



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention of

All Multifamily Hub Directors
All Multifamily Program Center Directors
All Multifamily Operations Officers
All Multifamily Directors of Project Management
All Multifamily Field Counsel

Notice H 2013-16

Issued: May 23, 2013

Expires: This Notice remains
in effect until amended,
Superseded, or rescinded

Cross References:

Subject: Exemption of Annual Financial Statement Submission for HUD-Assisted
Properties with Section 515 Rural Rental Housing Mortgage Financing

I. PURPOSE

As of the date of this Notice, the owners of properties with a Section 515 Rural Rental Housing loan from the United States Department of Agriculture (USDA) and a Section 515/8 New Construction Housing Assistance Payments (515/8 HAP) contract from the Department of Housing and Urban Development who are required to submit annual financial statements (AFS) to HUD will no longer be required to do so. Furthermore, going forward, owners who purchase a property with a Section 515 Rural Rental Housing loan and a Section 515/8 HAP contract will now execute a revised "Assignment, Assumption and Amendment Agreement of Section 8 Housing Assistance Payments Contract," which omits the language requiring the purchaser to begin submitting AFS to the Department upon assumption of the 515/8 HAP contract. This guidance supersedes previous guidance issued by the Office of Asset Management in memoranda dated June 22, 2004 and January 6, 2005.¹ In an effort to reduce the financial burden of submitting multiple AFS, both HUD and USDA have agreed that current owners and those who purchase such properties in the future will now be required to submit annual financial statements only to USDA.

II. BACKGROUND

In the late 1970s and early 1980s, HUD offered 515/8 HAP contracts to multifamily properties financed by USDA's Section 515 Rural Rental Housing Program. Today, there are approximately 1,400 Section 515 Rural Rental Housing Program properties with 515/8 HAP contracts in HUD's portfolio. When these rental subsidy contracts were issued, they were silent on the submission of AFS. Furthermore, the Department's regulations as codified in 24 CFR Part 884 require the owners

¹ The June 22, 2004, memorandum is captioned, "Submission and Review Requirements and REMS Critical Data Fields for Annual Financial Statements (AFS)." The January 6, 2005, memorandum is captioned, "Housing Assistance Payment (HAP) Contract Amendment Language – Physical Inspections and Financial Statements."

of properties with 515/8 HAP contracts to submit an AFS only to USDA and not HUD. However, two memoranda issued by the Department on June 22, 2004 and January 6, 2005, established a policy which required the purchaser of a property with a HAP contract that was silent on the submission of AFS to execute an “Assignment, Assumption and Amendment Agreement of Section 8 Housing Assistance Payments Contract” upon assumption. One of the provisions of the “Assignment, Assumption and Amendment Agreement of Section 8 Housing Assistance Payments Contract” requires the purchaser to begin submitting AFS to HUD. Currently, 148 properties are subject to these financial reporting requirements as well as a different set of USDA financial reporting standards due to their participation in the USDA Section 515 Rural Rental Housing Program and use of a 515/8 HAP contract.

In 2010, HUD began working with the Rental Policy Working Group (RPWG) in an effort to better align federal rental housing policy and to eliminate the duplication in policies, procedures and regulations where feasible. HUD participates in the RPWG, along with the White House Domestic Policy Council, the National Economic Council, the Office of Management and Budget, USDA, and the Department of Treasury. This guidance is a result of the RPWG’s goal to make financial reporting easier and less costly for owners of properties that benefit from both USDA and HUD programs.

III. EXEMPTION OF AFS SUBMISSION

This guidance applies only to those entities that either: (1) currently own a Section 515 Rural Rental Housing Program property with a 515/8 HAP contract and have a requirement to submit AFS to HUD, or; (2) entities that are purchasing a Section 515 Rural Rental Housing Program property and assuming the 515/8 HAP contract. Current owners who have a requirement to submit AFS to HUD are now exempt from that requirement and should continue to submit financial reports only to USDA. Purchasers who wish to assume the 515/8 HAP contract will still be required to execute the revised “Assignment, Assumption and Amendment Agreement of Section 8 Housing Assistance Payments Contract” attached. The revised “Assignment, Assumption and Amendment Agreement of Section 8 Housing Assistance Payments Contract” omits the language requiring the purchaser to submit an AFS to HUD. These owners will be required to submit AFS only to USDA in the format they prescribe. The owners of all Section 515 Rural Rental Housing Program properties with 515/8 HAP contracts will remain subject to the Department’s physical inspection requirements as well as standard Management and Occupancy Reviews. Specifically, Section 1.7 of the 515/8 HAP contract provides HUD with the authority to inspect the property in order to assure that the owner, “...is meeting his obligation to maintain the units in decent, safe, and sanitary condition.” Furthermore, Section 1.14 of the 515/8 HAP contract gives the Department access to the premises for the purpose of audit and examination and allows for access to any books, documents, papers and records of the owners that are pertinent to compliance.

This guidance is effective immediately; therefore, owners of these jointly subsidized properties will no longer be required to submit AFS to HUD for the Fiscal Year Ending 2012, or any subsequent year. HUD Project Managers will modify the Integrated Real Estate Management System (iREMS) database to reflect that financial statements are no longer required for non-insured properties that are a Section 515 Rural Rental Housing Program property with a 515/8 HAP contract.

If you have any questions or concerns regarding the attached guidance, please contact the Office of Asset Management, Business Relationships and Special Initiatives Division at (202) 402-2629. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877-8339.

Carol J. Galante
Assistant Secretary for Housing-
Federal Housing Commissioner

[Attachment](#)