

# Practical Points

By **PMCS** - Services and Solutions for Properties of All Sizes

April 2013

## **SAM Security Breach**

The General Services Administration (GSA) recently identified a security problem in SAM (System for Award Management). People registered as users with administrator rights and delegated entity registration rights were able to see any entity's registration information - not just their own.

GSA immediately implemented a software patch to fix the problem. The data that other users could have potentially seen included names, taxpayer IDs, marketing partner information and bank account information. Basically, your SAM information could potentially be seen by other SAM users.

If your property registered using the owner's social security number instead of a tax ID, the owner may be at greater risk for potential identity theft. All such owners will get a separate email regarding credit monitoring resources available at no charge. You may want to alert your owner about this issue.

The GSA recommends that you monitor your bank accounts and notify your bank immediately if you find any discrepancies.

There are steps that SAM users can take to protect against identity theft and financial loss. An FAQ and more specific information is available at: [www.gsa.gov/portal/content/167855](http://www.gsa.gov/portal/content/167855)

For more information, or if you have questions, call 1-800-FED-INFO (1-800-333-4636), from 8 a.m. to 8 p.m. (Eastern Time), Monday-Friday.

## **Electronic Financial Statements: New Work-around Guide**

If your Fiscal Year ends March 31, 2013, it will soon be time for you (or your accountant) to submit your audited financial statements electronically to HUD via the FASSUB system (part of HUD's Secure Systems in WASS).

The challenge is that the automated FASSUB system hasn't been updated yet, and doesn't match the revised Consolidated Audit Guide (IG2000.04). HUD has issued a Workaround document to help accountants submit in a compliant way, even though the available FASSUB template for submissions is not current. You can find the Workaround at:

[www.portal.hud.gov/hudportal/documents/huddoc?id=workaroundig2000-04.pdf](http://www.portal.hud.gov/hudportal/documents/huddoc?id=workaroundig2000-04.pdf)

The full revised Audit Guide can be found here: [www.hudoig.gov/reports/consolidated.php](http://www.hudoig.gov/reports/consolidated.php)

If your Fiscal Year ends later than March 31, 2013, you may not need the Workaround. REAC/FASS personnel plan to update the online submission template later this year.

If your Fiscal Year ended December 31, 2012, you are not required to use the revised Audit Guide, and FASSUB submissions using the existing online template will be compliant.

## **This Issue**

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## Updated EIV Notice Released

A revised EIV Notice, H 2013-06, was issued on March 12, 2013. The notification was sent via RHIP Listserv Posting #298 and supersedes all previous EIV Notices (H 2011-21, H 2008-03, H 2009-20, and H 2010-10). The 78-page H 2013-06 Notice is posted on HUDCLIPS and can be found at:

[www.portal.hud.gov/huddoc/13-06hsgn.pdf](http://www.portal.hud.gov/huddoc/13-06hsgn.pdf)

There were no significant changes in this Notice.

### Changes Were:

1. Section 811 PRAD projects are included and must use EIV.
2. The three Reports added by HUD since Notice 2011-21 are included. There are no HUD requirements for being printed or used (in the text or in Appendix 6). Your EIV Policies and Procedures must mention them and indicate if/how you will use them. These Reports are:
  - (a) No Income Reported on 50059 (if you use it, it must be run for "all tenants")
  - (b) No Income Reported by HHS or SSA (if you use it, it must be run for "all tenants") As before, HUD would like the No Income Reports to be used to identify zero-income households, and recommends that properties have zero-income policies and that tenant income be reviewed at least quarterly. However, no requirements have been added.
  - (c) Number of Households Not Verified (Verification in Process) The Notice states that the Not Verified Report is provided as a courtesy so that management knows why there is no EIV data for these residents, and that there are no use or retention requirements.

3. The Notice acknowledges the fact that the New Hires Report can now also be accessed from the Verification Reports menu. There are no changed requirements.

4. The Notice acknowledges the fact that the Multiple Subsidy Report now searches both PIH and MF, and does not need to be run twice.

5. Section XI (B) states that EIV violations can be identified during an MOR and will cause a finding. New with the Notice is the stipulation that an EIV violation can be identified at times other than during an MOR, and any appropriate voucher penalty and APPS flag will last until the violation is cured (whether it was related to an MOR finding or not).

6. The Notice updates the annual online Security Training Requirement to the proper CyberAwareness Challenge link.

Interestingly, Attachment 8, showing MOR Findings related to EIV, was not updated, and is not consistent with the newly-released Form 9834, which details much more stringent review requirements for EIV.

## "Stop The Bullying" Videos

In the September Practical Points, 2012, we announced the **Stop Bullying Video Challenge**. Arne Duncan, Education Secretary, asked youth who live in affordable housing to be involved.

Many young people created videos and submitted them to the competition. The results are in, and the videos are incredible! See for yourself: [www.stopbullying.challenge.gov/submissions](http://www.stopbullying.challenge.gov/submissions)

This would be a great opportunity to provide useful information to the young people who live at your site. You can download and share these videos at your property.

## Free Fair Housing Accessibility Training

April is the month that we celebrate Fair Housing. Now is the time to review your Affirmative Fair Housing Marketing Plan (AFHMP) and tweak it, if necessary.

Marie Head, HUD Deputy Assistant Secretary for Multifamily Housing, recently released the following message:

**HUD's Office of Fair Housing and Equal Opportunity is conducting free training courses called Fair Housing Accessibility FIRST. For more information, contact John Ritzu, LCM Program Manager for the Fair Housing Accessibility FIRST Program at 312-913-1717, Ext. 228 or [jritzu@lcmarchitects.com](mailto:jritzu@lcmarchitects.com).**

**Further information about these courses and the materials are located here:**

[www.fairhousingfirst.org/index.asp](http://www.fairhousingfirst.org/index.asp).

### **Calendar of courses:**

Bowie, MD	April 2
New York, NY	April 25
Honolulu, HI	April 25 and 26
Denver, CO	May 7
Kansas City, MO	May 14
Richmond, VA	May 30
Kansas City, MO	May 14
Boston, MA	May 23
Columbus, OH	June 4
Greenwood, MS	June 17

## Q&A

### Question:

A company I used to work for had the Maintenance Supervisor sign EIV Rules of Behavior, just in case he saw something he wasn't supposed to see. Is that correct? ~ *Mary in Indiana*

### Answer:

No, that's not correct. Page 51 of HUD's EIV Notice 2011-21 notes that the ROB (Rules of Behavior for those Without EIV System Access) should be signed by staff who see or use EIV Reports "in order to perform their job functions". Since maintenance personnel have no job-related need to use EIV data, they should not sign the ROB.

### Question:

If my tenant is getting SSD (Social Security Disability) income, do I still need to verify with a doctor that they're disabled? ~ *Kathy in Ohio*

### Answer:

To answer that question, you have to look at a combination of 4350.3 3-28(B)2 and Figure 3-5. Together, they show that receiving SSD income is enough to verify disability for the following types of Section 8 only: New Construction, Substantial Rehabilitation, State Agency, 515/8 (Section 8 with Rural Development), Property Disposition Set-Aside and Section 8 within a Section 231 property. For all other subsidy types (including 202/8s and BMIRs with Section 8), receiving SSD is not adequate verification of disability status.

## Sequester Update: HUD Employee Furloughs

By now we've all heard about the sequester; the across the board cuts in government spending mandated by Congress. HUD plans to furlough employees beginning in May to meet its requirements to cut salaries and expenses. A furlough is a temporary, involuntary, unpaid leave.

All HUD employees (with very limited and rare exceptions) will be furloughed for 7 days: May 10, May 24, June 14, July 5, July 22, August 16 and August 30. HUD employees are not permitted to come into the office, work from home, access HUD email or access HUD computer systems on those days - even as unpaid volunteers. HUD offices across the country will be closed on the furlough days.

## New Electronic 2530 Form Required for APPS

The new HUD Form 2530, Previous Participation Certification, was posted to HUD Clips on March 6, 2013. The new fillable PDF version should be used and shows an expiration date of February 29, 2016. There is a fillable MS Word version on HUD Clips, however, it is not correct and should not be used. The MS Word version should disappear shortly. HUD will no longer accept the paper 2530.

Changes include:

- **Schedule A requires listing previous projects for only the past 10 years**
- **Alphabetizing the list of principals is no longer required; all principals must be listed in the signature block**
- **A signature authority document must be attached for principals who sign on behalf of an organization**

There are some issues with the new form that HUD promises to fix soon:

- **The Reason for Submission box isn't working, so you will need to hand write this in.**
- **Remember to include your city and state in Column 2 of Schedule. The form is missing a space for this information**

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# Fair Housing “Final Rule”

Implementation of the Fair Housing Act’s Discriminatory Effects Standard: Final Rule was issued in the February 15, 2013 Federal Register. The purpose of the final rule was to “formalize the national standard for determining whether a housing practice violates the Fair Housing Act”. The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, handicap, familial status or national origin.

The final rule formally establishes a three-part test for determining whether a housing practice has a discriminatory effect:

- 1. The person charging discrimination has the burden of proving its prima facie (first appearance) case. The “charging party” must present all the essential facts showing that a practice results in, or could be predicted to result in, a discriminatory effect based on a protected characteristic.**
- 2. If the charging party proves a prima facie case, the burden of proof shifts to the respondent (entity being accused) to prove that the practice is necessary to achieve a legitimate, nondiscriminatory interest.**
- 3. If the respondent satisfies his/her burden, then the charging party can still establish liability if s/he proves that the “legitimate, nondiscriminatory interest” could be achieved using a different practice with a less discriminatory effect.**

The rule doesn’t change the law. But it formalizes a clear, consistent, nationwide standard for bring lawsuits for discriminatory effects under the Fair Housing Act. It does not add any additional cost to housing providers.

The rule will simplify compliance with the Fair Housing Act’s discriminatory effects standard, and will decrease the number of lawsuits by clearly allocating the burdens of proof, and how those burdens must be met.

HUD Secretary Shaun Donovan stated: “This will ensure the continued strength of one of the most important tools for exposing and ending housing discrimination.”

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## HUD Launches Fair Housing App

HUD unveiled the first housing discrimination mobile application (app) for iPhone and iPad on February 28, 2013. Developed by HUD’s Office of Fair Housing and Equal Opportunity (FHEO) and Hewlett Packard (HP), the app uses the latest technology to provide the public with a quick and easy way to learn about their housing rights and to file housing discrimination complaints, and also informs the housing industry about its responsibilities under the Fair Housing Act in a convenient format.

“Having this first fair housing mobile application equips people everywhere with the information they need to combat housing discrimination,” said John Trasviña, HUD Assistant Secretary for Fair Housing and Equal Opportunity. “We are maximizing the latest technology to make the process for filing fair housing complaints

faster and easier and arming our fair housing partners with the information they need to understand their fair housing rights and responsibilities.”

The app can also be used by individuals researching their housing rights after a natural disaster, when power outages make the iPhone/iPad one of the few ways to access the Internet. It provides information about the fair housing complaint process, and allows the public to access HUD’s toll-free discrimination hotline and link to HUD’s fair housing website at: [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing)

In conjunction with the fair housing mobile application, FHEO has released HTML 5 adaptive mobile pages (in English and Spanish) to allow web content to display properly regardless of the brand of smartphone or tablet being used. In addition, the adaptive mobile pages

allow individuals to complete and submit the fair housing complaint form in Spanish. FHEO also plans to design a “Quick Response code” ad campaign, directing mobile users to the new adaptive pages.

To get this housing discrimination app please visit the Apple App store.



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# Prohibited Relationships

When processing the Previous Participation clearance (Form 2530), HUD looks for prohibited relationships (e.g. those with a conflict of interest) between and among ownership boards and management agent boards. This issue is addressed in 24 CFR 891.130 ([www.law.cornell.edu/cfr/text/24/891.130](http://www.law.cornell.edu/cfr/text/24/891.130)), and applies to PRAC 202s and 811s, as well as to loans financed under §§ 891.655 through 891.790.

It is a conflict of interest if:

- 1. An officer or board member of either the Sponsor or the Owner/Borrower has any financial interest in a contract with the Owner, or with any firm which has a contract with the Owner. This restriction applies as long as the individual serves on the board and for 3 years after his/her resignation or final closing, whichever is later.**
- 2. Three or more people, salaried by the sponsor/management affiliate who serve as non-voting directors on the owner's board of directions are parties to any of the following contracts:**
  - a. Management contracts (including associated management fees);*
  - b. Supportive services contracts (including service fees) under the Supportive Housing for the Elderly Program; and*
  - c. Developer (consultant) contracts.*

Any person with a conflict of interest (i.e. between the Sponsor or Owner/Borrower and any development team member, or between development team members) is prohibited until two years after the final closing, when a property changes hands.

What does this mean?

If there is a prohibited relationship, those individuals on both the owner's board and the management agent's board are technically required to resign from both boards, and may not participate on either board for at least three years after their resignations.

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## Sequester Update: Section 8 Funding

In a March 11, 2013 memo to Owner/Agents, Marie Head, Deputy Assistant Secretary of HUD explained how funding will work for Section 8 Project Based Rental Assistance under the sequestration.

HUD plans to manage the funding in a way that minimizes the potential impact of the sequestration, and assure the funding of all HAP payments during the current fiscal year.

- **All Section 8 contracts expiring in FY 2013 will be renewed (if eligible) under current program rules and will receive full twelve month funding.**
- **All existing multi-year contracts that expire after FY 2013 and have anniversary dates in the first quarter of FY 2013 (October-December) will receive full twelve month funding, assuring sufficient funding to carry them into the first quarter of FY 2014.**
- **All other multi-year Section 8 contracts will receive less than 12-month funding, but will be provided sufficient funding to carry them into the first quarter of FY 2014. The approximately 11,000 contracts in this category will, on average, receive about 8.5 months of funding depending on their anniversary date. For example, a multi-year contract funded in March 2013 might receive ten months of funding (March-December), while a contract funded in September 2013 might receive four months (September-December).**

HUD's goal is to avoid payment disruptions during FY 2013 or early FY 2014. Funding after that point will depend on Congressional appropriations for FY 2014. Visit the Sequester Information page ([www.portal.hud.gov/hudportal/ HUD?src=/sequestration\\_information](http://www.portal.hud.gov/hudportal/HUD?src=/sequestration_information)) on HUD's website for more information.

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