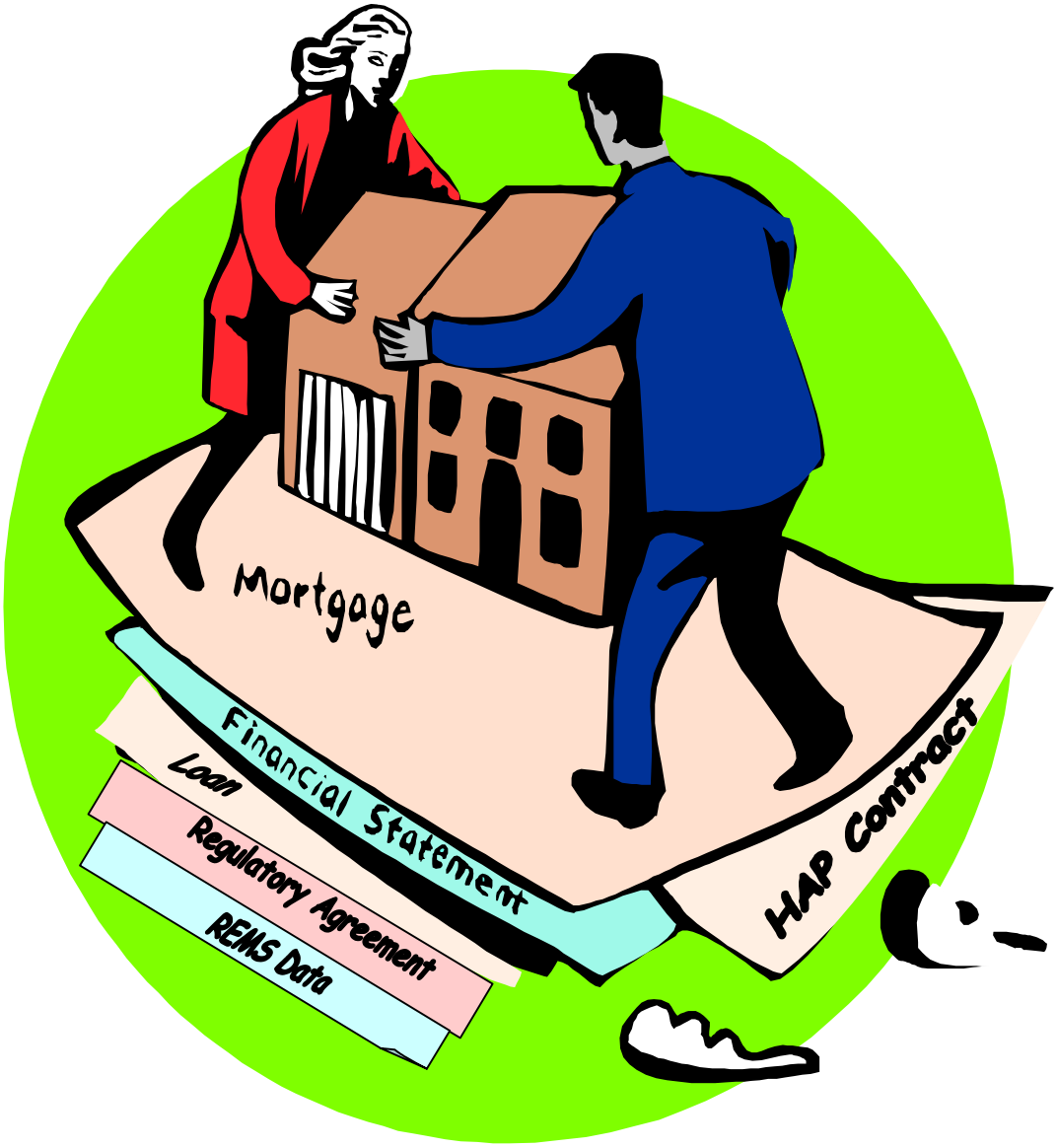
The Department's objective is to obtain owner compliance with the requirement to file AFS electronically in a timely manner. Where there is noncompliance, the Department intends to vigorously enforce this requirement that could include sanctions and financial penalties.

Project Managers (PM) should always encourage owners to file the required AFS timely. Owners who fail to comply will be referred to the Departmental Enforcement Center.

All financial statements referred to the Hubs/Program Centers **must** be reviewed by the PM. PMs should not rely solely on the REAC assessment and analysis to detect instances of noncompliance.

A guidebook is being developed to incorporate all existing policy relating to AFS review and submission. The attached instructions are intended to provide interim guidance until the guidebook is published.

Attachment



SUBMISSION AND REVIEW REQUIREMENTS AND REMS DATA DEPENDENCIES FOR ANNUAL FINANCIAL STATEMENTS

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I. Overdue Financial Statements

Owners, who have not submitted annual financial statements (AFS) for fiscal years ending December 31, 1998 through December 31, 2000, were referred to the Department Enforcement Center (DEC). Effective September 2001, if an AFS is not received by the 10th day of the month following the due date, an automatic e-mail letter is sent to the owner's MF-FASS coordinator on the 11th day. This message tells the owner that the AFS is overdue. This same message advises the owner that if the AFS is not received within the next 30 days (grace period), HUD will place a non-compliance flag in the Active Partners Performance System (APPS) and **automatically refer** the owner to the DEC. Upon expiration of the 30-day grace period and if the AFS is not received, the responsible Project Manager (PM) **must** place an appropriate non-compliance flag in APPS. This "late filer" flag **must not** be removed by the PM until the DEC advises the PM that the AFS was submitted and that all non-filer issues are resolved.

At some point, a letter will be sent that tells the owner that due to their failure to file the AFS the property has been referred to the DEC for action. When this letter is sent, a system generated project action is created in the Real Estate Management System (REMS) titled "AFS Overdue: DEC Review Required." This project action must be closed by the DEC Enforcement Analyst, not the PM.

NOTE: Every Hub and Program Center Director receives a monthly report summarizing all overdue AFS. This report **must** be shared with staff.

II. Extensions

Hubs/Program Centers nor the DEC are authorized to approve extensions to AFS filing due dates. The Office of Asset Management defined specific criteria and then provided REAC limited authority to approve or deny extension requests. The criteria are in an agreement between the offices (see Attachment 1). The agreement describes:

- the procedures owners must follow to request an extension;
- the criteria REAC uses when approving or denying extensions; and,
- the appeal process for denied requests.

All extension requests must be filed electronically according to the instructions in the **Industry User Guide for the Financial Assessment Subsystem - Multifamily Housing (FASSUB)**. Owners needing additional assistance may be referred to the REAC Technical Assistance Center (TAC) at 1-888-245-4860. When a Hub/Program Center or the DEC receives an extension request from an owner or owner representative, direct the requester to the, REAC Website (http://www.hud.gov/offices/reac/online/reasyst.cfm), where the request can be filed on-line.

III. Waivers and Deferments

A. Waivers

Only the Director, Office of Asset Management in Headquarters has authority to waive the requirement to submit an AFS. Generally, the AFS filing requirement will not be waived. The procedures for processing are presented in Attachment 2.

B. Deferments

As with extensions, the Office of Asset Management provided REAC limited authority to approve or deny deferment requests based on specific criteria (see Attachment 2).

IV. REMS/FASS Data Dependencies

A. Critical Data Fields

The smooth operation of the MF-FASS reporting system depends on the PM's careful attention to details, assuring that REMS data for project and owner information is complete and accurate at all times. Owners will be unable to submit financial statements if the required data is incorrect or missing in REMS.

1. <u>AFS Screen</u>

- "Financial Statement Required" indicator must be valued "Y" if a statement is required. If the value is other than "Y" then the owner will be unable to file.

2. <u>Ownership Screen</u>

- "Fiscal Year End Date" (e.g. mm/dd)
- "Mortgagor Type" (e.g. profit-motivated, non-profit, limited dividend, etc.)
- "Owner Legal Structure" (e.g. sole proprietor, corporation, general partnership, limited partnership, cooperative corporation, etc.)
- "Date Owner Assumed Financial Responsibility (FASS)" (e.g. date deed is signed)
- "Date Ownership Assumed" (.e.g. date deed is recorded)

3. <u>Loan Information Detail Screen</u>

- SOA code (e.g. Section of the Act)•*
- Active FHA*

• *This data cannot be corrected/edited directly in REMS. They are updated to REMS from other systems (e.g. F47, DAP, PAS, etc.).

- HUD Held indicator of "Y"*
- Current Status Detail of "Under Management - Current - Active."

4. <u>Assistance Contract Detail Screen</u>

- Contract number•*

B. Reporting Period

MF-FASS relies on REMS data to determine the proper reporting period for financial statements. Below are specific case discussions regarding the data requirements for new and refinanced projects and projects that have undergone a change in ownership. We have found that there are often errors in this area. Therefore, the following examples are presented so that each PM has a reference point for accurate completion.

1. <u>New Projects</u>

For all new projects the "Date Owner Assumed Financial Responsibility" is the day after cost certification cut-off. This date is found on Cost Certification or Cost Certification Review Worksheet (HUD form 92331-A). In order for MF-FASS to recognize the start date, the PM must enter the date of the day after cost-certification cut-off in the "Date Owner Assumed Financial Responsibility" field on REMS Ownership screen. For example, if cost certification cut-off is on July 15, 2001, the PM should enter July 16, 2001 in the "Date Owner Assumed Financial Responsibility" field.

For projects under construction (i.e., In Development Pipeline), the PM must not enter a date in the "Date Owner Assumed Financial Responsibility" field until after the cost certification cut-off date is determined.

2. <u>Change in Ownership - Transfer of Physical Assets (TPA)</u>

The Department will not approve a TPA application if the current owner has failed to submit all required AFS. TPA applications may also be disapproved if there are other areas of non-compliance.

After a TPA is approved, the seller (old owner) remains responsible for submitting all previously due AFS. In most cases, the seller must file an AFS covering the period from the beginning of the owner's (project's) fiscal year through the day before the deed is signed. The date the deed is signed marks the beginning of the buyer's (new owner's) financial reporting responsibilities. When a the Hub/Program Center issues the TPA Preliminary Approval Letter, the ***PM must update REMS with the buyer's profile information and tax identification number (TIN)*** on the Ownership screen, and change the "Date Owner Assumed Financial Responsibility" to the date the deed was signed.

• *This data cannot be corrected/edited directly in REMS. They are updated to REMS from other systems (e.g. F47, DAP, PAS, etc.).

The PM must also input the date the deed was **recorded** in the "Date Ownership Assumed (Date Deed Recorded)" field on the Ownership screen. This date may differ from the date that the deed was **signed**, which is entered in the "Date Owner Assumed Financial Responsibility" field per the instructions above.

Effective with the February 25, 2002, REMS system release, the Ownership screen displays the current and prior owner's name and TIN. As stated earlier, the seller (old owner) is required to submit financial statements through the day before the deed was signed. MF-FASS computes the reporting period of the seller and buyer based on this stored information. Once all changes are made in REMS, either owner can submit an AFS for their respective reporting periods. BOTH accounting periods must be covered and filed in MF FASS. PMs can refer to the Real Estate Management System User's Guide, Chapter 4: Ownership, Adding an Owner, for additional instructions concerning REMS requirements.

Effective with the May 31, 2002, REMS system release, the functionality will allow the seller (old owner) to submit the AFS early or prior to his/her normal fiscal year end.

3. Change in Ownership (Non-insured Projects) - Assumption of Housing Assistance Payments (HAP) Contract

When a buyer purchases a noninsured property and assumes an existing HAP contract that has an AFS filing requirement, financial reporting obligations begin on the date that the HAP contract is assumed which is also the date the assumption of the HAP contract is executed. If the buyer or other party subsequently refinances the project using HUD/FHA insurance, the "Date Owner Assumed Financial Responsibility" remains unchanged.

4. Refinance - Replacing an Old FHA Loan with a New FHA Loan

The PM must associate the new FHA loan in REMS with the property identification (ID) number of the old FHA loan. Housing policy requires that each property carry a single property identification number (a.k.a. REMS ID or Property ID). Therefore, both the prior (old) loan and the refinanced (new) loan shall be associated with the original property ID number.

PMs should refer to the Real Estate Management System User's Guide, Chapter 15: Property Association, Making a New Financing Association, for additional instructions concerning REMS requirements.

5. Refinance - Replacing a Conventional Mortgage with a FHA Insured Mortgage

The "Date Owner Assumed Financial Responsibility" is the final endorsement date of the new FHA mortgage. This is true unless there is a cost-certification requirement. If a cost certification is required, then the "Date Owner Assumed Financial Responsibility" is the day after the date of cost certification cut-off, as with new loans (see number 1. above).

6. <u>Refinance - Combined with a TPA</u>

Follow the guidance in number 2 above. The refinance dates do not apply in these cases.

V. Field Office Review Requirements

A. Project Actions Related to MF-FASS Compliance Issues

The MF-FASS provides an automated assessment of each AFS submission. Based on the type, number and severity of system-generated compliance flags and auditor findings, MF-FASS automatically refers each case to either Multifamily Housing (MFH) or DEC. A REAC financial analyst reviews all AFS before a referral is made to MFH or the DEC, and either accepts the automated referral or upgrades or downgrades the referral. The referral to MFH requires specific actions be taken by the PM, based on specific conditions of the referral.

- FASS Review - No Conditions

  Where no compliance flags or auditor findings are noted, the AFS submission is automatically closed by REAC MF-FASS with no conditions. A system generated project action is created in REMS titled "AFS Submission (Good) Received by FASS and No Response Due." In addition, a No Condition letter is sent to the project owner, via e-mail, informing them that the assessment results will be sent to the PM for further consideration.

- FASS Review - Conditions

  Where the MF-FASS system or REAC's financial analyst refers the AFS submission to MFH, a "conditions" letter is e-mailed to the owner's MF-FASS coordinator and a Project Action is created in REMS. The project action is titled "AFS Letter Sent to Owner and Response Due." The PM is responsible for reviewing the owner's response to the "conditions" letter. When all questions and concerns are addressed appropriately and completely, the PM must record the closure of the project action in REMS and inform the owner of the resolution of all conditions in writing. After further review by the PM, additional conditions can be added. As the “conditions” letter has already been sent to the owner, the PM must notify the owner, by separate letter, that additional findings/conditions are being added. The owner will be required to respond to the original conditions issued by MF-FASS, as well as the added conditions by the PM, before the “Project Action” is closed in REMS.

- FASS Review - Direct FASS Referral to DEC

  Where a project is referred to the DEC, a system-generated project action is created titled "AFS DEC Administrative Review Required." The PM and the Enforcement Analyst assigned to the case must work together with the ownership to resolve all questions and concerns. **PMs’ communication to the owner regarding particular FASS issues is suspended pending DEC’s full resolution off all matters outstanding.** When all

outstanding compliance issues are resolved, DEC returns the project to the Hub/Program Center and the PM resumes full and sole responsibility for all project actions.

B. Project Actions Related to MF-FASS Performance Issues

MF-FASS generates a performance rating for each project based on various ratios and comparative analyses. One of three "ratings" is assigned; green, yellow, or red, indicating, generally, whether a property may be considered financially healthy, potentially troubled, or troubled.

If, during the automated MF-FASS review, no compliance problems are noted, but the financial performance rating is red or yellow, REMS generates a Project Action to inform the PM that potential financial performance problems exist. The title of the generated project action is "AFS Evaluation Financial/Physical Risk." The PM must examine each of these properties to determine why they were rated poorly, and whether or not any actions should be taken to improve the financial performance such as a rent increase, etc. Once the PM assesses the problem and takes appropriate corrective action, the Project Action should be closed in REMS if the owner is in full compliance. PMs should refer to Appendix 1 of the Field Guide for Multifamily Housing Project Financial Assessment, which describes appropriate actions to correct FASS compliance violations.

C. Policy on Project Managers Reviewing AFS

Financial statements are collected and analyzed by REAC-FASS. The results fall into one of the following categories:

1. Referred to the DEC;
2. Referred to the MFH with conditions; or,
3. Letter to the owner with no conditions.

The DEC is responsible for resolving all financial issues on cases referred to them. The MFH PM is responsible for taking action on the remaining AFS as follows:

1. Referred to MFH with conditions:

PMs must review these financial statements as soon as possible, but in no case later than 90 days after referral. The full financial statement must be reviewed including the FASS report. Owners of properties in this category are notified in writing by REAC-FASS of the corrective actions required to resolve all issues.

2. Letter to the owner with no conditions:

Financial statements of owners that received a "no condition letter" must be reviewed as follows:

a. The AFS for properties that are labeled by the Hub/Program Center as troubled or potentially-troubled are to be reviewed within 90 days of referral. This will include, at a minimum, all properties with a yellow or red risk designation.

b. The AFS for all others are to be reviewed before conducting a management review, processing a TPA, or before the end of the project's fiscal year. Questions, issues and concerns detected during the review must be incorporated into the management review report or the follow-up letter, or both, to the ownership

When a Performance-Based Contract Administrator (PBCA) is responsible for conducting a management review, they too must adhere to the above instructions, **if applicable, and within their protocol.**

NOTE: All financial statements referred to MFH with or without condition letters, must be reviewed by the PM.

VI. Submission Requirements for Specific Mortgage/Program Types

Effective with the MF-FASS system release dated February 21, 2001, certain owners may submit consolidated AFS for single owning entities. Owners of property developed under HUD's Small Project Processing Program may now submit unaudited AFS or owner certified AFS. PMs may identify the type of AFS submitted by the owner by selecting the "Due Date" under the "Annual Financial Statements for FASS" screen in REMS.

A. Consolidated Submissions

There are several instances within HUD's multifamily portfolio where multiple projects were developed under a single owning entity, i.e. two or more projects **sharing the same tax identification number (TIN). If the TIN** is not identical an owner may not file a consolidated statement as described below.

MF-FASS was modified to allow owners of profit motivated, limited distribution and non-profit properties to submit consolidated financial statements, where more than one property is owned under a single identical TIN. The consolidated submission consists of all basic financial statements; Balance Sheet, Statement of Cash Flows, etc., covering the combined operations for all of the properties being submitted. The MF-FASS templates also require separate basic statements for each project, as part of the supporting data. There is a requirement to submit separate supporting data schedules such as the Computation of Surplus Cash, Schedule of Reserve for Replacements, etc., for each project in the group. All properties covered in the submission share certain schedules and reports such as Notes to Financial Statements, Auditor's Opinion, Reports on Compliance, etc. Owners having multiple properties (sharing the same TIN) that were developed under a single owning entity may choose whether to file separately for each project or to file a consolidated submission.

1. Consolidated Submissions - Nonprofit Properties

In addition to HUD operations, the consolidated submission for non-profit properties may include operating information for non-HUD businesses in which the entity is engaged.

For example, a non-profit entity may own a thrift store, or a rehabilitation center, or other business, and also own a HUD project under the same tax identification number. The parent entity may submit a consolidated financial statement that covers both HUD and non-HUD operations. The non-HUD operations would be included in the consolidated financial statements, and the HUD operations would be reported separately in the supporting data schedules.

2. Consolidated Submissions - MF Properties owned by Public Housing Authority

PHAs are required to submit consolidated financial statements to REAC via FASS-PHA. Where FASS-PHA submissions include financial and audit information concerning a PHA owned multifamily property, HUD will not require PHAs to also submit audited information on these multifamily properties (remember the test for filing in this case is that the TIN numbers must be identical). However, the PHAs must submit separate unaudited information, that is certified by the owner (owner certified), for each multifamily property they own via MF-FASS.

The PHA may only consolidate reporting in cases where the PHA owns the property as the PHA, i.e., the multifamily property has the same tax identification number as the PHA.

To complete the filing process, after the PHA has submitted an Owner-Certified AFS, the PHA owner must request a waiver of the audit requirement under OMB A-133. This must be requested to avoid improper labeling of the PHA as a late filer later in the year when the A-133 audited reports are due. The FASS-MF tracks these submissions, that are due no later than nine months after fiscal year end, routinely. The request for waiver is made on-line under the "Select An Option Menu" in FASSUB, located on the REAC Secure website.

B. "Small Project" Processing Projects

HUD implemented the Small Project Processing Program with the issuance of HUD Notice H 97-4, later revised by HUD Notice H 99-9. Projects developed under this program do not have a regulatory requirement to submit audited financial statements. Instead, these owners submit unaudited AFS, which are certified by the owner (owner-certified). With the February 2001 release of MF-FASS, HUD can now accept these financial statements electronically and the owner is **obligated** to submit them electronically.

MF-FASS relies on the Small Project Processing indicator, located in the "Project Information" section of the REMS "Loan Information Detail" screen, to determine whether properties are eligible to access a template to file the unaudited AFS. **It is important that the Project Manager set the indicator to "Yes" to allow the submission of the AFS**.

C. Non-insured Projects

Owners of non-insured projects are required to submit an AFS only where there is a financial filing requirement in their business agreement (i.e., HAP Contracts, Use Agreements, etc.). This is not a new requirement. PMs are responsible for assuring that REMS is properly updated for each non-insured property. The PM can determine this only by reading the business agreement. In all cases where the business agreement requires a submission the PMs must place a "Y" in the "Financial Statement Required" indicator in REMS.

D. Mortgage Note Prepayments

Owners who prepay their mortgage are required to submit an AFS for the full fiscal year ending prior to the prepayment year (previous fiscal year ending date). For example, should an owner prepay in March 2002, the AFS for the fiscal year ending December 31, 2001, is required. No AFS for 2002 will be required as long as the owner prepays the mortgage before the project's fiscal year end date. **However if the owner has other business agreements (i.e., HAP contracts, Use Agreements, etc.) that require financial reporting then no lapse in reporting is allowed**.

After prepayment, the PM must update REMS by changing the "Financial Statement Required" indicator in REMS to "N." The indicator **must** only be changed after the PM verifies that the owner has **fulfilled all AFS submission requirements** and confirms that the mortgage note was actually prepaid. Verification can be ascertained by checking the REMS Loan Information screen, which is updated periodically by F47 for insured loans.

Owners that require HUD's approval to prepay the mortgage, but have not submitted the required AFS, will not receive approval for any requests for prepayment of the mortgage note by the Office of Asset Management, until the owner files all required AFS electronically via FASSUB. In addition, the ownership and all principals must be flagged in APPS System.

For owners whose mortgage note does not require HUD's approval to prepay, the PM should inform the owner that they may prepay, but the ownership and all principals will be flagged in the APPS System until all required AFS are filed electronically via FASSUB.

Owners who do not comply with the requirement to file this last financial statement must be flagged in APPS by the PM. Headquarters Desk Officers must forward a reminder e-mail to the appropriate Hub/Program Center to assure that the flag is placed in the APPS System. Future participation will be reviewed by the Previous Participation Review Committee, due to the unresolved flag, until the owner fulfills the financial submission requirements. Finally, the case will be referred to the DEC for civil money penalties (CMP), sanction and/or other actions.

E. Multifamily Note Sale Program

Property owners of mortgages sold in the MF Notes Sale Program are required to submit an AFS covering the fiscal year ending prior to the year in which closing occurs. The policy on AFS submission for note sales is the same as the policy for mortgage note prepayment (see above)

F. Non-profit Properties Submissions

1. Non-profit Properties Receiving $300,000 or more Annually in Combined Federal Assistance

Owners of nonprofit properties receiving $300,000 or more annually in combined federal financial assistance are required to submit electronic unaudited AFS, which are certified by the owner (owner certified AFS) within 90 days after the end of the fiscal year. An electronic audited financial statement is due no later than nine months after the end of the fiscal year pursuant to OMB Circular A-133.

The owner may opt to submit the full electronic audited financial statement within 90 days after the end of the fiscal year. In that case, the owner-certified financial data is not required. By submitting the audited AFS within 90 days the owner can eliminate the additional step of submitting an unaudited AFS. Combined federal financial assistance is comprised of:

- the outstanding balance of all FHA-insured and HUD-held mortgages and any direct loans;
- section 8 assistance or other project-based rental assistance received during the audit year;
- grant funds received during the year, including flexible subsidy, drug-elimination, and service coordinator; and
- all other project-based Federal assistance received during the audit year.

2. Non-profit Properties Receiving Less than $300,000 annually in Combined Federal Assistance

Owners of non-profit properties receiving less than $300,000 annually in combined federal assistance are only required to submit unaudited AFS, which are certified by the owner (owner-certified AFS) within 90 days after the end of the fiscal year.

G. Changes of Fiscal Year End

Changes of the fiscal year end for profit-motivated and limited dividend properties must be submitted to the Internal Revenue Service (IRS) on Form 1128 – "Application To Adopt, Change, or Retain a Tax Year" by the owner for approval. Upon receipt of this request, the IRS issues a "Private Letter Ruling" indicating their decision.

Non-profit or tax-exempt organizations under section 501(c) are not required to submit Form 1128 to change the fiscal year end, unless the owning entity has changed its tax year at any time within a 10-calendar year period. This procedure is called "Expeditious Approval." The IRS permits non-profit entities to change their fiscal year end without prior approval if they meet the above requirement.

PMs **must not** change the fiscal year end information in REMS for profit-motivated and limited-dividend property owners until they receive a copy of IRS's "Private Letter Ruling." If the property is owned by a non-profit owner, the owner must submit a letter to the local Hub/Program Center certifying that the fiscal year end has not changed within ten years. If this letter is not received, the PM **must not** change the fiscal year end date in REMS.

In cases where the owner (owning entity) has multiple properties, the PM must verify that the ownership information and TIN in REMS are the same for those properties before changing the fiscal year end date.

When PMs change the fiscal year end data in REMS, the system initiates overdue tracking which looks back 12 months for a financial statement based on the new fiscal year end information. The system will not find a financial statement. In these instances, MF-FASS must be informed of these changes to override the overdue tracking database to prevent referral of the owner to the DEC. The PM's supervisor must inform their assigned Desk Officer in Headquarters, Office of Asset Management, of this change via e-mail. Upon receipt of the e-mail, the Office of Asset Management will then inform MF-FASS of this change.

H. AFS Requirements for Owners Receiving Interest Reduction Payments (IRP) – Non-insured Section 236 Properties (Decoupling)

Under Section 236(e)(2) of the National Housing Act, as amended, a Section 236 mortgage may be prepaid and the IRP subsidy continued provided the owner enters into an IRP Agreement and Use Agreement that require the continuation of the low-income housing resource for at least 5 years beyond the maturity date of the original Section 236 mortgage. In these cases, the owner must execute an IRP Agreement and Use Agreement that requires, among other things, that accurate records and accounts be maintained in a manner prescribed by the Department, including compliance with Subpart H of Part 5 of Title 24 of the Code of Federal Regulations (CFR), which requires that all AFS be submitted electronically via MF-FASS. Effective from the date of this memorandum, owners with active "Agreement for Interest Reduction Payments" and Use Agreements are required to submit audited financial statements annually to the Department. This requirement is effective for FYE December 2002. Hub/Program Center Directors must notify the owners with active IRP Agreements of this requirement **in writing**. In addition, PMs must enter the subsidy information for all IRP Decoupling Agreements, and the corresponding Use Agreement, in the "Other Public Subsides" section of REMS' "Subsidy Status" screen and set the "Financial Statement Required" indicator to "Y." These are two separate entries in the "Other Public Subsides" screen.

Guidance Dissemination Requirements:

Hub/Program Center Directors are required to see that in-house training is held for all staff on this FASS Guidance. All PMs must be given a copy of this document to be used as a Desk Guide. This guidance will be posted on the MF website. Local industry representatives, owners and management companies should be encouraged to access and review this information. HUD staff should contact their Headquarters' Desk Officer in Asset Management with any questions concerning this policy.

Attachments

Attachment 1

08/09/01

Agreement between Multifamily Housing and REAC
Processing Extension Requests for Annual Financial Statement Submissions

A. Extension Request Procedures

On May 4, 2001, REAC released version 2.4 of MF-FASS. This version allows owners to submit extension requests electronically to REAC, and enables the Department to approve or deny the requests electronically. The procedures for the submission and review of the requests are:

1. The owner's coordinator accesses FASS and enters an explanation as to why they believe an extension is warranted, and enters personal contact information in case REAC needs to discuss the request.
2. The request is electronically transmitted to a Hub Action box based on the Hub assignment of the project.
3. The REAC analyst assigned to that Hub would act on the request based on the Office of Asset Management's approval/denial criteria as outlined below.
4. Once the request is approved or denied, the decision, and an explanation for the decision, is transmitted to the coordinator's request status box where it can be viewed by the coordinator.
5. If the request is approved, then the due date is automatically changed in the MF-FASS overdue tracking module, thus preventing an overdue letter being mailed to an owner.

B. Appeal Procedures

To appeal a denied extension request the owner must submit a written appeal to the PM in the local Hub or Program Center. If the PM believes the request has merit, they must send it with their recommendation to their assigned Desk Officer in the Office of Asset Management in Headquarters for a decision.

If the appeal is approved the:

1. Office of Asset Management notifies the PM by e-mail and REAC that the extension is approved.
2. The PM informs the owner that the extension appeal has been approved, and instructs the owner to submit another electronic extension request to REAC.
3. The owner submits a request to REAC electronically.
4. REAC approves the request electronically.

If the appeal is denied the:

1. Office of Asset Management notifies the PM by e-mail that the appeal is denied.

2. The project manager notifies the owner in writing that the appeal is denied.

C. Approval and Denial Criteria

The following criteria will be used in approving and denying extension requests:

Approve requests when:

- circumstances exist that are beyond the owner's control

- database problems beyond the control of the Project Manager and the owner prevent the owner from filing (examples include situations in which a former owner's information was deleted from REMS, or problems with the FASS effective date or expiration date)

Deny requests when:

- the hard copy audit report was not prepared in time to meet the electronic submission deadline
- the owner failed to register as a coordinator in secure systems at least 30 days prior to the end of the fiscal year
- the owner does not have Internet access
- the owner has overdue submissions from previous years that have not been received
- the owner fails to engage an auditor at least 60 days prior to the end of the fiscal year

REAC understands that these criteria constitute a Housing policy decision and that the Office of Housing retains the authority to amend, adjust, or suspend these criteria at their discretion.

/s/Beverly J. Miller
Beverly J. Miller, Director,
Office of Asset Management, HTG

/s/Mark Duda
Mark Duda, Director,
Multifamily FASS

Attachment 2

08/09/01

Agreement between Multifamily Housing and REAC
Processing Requests for Waivers and Deferments of Financial Statements

A. Waiver Request Procedures

The authority to waive financial statements and to develop policy on waivers rests solely with the Office of Asset Management in Headquarters. The requirement to submit financial statements to HUD electronically cannot be waived unless HUD has entered into a legally binding agreement with the owner that waives the owner's contractual requirement to submit financial statements. The procedures for processing waivers are:

1. The owner must submit a written request for a waiver to the local Hub or Program Center along with supporting documentation indicating the reasons they believe HUD should waive the financial submission requirements.

2. Project Managers should review the request and determine if it has merit for approval. If the decision is affirmative, the project manager must forward the request with their recommendation via memorandum to the Office of Asset Management. **However, if the project manager determines that the request lacks a basis for approval, the request should be denied by the Hub/Program Center.**

3. The Office of Asset Management will review the request to determine if HUD has authority under the existing regulations and business agreements with the owner to extend a waiver that was previously approved, or approve a new waiver.

4. The Office of Asset Management will notify the field office and REAC in writing if the request is approved or disapproved, and the project manager will inform the owner in writing accordingly. If the request is approved, the PM should instruct the owner to submit a waiver request electronically to MF-FASS.

5. Upon receipt of the approval letter from the Hub/Program Center, the owner must submit a waiver request electronically via the MF-FASS system, and REAC will approve the request in the system.

B. Waiver Criteria

1. The request must specify the specific terms or conditions and the time period for the waiver.

2. The waiver cannot be for a period over one year.

C. Deferments

During the normal course of business, situations may arise for which an owner is responsible for submitting financial statements with a reporting period of less than 12 months. Auditors refer to these as “stub” period financial statements. If the stub period is equal to or less than 90 days, HUD normally allows the owner to defer the submission of financial statements, and to add the stub period to the next full year financial statements (e.g. the owner would submit financial statements covering up to 15 months). This procedure is known as a deferment of the reporting period. A deferment is different from a waiver in that the financial submission requirement is not waived, but the timing of the submission is deferred to a later date. HUD regularly approves the deferment of stub period reporting as part of transfers of physical assets, refinances, and new project development thus ensuring that the owners are not flagged as being overdue. The owner's coordinator submits this request on-line under the "Select An Option Menu, Waiver" in FASSUB on the REAC Secure website. The above language permitting a stub period of equal to or less than 90 days supersedes the submission requirement in Chapter 2, paragraph 2-2 of HUD Handbook 4370.1 REV-2.

/s/ Beverly Miller
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Office of Asset Management, HTG

/s/ Mark Duda
Mark Duda, Director,
Multifamily FASS