

From: "Hylton, Lanier M" <Lanier.M.Hylton@hud.gov>
Sent: Mon, November 26, 2012 1:51:48 PM
Subject: [For Your Information] Regulatory and Administrative Waivers Granted for Multifamily Housing Programs to Assist with Recovery and Relief in Sandy Disaster Areas

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Regulatory and Administrative Waivers
Granted for Multifamily Housing Programs to Assist with Recovery
and Relief in Sandy Disaster Areas

AGENCY: Office of the Assistant Secretary for Housing – Federal Housing Commissioner, HUD

ACTION: Notice

SUMMARY: This Notice advises the public of HUD regulations and other administrative requirements governing HUD's Office of Multifamily Housing programs that have been waived in order to facilitate the delivery of decent, safe, and sanitary housing under these programs to families and individuals who have been displaced from their housing by Sandy. Owners of HUD project-based Section 8 properties located in an area declared by the President to be a federal disaster area as a result of Sandy may defer compliance with the regulations listed in this notice for a period up to 60 days (December 2012 and January 2013). Owners must provide notice of their decision to HUD as described below. Housing assistance payments made for November 2012 will remain unchanged.

FOR FURTHER INFORMATION CONTACT: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6138, Washington, DC 20410, telephone number (202) 708-3000. Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Relay Service at 1 (800) 877-8339 or by visiting <http://federalrelay.us/> or <http://www.federalip.us/>.

SUPPLEMENTARY INFORMATION:

I. Background Information

In late October 2012, Sandy hit the east coast of the United States causing significant damage to property, loss of life, and displacement of individuals and families from their homes and communities. The President has called upon all federal agencies to do everything in their power to assist the victims of Sandy and to eliminate or reduce "red tape" that will impede the delivery of federal financial assistance and other needed benefits. To that end, this Notice identifies HUD regulations and other administrative requirements governing HUD's project-based Section 8 programs that may be waived, temporarily suspended, or deferred in an area declared by the President to be a federal disaster area as a result of Sandy. This Notice is not applicable to the Rent Supplemental (Rent Supp) and RAP programs.

II. Request to Exercise Option to Receive Vacancy Claims

Multifamily Hub Directors in the Sandy disaster areas may defer or suspend compliance with the regulations or other administrative requirements upon the effective date of this Notice. An owner who wishes to exercise his/her option to receive vacancy claims in accordance with the requirements listed in this Notice must contact the Hub Director in writing (email communication is encouraged) with that request. If an owner wishes to receive vacancy claims for both December 2012 and January 2013, two separate written requests, one for each month, must be made to the Hub Director. The Hub Director will then verify that the units are uninhabitable based on phone and physical assessment (if available) and, once verified, approve the request. Hub Directors will provide the owner's request form to HUD Headquarters for tracking.

III. Business Interruption Insurance

In many cases, an owner may have insurance to protect against a loss of profits during a period of total or partial suspension of business activity. Owners who have such insurance, must decide whether to exercise the option to receive vacancy claims as described in this Notice or to receive insurance payments. An owner should not voucher under this waiver if they are/will receive vacancy insurance payments for the same time for the same unit.

IV. Pass-Through Payments

Owners with residents under a project-based Section 8 contract whose unit was rendered uninhabitable can temporarily lease a unit in another building that is habitable under Uniform Physical Condition Standards. The owner can sign a temporary lease on behalf of the displaced Section 8 resident and begin to voucher for the contract rent for that temporary unit. The owner will then pay the contract rent on the temporary dwelling until the resident's permanent rental unit has been restored to a habitable condition and the owner notifies the resident that he/she may resume occupancy of the unit. The resident is still responsible for the resident's share for the temporary unit.

Once the original unit is fully repaired and ready for occupancy, all Section 8 provisions apply. This arrangement calls for close contact and cooperation between the owner and the resident as the displaced resident has first right of refusal for the unit. Further information relating to pass-through payments can be found in Housing Handbook 4350.1, Chapter 38.

V. November 2012 Housing Voucher Payments and Tenant Rent Payments

Housing Assistance Payments made to an owner for November 2012 will remain unaffected. Owners are encouraged to refund tenant rental payments received for the month of November 2012 from any tenant whose unit was deemed uninhabitable.

VI. Regulatory Requirements Which Have Been Waived

- a. 24 CFR § 880.611 Conditions for receipt of vacancy payments.** Section 880.611 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to 60 days (December 2012 and January 2013).
- b. 24 CFR § 881.501 The contract.** Section 881.501 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to 60 days (December 2012 and January 2013).
- c. 24 CFR § 884.106 Housing assistance payments to owners.** Section 884.106 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to 60 days (December 2012 and January 2013).
- d. 24 CFR § 886.109 Housing assistance payments to owners.** Section 886.109 provides conditions for when owners are able to receive vacancy payments. Owners that have units that are deemed uninhabitable due to Sandy can choose to exercise their option to receive vacancy claims in the amount of 80 percent of the contract rent for up to 60 days (December 2012 and January 2013).

VII. Authority to Grant Waivers

Generally, waivers of HUD regulations are handled on a case-by-case basis. Under statutory requirements set forth in section 7(q) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)) and its implementing regulations, 24 CFR § 5.110, a regulated party that seeks a waiver of a HUD regulation must request a waiver from HUD in writing and the waiver request must specify the need for the waiver. HUD then responds to the request in writing and, if the waiver is granted, HUD includes a summary of the waiver granted (and all regulatory waivers granted during a three-month period) in a Federal Register notice that is published quarterly. Since the damage to property and the displacement of families and individuals in the disaster areas is widespread, and the need for regulatory relief in many areas pertaining to HUD-assisted housing is readily apparent, HUD is suspending its usual regulatory waiver protocols for the disaster areas and has substituted an expedited process that meets the requirements of Section 7(q) and 24 CFR § 5.110.

Dated: November 26, 2012

Carol J. Galante

Acting Assistant Secretary for Housing – Federal Housing Commissioner