

# \*\*\*Practical Points\*\*\*

March 2012

From

## PMCS-ICAP

Services and Solutions for Properties of All Sizes

### Effective March 3, 2012: New HUD Protected Class

On January 30, 2012 HUD Secretary Shaun Donovan announced new regulations to ensure equal access to housing for all Americans regardless of sexual orientation, gender identity or marital status.

These new regulations were published in the Federal Register on February 3, 2012 with an effective date of March 3, 2012. These regulations apply to all of HUD's programs. The Final Rule, published as Equal Access to Housing in HUD programs makes the following provisions:

1. Requires owners and operators of HUD-assisted housing, or housing whose financing is insured by HUD, to make housing available without regard to the sexual orientation or gender identity of an applicant for, or occupant of, the dwelling, whether renter or owner-occupied. HUD will institute this policy in all its programs.
2. Prohibits lenders from using sexual orientation or gender identity as a basis to determine a borrower's eligibility for FHA-insured mortgage financing.
3. Clarifies that all otherwise eligible families regardless of marital status, sexual orientation or gender identity, will have the opportunity to participate in HUD programs.
4. Prohibits owners and operators of HUD-assisted housing or housing insured by HUD from asking about an applicant or occupant's sexual orientation and gender identity for the purpose of determining eligibility. However, this provision does not prohibit voluntary and anonymous reporting of sexual orientation or gender identity pursuant to state, local or federal data collection requirements.

This means you may have to modify your Tenant Selection Plan, Application, or Waiting List. For more information: <http://portal.hud.gov/hudportal/documents/huddoc?id=5359-F-02EqAccessFinalRule.pdf>

### DUNS/CCR Requirements in the News Again

**Please note that RAP and Rent Supp contracts are now required to meet this DUNS/CCR requirement. As of today, we're being told that the **May 2012 voucher may NOT be paid** without this requirement being met.**

These contracts now fall within the requirements of Notice H 2011-01 issued on January 5, 2011. Owners were required by this original Notice to have obtained a DUNS number and have an active, valid registration in CCR by March 5, 2011; and submitted Attachment A, DUNS Number and CCR Registration Certification to their local HUD office to verify compliance by that date. The Notice further clarified that an Owner's failure to obtain a DUNS number and CCR registration within the timeframe allotted may result in the suspension of housing assistance payments or rental assistance payments.

This is the original notice: <http://portal.hud.gov/hudportal/documents/huddoc?id=11-01hsgn.pdf>

The new notice citing the inclusion of RAP and Rent Supplement subsidies should be released soon, according to Theresa Fields in the Office of Housing Assistance Contract Administration Oversight for Multifamily Housing Programs. She suggests that you begin the process now and proceed to get your DUNS Number and your CCR Registration Certificate in order to meet the deadline date.

**For All Properties:** HUD Headquarters ran a list of DUNS numbers received in response to the Notice, and compared it to an extract received from CCR, to ensure compliance. There are still properties without a DUNS Number and/or properties who failed to register in the CCR system! In order to continue to receive HUD voucher payments, properties must comply with the requirements of Notice H 2011-01.

The CCR requires annual recertification. CCR will be migrating into HUD's new funding system, SAM (System for Award Management) in May 2012. As a result, properties which are not in compliance with all Notice requirements by April 23, 2012, risk suspension of their housing assistance or rental assistance payments.

CCR has discontinued its M161 Product Service Code (PSC): Operation of Family Housing Facilities. If you used this code last time, you MUST update it. The appropriate new PSC is X1FA: Lease/Rental of Family Housing Facilities.

Be sure to update the CCR with any ownership, management company or bank account changes. The CCR also asks for the last 3-year average of cash receipts, but doesn't specify exactly which dates this should include. It's fine to use the dates easiest to obtain from your financial records – fiscal year or calendar year.

DUNS Number: [http://dnb.com/us/duns\\_update/](http://dnb.com/us/duns_update/)

CCR (Central Contractor Registration): <https://www.bpn.gov/ccr/default.aspx>

## EIR (Excess Income Receivables) Collections

For those unfamiliar with Section 236 requirements, landlords are only allowed to keep the HUD-approved Basic Rent. Any amounts over Basic collected from tenants (i.e. those who pay between Basic and Market Rent) must be remitted to HUD, unless sites have gotten HUD approval to keep the funds (usually for items like building repairs and upgrades). This approval must be renewed each year.

EIR Reports (along with appropriate payment, if any) must be submitted, electronically, every month, whether money is due to HUD or not. EIR Reports list the actual amounts collected from tenants for the month. Since properties deposit tenant payments into their Operating Accounts, a change in ownership has no effect on the amounts due.

Each HUD MF Hub Director is being asked to appoint a Collection Coordinator and an alternate. By March 10, 2012 any 236 site with overdue funds should expect a Demand Letter requiring that the funds be paid within 30 days, or that the Owner/Agent contact the Coordinator to work out a payment plan. If that's not done within 90 days, the site may be referred to the DEC (Departmental Enforcement Center) for further action, which may include stiff financial penalties and/or suspension from all federal programs.

There are further procedural details regarding the repayment agreements and submissions in the Notice, which can be found at: <http://portal.hud.gov/hudportal/documents/huddoc?id=12-02hsgn.pdf>.

## New OHACAO Acting Director

It was announced on January 29, 2012 that Kerry Hickman is now serving as the Acting Director of Housing Assistance and Contract Administration Oversight (OHACAO). Prior to this, he served as a Financial Operations Analyst in OHACAO for several years. This job was formerly held by Deborah Lear.

The organizational chart of OHACAO can be found by scrolling down to the bottom of the page at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/mfh/hsgmfbus/aboutahacao](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/hsgmfbus/aboutahacao)

## HUD's Projected Budget for 2013

On Monday, February 13, 2012, President Obama presented the FY (Fiscal Year) 2013 budget to Congress and to the public. It is important that you know that the budget **did not** request full funding for all 12 months of project-based Section 8 contracts in FY 2013; funding has been requested only for the federal government's FY. This could prove to be a problem for some Section 8 properties depending on when the property's contract is renewed. For example, if your contract renews in June, your renewal funding will be in place through the end of September (the end of the government's fiscal year).

“President Obama's FY 2013 HUD budget requested \$8.7 billion for the project-based Section 8 account. Of that total, \$8.44 billion was for contract renewals and \$260 million was for contract administration costs. The budget also requested an advanced appropriation of \$400 million for FY 2014. The contract renewal funding is \$611 million below the FY 2012 appropriations levels and the FY 2012 budget request.”

Prior to FY 2009, HUD handled requests this same way. The Department requested enough funding to cover the project-based Section 8 program for the length of the fiscal year rather than full funding for all 12 months of the contracts. This resulted in the growth of a \$2 billion funding gap in the program. Property owners received partial and/or delayed HAP (Housing Assistance Payments) voucher payments because of the funding shortfalls. As a result, owners had to defer payments on property operations - including mortgages, maintenance, staff salaries, and utilities - which jeopardized the financial and physical health of the properties. It was not until 2009, when the \$2 billion gap was funded by the American Reinvestment and Recovery Act that HUD began requesting funding for the full 12-month contract terms at the time of renewal, and funding for HAPs stabilized.

You may review the FY 2013 HUD budget request by visiting:

<http://portal.hud.gov/hudportal/documents/huddoc?id=CombBudget2013.pdf>

If you are concerned about the projected budget, you should contact your Members of Congress and alert them to your concerns. Let him/her know that this funding methodology can have a profound effect on your property if there is a funding short-fall.

## HAP Contract Renewal for 20 Year Terms

HUD is encouraging Owner/Agents to renew Project-Based Section 8 contracts for 20 year terms. Why? With a 20-year contract term, HUD knows how many units will be in the inventory for a long time to come. This supports HUD's goal to maintain affordable housing in all geographic areas.

If you have a Contract Administrator, let that office know that you want a 20-year renewal term when submitting your contract renewal packet. If you are administered by HUD, contact your Project Manager to renew for this time period.

## REAC Tip

There is an issue regarding REAC inspectors' responsibilities concerning fire alarm systems and unit call-for-aid devices, especially if the system is monitored off-site by a third party. The inspector is responsible for visually inspecting components in sample units, to ensure that the system functions as it's intended to work, whether it's monitored by a third party company or not. The inspector must also verify whether the system is monitored off-site by a third party, or not. Written documentation, such as a contract for services, needs to be provided. Documentation of system inspections, current within the last year, should also be provided, to ensure that the company has made every effort to maintain the system in good working order.

“If the inspector determines the call-for-aid system was inspected and certified by a local alarm company, but is not monitored off-site, then the inspector is responsible to test/operate and visually inspect the entire system.”

Many properties face problems such as residents who tie the card around a towel bar, or tape it to a wall. When this happens, the inspector is required to report that the call-for-aid system cannot work in its present state - and that is a finding, because it cannot function as intended. Please check all apartments before an inspection for any issues of this nature. It is also important that you note these types of things in the tenant file.

More information can be found in the Compilation Bulletin from REAC:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/reac/products/pass/pass\\_bulletin](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/products/pass/pass_bulletin)

Reference: Compilation Bulletin Rev 2.1, Page 7, P. *General Information: Systems Designed for Off-site Notification/Monitoring*: (1) If the property can provide current (within one year) documentation supporting the testing of a system designed for off-site notification/monitoring (call-for-aid, smoke detector, etc.) the inspector does not need to inspect the individual components and all should be marked “NOD”. (2) If the property cannot provide the proper documentation and cannot put the equipment into a “test mode” for inspection purposes, all relevant items should be marked “OD”.

Reference: Compilation Bulletin Rev 2.1, Page 29, C. *Unit: Call-For-Aid*: (1) Call-for-aid as installed must serve its intended function. (E.g. A bell sounds an alarm, a light is turned on or off-site personnel are notified when the system is activated.). (2) When recording an “Inoperable”, Level 3 deficiency and providing comments such as coiled-up, not fully extended, more than “x” distance from the floor, taped to the wall, etc., inspectors are also required to address the system functionality as supporting justification. Failure to provide the appropriate comments will result in the uploaded inspection being challenged by REAC. (3) If the property has replaced the old Call-for-Aid system with a new electronic neck or hand-held type of system, the presence of any part of an inoperable system that remains must be recorded as “Inoperable”.

## Compliance Q & A

**Question:** I oversee items regarding EIV for my company. The Federal ISS Security Awareness Course needs to be completed for our employees that sign the Rules of Behavior. But a lot of our offices do not have computers. We're having our company meeting soon and I was wondering if we were allowed to have a class showing the video, and then print our own certificates showing that the staff has been trained. Shelly in Kentucky

**Answer:** You're correct – all employees who view EIV data must complete the Federal ISS Security Awareness course, even if they don't have online access to EIV. However, it is not acceptable to show it as a video and then print your own certificates. The certificates must be the ones printed directly from the website, since that documents that the correct answers were actually selected by the person completing the course. Employees can take this course at home if they have personal computers, or they can use computers at the public library. If your company meeting will be at your offices, they can take turns using whatever computers are available there.

**Question:** One of my tenants had a 12/1/11 AR, and I used 6 paystubs to calculate his income. Now (in February of 2012), he's come in asking for an AR Correction because his 2011 W2 shows less income than I used on the AR. What should I do? Angie in NY

**Answer:** For all certs, income is a projection of what we anticipate the tenant will earn in the coming 12 months. So using EIV along with 4-6 current, consecutive paystubs was the proper way to do the AR. Since your tenant's W2 covers 2011, it's not relevant to his 12/1/11 AR. That's because the AR is for the 12/1/11 - 11/30/12 time period. Tenants have an obligation to let you know when their income goes down. And, when they do let you know, the proper procedure (after verification) is to process an Interim – not a correction to a prior cert. So if the tenant's income has decreased since the AR, then an IR should be done.

**Have a question that you'd like answered in this column? Email us at [Solutions@pmcs-icap.com](mailto:Solutions@pmcs-icap.com) with Practical Points Question on the subject line, or fax to 315-451-2456.**

## PMCS Services: Enjoy Peace of Mind

### General Consulting

New to the industry or just want a helping hand with specific issues? Wish we were part of your staff? We're here for you when you need us. With a General Consulting Agreement, you can call or email whenever you need assistance with topics such as occupancy/eligibility issues, EIV or TRACS. Contact us for further details.

### Telephone Classes: New Manager Series, EIV Series and Specialized Topics

Take your HUD Compliance knowledge to the next level. Delve deeper into the world of HUD topics – and pick up helpful hints to make your work easier and ensure compliance. Call us or visit our website for a current class listing.

### Private Classes for Associations, Management Companies and Contract Administrators

We provide high-quality training for owners/agents and staff. Any of our live or telephone classes can be customized to meet your specific needs. If you have a company conference or educational series coming up within the next year, consider bringing PMCS in to conduct a full-day, half-day or 1-2 hour workshop session.

### **Tell us what you'd like to see!**

We welcome your ideas for new class topics (or topics you'd like to see again)! Have you looked for training on a topic and didn't find it? Send your suggestions to [solutions@pmcs-icap.com](mailto:solutions@pmcs-icap.com) or call 315-451-2423.

### **Our classes and seminars are presented by industry specialists:**

**Jeanette Claus, Bonnie Wilpon and Michael Alexander**

**Audio Class schedules and registration forms are available on our website at [www.pmc-icap.com](http://www.pmc-icap.com)**

**(Direct link to our class registration form at [www.pmc-icap.com/telephone\\_schedule.html](http://www.pmc-icap.com/telephone_schedule.html))**

**Classes are still only \$99.00 each – and if you register for 6 or more together, they're only \$89.00 each!**

## Industry Organizations: Where We'll Be...

March 9: **AHMA TX, Dallas:** Jeanette Claus: EIV

March 11-13: **NAHMA, Washington DC:** Jeanette Claus

March 14-15: **HUD – TRACS Industry Meeting, Washington, DC:** Jeanette Claus, Bonnie Wilpon

March 27: **New Jersey Leading Age, Princeton, NJ:** Bonnie Wilpon: EIV, Tenant Selection Plans

April 26: **Rocky AHMA: SD State Meeting, Sioux Falls:** Bonnie Wilpon

May 8-9: **SAHMA, NC State Meeting, Greensboro:** Bonnie Wilpon: EIV, TRACS

May 14-15: **SAHMA, KY State Meeting, Louisville:** Bonnie Wilpon: EIV, TRACS

May 23-24: **SAHMA, TN State Meeting, Murfreesboro:** Bonnie Wilpon: EIV, MOR Preparation

June 12: **Rocky AHMA, WY State Meeting, Jackson:** Bonnie Wilpon

**For Further Information, Please Contact Us:**

## **Solutions You Can Count On**

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