
CHAPTER 9. REQUIRED HUD-50059, *HUD-50059-A* AND SUBSIDY DATA REPORTING

9-1 Introduction

This chapter describes the requirements for transmitting subsidy-related data to the Tenant Rental Assistance Certification System (TRACS). These data include tenant data, and requests for payment of housing assistance, utility reimbursements, and special claims. Requirements for records and reporting, regarding excess income, are also addressed.

Chapter 9 is organized as follows:

- **Section 1: Tenant Rental Assistance Certification System (TRACS)** describes the requirements and procedures for subsidy tracking.
- **Section 2: Payments** presents the key payments that HUD provides to owners and the requirements for these payments.

9-2 Key Terms

- A. There are a number of technical terms used in this chapter that have very specific definitions established by federal statute or regulations, or by HUD. These terms are listed in Figure 9-1, and their definitions can be found in the Glossary to this handbook. It is important to be familiar with these definitions when reading this chapter.
- B. The terms “disability” and “persons with disabilities” are used in two contexts – for civil rights protections, and for program eligibility purposes. Each use has specific definitions.
 1. When used in context of protection from discrimination or improving the accessibility of housing, the civil rights-related definitions apply.
 2. When used in the context of eligibility under multifamily subsidized housing programs, the program eligibility definitions apply.

NOTE: See the Glossary for specific definitions and paragraph 2-23 for an explanation of this difference.

Figure 9-1: Key Terms

<ul style="list-style-type: none"> • *HUD-50059/HUD-50059-A* • Assistance payment • Gross rent • Housing Assistance Payment (HAP) • PAC (Project Assistance Contract) 	<ul style="list-style-type: none"> • PRAC (Project Rental Assistance Contract) • Project assistance payment • Project rental assistance payment • Service bureaus • Utility reimbursement
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Section 1: Tenant Rental Assistance Certification System (TRACS)

9-3 Key Regulations

This paragraph identifies key regulatory citations pertaining to Section 1: Tenant Rental Assistance Certification System. The citation and its title are listed below.

- 24 CFR, part 208 Electronic Transmission of Required Data for Certification and Recertification and Subsidy Billing Procedures for Multifamily Subsidized Projects

9-4 Introduction to TRACS

TRACS was developed to help improve financial controls over assisted housing programs. TRACS collects certified tenant data and subsidy payment vouchers from owners and management agents of multifamily housing projects – either directly from the owners, from organizations acting as subsidy Contract Administrators for HUD, or from service providers who are paid by the project or Contract Administrator to collect, calculate, complete, and submit the data to TRACS on their behalf. HUD Field Offices maintain data on subsidy contracts and contract funding.

A. Source Data

The bases for electronic submissions and primary data feeds to TRACS are:

1. HUD-50059, *Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures*;
2. *HUD-50059-A, *Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures – Partial Certification*; *
3. Form HUD-52670, *Housing Owner's Certification & Application for Housing Assistance Payments*;
4. Form HUD-52670-A part 1, *Schedule of Tenant Payments Due*;
5. Form HUD-52670-A part 2, *Special Claims Schedule*;

6. *Form HUD-52670-A part 3, *Adjustments to Schedule of Tenant Assistance Payments Due*
7. Form HUD-52670-A part 4, *Misc. Accounting Request for Schedule of Tenant Assistance Payments Due*
8. Form HUD-52670-A part 5, *Approved Special Claims for Schedule of Tenant Assistance Payments Due* *
9. Form HUD-52671-A through D, *Special Claims Worksheets*; and
10. Assistance payments contracts, assistance payments renewal contracts, and contract rent increases, including contract Exhibit A, Identification of Units and Contract Rents, of the assistance payments contracts.

B. TRACS Databases

1. All tenant data collected and stored in TRACS undergo edits for accuracy and compliance with eligibility rules and rent calculation rules before they are stored in the TRACS Tenant Database.
2. TRACS stores payment history on all project-based subsidy contracts for which HUD makes monthly assistance payments.
3. Much of the tenant, contract, funding, and voucher data stored in the TRACS databases is available to authorized users for on-line viewing/updating. Report and data retrieval capabilities are also available.

9-5 Owner Submission Requirements

A. Electronic Data Processing and Transmission

1. Owners of all properties covered by this handbook are responsible for processing tenant certifications, tenant recertifications, and subsidy billings using automated software that conforms to HUD specifications. Owners are responsible for electronically transmitting required data either directly or through a service provider to HUD or their respective Contract Administrator.
2. TRACS-compliant software used to produce certifications and subsidy billings must be obtained from a vendor who certifies that the software is compliant with HUD requirements. As HUD requirements are updated to reflect changes or revisions in legislation, regulations, handbooks, notices, or HUD-format electronic data transmission requirements, owners are responsible for ensuring that the software they use to complete, review, and transmit data is updated accordingly.
 - a. HUD does not certify TRACS-compliant software products nor endorse individual TRACS vendors.

- b. The software requirements to which software vendors must certify are located on the TRACS website at:
<http://www.hud.gov/offices/hsg/mfh/trx/trxsum.cfm>
3. Owners are responsible for the electronic submission of the following HUD forms. A separate submission must be prepared and submitted for each of the property assistance contracts.
 - a. *HUD-50059, *Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures* and HUD-50059-A, *Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures – Partial Certification*. For information on the data requirements for the HUD-50059 and HUD-50059-A, *refer to the instructions posted with the forms on HUDCLIPS at <http://www.hud.gov/offices/adm/hudclips/forms/> or the Monthly Activity Transmission (MAT) User's Guide on the TRACS website at <http://www.hud.gov/offices/hsg/mfh/trx/trxmatg.cfm>
 - b. Form HUD-52670, *Housing Owner's Certification & Application for Housing Assistance Payments* (see **Appendix 9**). For information on the data requirements for the HUD-52670 and related forms listed below, refer to the MAT User's Guide. Data submitted from form HUD-52670 must be properly supported by the following forms, where applicable:
 - (1) Form HUD-52670-A part 1, *Schedule of Tenant Assistance Payments Due* (see **Appendix 10**);
 - (2) Form HUD-52670-A part 2, *Schedule of Section 8 Special Claims* (see **Appendix 11**);
 - (3) *Form HUD-52670-A part 3, *Adjustments to Schedule of Tenant Assistance Payments Due* (see **Appendix 10**);
 - (4) Form HUD-52670-A part 4, *Misc. Accounting Request for Schedule of Tenant Assistance Payments Due* (see **Appendix 10**);
 - (5) Form HUD-52670-A part 5, *Approved Special Claims for Schedule of Tenant Assistance Payments Due* (see **Appendix 10**) ; and*
 - (6) Forms HUD-52671-A through D, *Special Claims Worksheets* (see **Appendix 12**).

4. Owners may obtain TRACS-compliant software and process their certifications and subsidy billings directly. Alternatively, owners may make arrangements to submit data to service providers who will use TRACS-compliant software to complete recertifications and billing submissions, and transmit them to HUD or the Contract Administrator on the owner's behalf.
 - a. In cases where an owner uses a service provider, that company must provide the owner with printed copies of form HUD-50059, *form HUD-50059-A*, form HUD-52670, and related forms that were transmitted to HUD.
 - b. The owner must sign and obtain the signature of the head, spouse, co-head, and all adult family members on the copy of the HUD-50059 certifying to the information that is transmitted to HUD or the Contract Administrator, whether the HUD-50059 was produced on site or received from a service provider. The owner may consider extenuating circumstances when an adult family member is not available to sign the HUD-50059, for example, an adult serving in the military, students away at college, adults who are hospitalized for an extended period of time, or a family member who is permanently confined to a nursing home or hospital. In these instances, the owner must document the file why the signature(s) was not obtained and, if applicable, when the signature(s) will be obtained. The owner must provide the tenant a copy of the signed HUD-50059 and retain a copy in the tenant's file.
 - c. *For actions requiring preparation of a HUD-50059-A, the owner must sign and date the completed HUD-50059-A. The head of household must sign and date the completed HUD-50059-A when there is a change in the amount of rent the household must pay, a change in the utility reimbursement, when there is a unit *transfer and when required by state or local law. In all instances where a HUD-50059-A is prepared, the owner must provide the head of household with a copy and a copy must be retained in the tenant file.
 - d. The owner must also sign and retain copies of the facsimile of the voucher (form HUD-52670), forms HUD-52670-A parts 1, 2, 3, 4 or 5 and other related forms or supporting documentation.*
 - e. Owners that contract out or centralize the electronic-submission function must retain the ability to monitor the day-to-day operations of the property at the property site and be able to demonstrate that ability to HUD.

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5. Service providers are organizations that provide electronic data transmission functions for owners.
- a. Service providers include but are not limited to the following:
- (1) Service bureaus,
 - (2) Local management agents,
 - (3) Local management associations, and
 - (4) Management agents with centralized facilities.
- b. Service bureaus are organizations that provide a number of different services and are paid a fee to do so. Services provided by service bureaus generally include:
- (1) *Preparation of the HUD-50059 and HUD-50059-A based on information provided by the owner or management agent. Their users (owners and management agents) are responsible for verification of the information they provide to the service bureau.
 - (2) Transmission of the HUD-50059 or HUD-50059-A to TRACS or Contract Administrator.
 - (3) Providing a copy of the HUD-50059 or HUD-50059-A to the owner for the owner's signature and for signature(s) by the family, if required. The HUD-50059 and HUD-50059-A provided by the service bureau must be signed, when applicable, and a copy must be provided to the tenant and a copy must also be filed in the tenant file. The owner should compare the data on the HUD-50059 or HUD-50059-A to the data provided to the service bureau to ensure that the information the tenant and the owner have certified to and the data transmitted to TRACS or the Contract Administrator is accurate.
 - (4) Preparation of electronic monthly subsidy voucher based on the HUD-50059 and HUD-50059-A information.
 - (5) Transmission of the monthly subsidy voucher to TRACS or the Contract Administrator for payment.
 - (6) Providing a copy of the monthly subsidy voucher to the owner for signature and for filing in the property files.
 - (7) Preparation of special claims.
 - (8) Transmission of approved special claims to the Contract Administrator or TRACS for payment.

- (9) *Providing their users with the income and verification reports obtained from the Enterprise Income Verification (EIV) system.*
6. Refer to Figure 9-2 for a discussion of deadlines for TRACS submissions.
7. Owners that contract out or centralize the electronic-submission function must retain the ability to monitor the day-to-day operations of the property at the property site and be able to demonstrate that ability to the relevant HUD Field Office.

Figure 9-2: Deadlines for TRACS Submissions

Section 8, PAC, and PRAC Properties. The deadline for transmission of vouchers (form HUD-52670) and all related TRACS files supporting the voucher is the 10th calendar day of the month directly preceding the voucher payment month. For example, the February voucher TRACS transmission would be due on January 10.

RAP and Rent Supplement Properties. The deadline for transmission of vouchers (form HUD-52670) and all related TRACS files supporting the voucher is the 10th calendar day of the voucher payment month. For example, the February RAP or Rent Supplement voucher TRACS transmission would be due on February 10.

Vouchers submitted after this deadline date may risk late payment.

The voucher requesting payment for assistance must be submitted within 60 calendar days from the due date. An approved special claim must be submitted within 90 calendar days of the approval date. Payment of both the voucher and approved special claims are subject to the availability of funds for the applicable subsidy year, as determined by HUD.

HUD-50059s/HUD-50059-As should be submitted throughout the month as the completed data is available. HUD-50059s/HUD-50059-As supporting a voucher must be transmitted prior to voucher transmission.

B. Internet Applications

TRACS Internet applications provide authorized users with the capability to access summary and status information on submissions to the TRACS databases. Owners should refer to the Internet queries to confirm their TRACS transmissions and to monitor processing of voucher payments as necessary. Refer to the “Industry User Guide for TRACS Internet Applications” posted to the *TRACS website at <http://www.hud.gov/offices/hsg/mfh/trx/trxngde.cfm> for * detailed information on using these applications.

C. Funding the Costs of Implementing TRACS

1. HUD considers the costs of the electronic transmission to be eligible property-operating costs payable from property income. These costs are also considered property-operating costs for the purpose of processing requests for HUD approval of a rent increase. Eligible costs include the purchase and maintenance of hardware and/or software, the cost of contracting for those services, the cost of centralizing the electronic transmission function, and the cost of Internet access. At the owner’s option, the cost of computer software may include service contracts to provide maintenance and/or training.
2. Sources of funds that owners may use to purchase hardware and/or software or to contract with an appropriate service provider may include the following:
 - a. Current property operating income;
 - b. Expense item in processing rent increases (For additional information, refer to HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing.*);
 - c. Loan from the Reserve for Replacement Account. In addition, some purchases are allowable expenses from the Reserve for Replacement Account that can be directly reimbursed and do not have to be structured as a loan. For example, an improvement for hardware or software, in accordance with local, state, and federal regulations, is an allowable Reserve for Replacement expense. (For additional information about a loan from the Reserve for Replacement account, refer to HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing.*); and
 - d. Release from the Residual Receipts Account (For additional information, refer to HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing.*).
3. A loan from the Reserve for Replacement Account must be repaid within a five-year period from the release date.
4. Owners may determine that the purchase of hardware and/or software is not cost effective. In such cases, they may contract out the electronic

data transmission function to organizations that provide those services. See paragraph 9-5 *A 5* for a discussion of service providers.

9-6 Contract Administrator Requirements

- A. All Contract Administrators must support receipt of electronic transmissions of certification/recertification and voucher data from the projects they administer. The Contract Administrator may develop custom TRACS-compliant software or purchase software from commercial vendors who offer Contract Administrator versions of TRACS-compliant software packages, or make arrangements to receive transmissions through a service provider.
- B. Contract Administrators must review and identify data errors to be corrected by the owner. To accomplish this review and reconciliation, the Contract Administrators may request copies of supporting documentation for TRACS transmissions, *such as forms HUD-52670-A part 1, 2, 3, 4 and 5 with original * signatures from the projects they administer.
- C. After the owners have reviewed and corrected any errors in the data and resubmitted the information to their Contract Administrator, the Contract Administrator must electronically transmit data to HUD in the required format.
- D. Contract Administrators are not allowed to require electronic submissions from owners that go beyond TRACS data submission requirements.
- E. *Contract Administrators should submit to HUD throughout the month, certifications/re-certifications that the contract administrator has reviewed and approved. *
- F. These requirements apply to Contract Administrators, both Performance-Based Contract Administrators and Traditional Contract Administrators.

9-7 Data Collection and Processing Procedures

A. Overview

This paragraph presents an overview of key data collection and processing procedures for the TRACS Monthly Activity Transmission.

B. Monthly Activity Transmission

The Monthly Activity Transmission (MAT) is a front-end subsystem of TRACS. It accepts data transmitted from the sites to HUD Headquarters in an electronic form and returns messages from HUD Headquarters to the sender sites. MAT performs formatting and data-type validation on the data. MAT will return a file to the sender containing error messages when errors exist. The sender must correct the errors and resubmit the information. If a Contract Administrator is the sender, the Contract Administrator must promptly forward the error message to the owner. Once the data are validated by the MAT system, the data are sent to TRACS for tenant and voucher processing. All error messages are automatically

returned via the sender's iMAX account, and users should review the contents of their mailbox daily.

C. Key Procedures

1. Owners and Contract Administrators must collect and send data to HUD in the prescribed MAT format to the MAT subsystem, which is part of TRACS.
2. *The transmission of the data is prescribed in two formats. The MAT Tenant System Record Format is based on the HUD-50059 or HUD-50059-A data. The MAT Voucher/Payment System Format compiles assistance payment and voucher data. Refer to the MAT User's Guide at <http://www.hud.gov/offices/hsg/mfh/trx/trxdocs.cfm> for a complete description of record types, edits, and additional information on data submissions.*

D. Resources for Understanding and Solving Payments Error Messages

Refer to Figure 9-3 for resources for understanding and solving payment error messages. The figure provides references to sources of basic information for resolving payments error messages that are a result of MAT Voucher/Payment System Record submissions or LOCCS submissions.

Figure 9-3: Guide to Understanding and Solving Payments Error Messages

How to Obtain a Copy of the MAT User's Guide
<p>The MAT User's Guide describes the prescribed format MAT record layouts, field characteristics, and HUD-form data locations for all TRACS data transmitted to and from HUD.</p> <p>A copy of the MAT User's Guide can be obtained by accessing the TRACS website at http://www.hud.gov/offices/hsg/mfh/trx/trxsum.cfm. Click the link to TRACS Documents and follow the instructions provided. Contact the HUD Multifamily Help Desk Hotline toll-free at 800-767-7588 with questions or problems.</p>
Resources
<p>If help is needed submitting data to TRACS, owners should contact their software vendor. The vendor should be able to provide troubleshooting advice and guidance on how to submit a correction, deletion, etc. If a determination is made that there is a problem involving the HUD system or if owners need further advice on when to submit a correction, deletion, etc. after consulting with their software vendor, they should contact the Multifamily Help Desk Hotline toll-free at 800-767-7588. When the problem is other than a systems issue, such as a late contract renewal or insufficient funding, owners should contact their Contract Administrator or the local HUD Field Office.</p>
Error Message Basics

The reference materials available on the HUD TRACS website provide additional information on error messages and instructions on follow-up actions. If owners cannot resolve a problem on their own, their software vendor should be able to assist in resolving the problem and enable owners to either resubmit their original transaction or submit a correction to the original submission.

- E. ***Record-Keeping Requirements for HUD-50059, HUD-50059-A and Vouchers**
1. Owners must keep the signed HUD-50059(s) and copies of the HUD-50059-A(s) for tenants from the time of move-in to move-out and for a * minimum of three years thereafter. Owners may move older records off-site when files get large, however, upon request, the files must be made available for review by HUD or the Contract Administrator.
 2. Owners must keep a signed paper copy of the subsidy vouchers for at least five years after HUD or the Contract Administrator action.

3. Owners must dispose of all files and records in a manner that will prevent any unauthorized access to personal information, e.g., pulverize, shred, etc.

9-8 The HUD-50059 and HUD-50059-A

- A. *The business rules to use in completing the HUD-50059 and HUD-50059-A are located in Chapter 5 and Chapter 7 of this Handbook. Information about the specific HUD-50059 and HUD-50059-A requirements can be found in the * instructions posted with the forms on HUDCLIPS at <http://www.hud.gov/offices/adm/hudclips/forms/> or the TRACS MAT User's Guide. The MAT User's Guide is available on the TRACS Internet site (see Figure 9-3).
- B. Actions for which owners **MUST FULLY** complete the owner and tenant data requirements:
 1. Move-ins.
 2. Initial certifications.
 3. Annual recertifications.
 4. Interim recertifications.
 5. When converting a Rent Supplement or RAP tenant to Section 8.
 6. When a HUD-owned project is sold and a tenant begins to receive Section 8 as a result of the sale.
 7. When correcting a previous full submission.
 8. When there is a change in the person who is head of household.

NOTE: Signatures by the head, spouse, co-head, all adult members of the household and the owner are required on the HUD-50059 for the actions listed above. Signatures must be obtained on the HUD-50059 prior to submitting the tenant data to the Contract Administrator or HUD (refer to paragraph 9-5 A.4.b regarding consideration of extenuating circumstances when a family member is not available to sign the HUD-50059). The signed HUD-50059 is filed in the tenant file.

C. *Actions for which owners MUST complete the HUD-50059-A:

1. Move-out.
2. Termination of assistance.
3. Unit transfer.
4. Gross rent change.

NOTE: The owner must sign and date the HUD-50059-A. The head of household must sign and date the completed HUD-50059-A when there is a change in the amount of rent the household must pay, a change in the utility reimbursement, when there is a unit transfer and when required by state or local law. A copy of **all** HUD-50059-As must be retained in the tenant file.

NOTE: Tenant signatures for gross rent changes affecting the rent the household must pay or utility reimbursement must be obtained within 60 days from the date the gross rent change is implemented by the owner, as evidenced by the owner's submission of the voucher whereby the owner begins vouchering for assistance based on the new rents. Signatures for a unit transfer or when required by state or local law must be obtained before submitting the data to the Contract Administrator or TRACS.

NOTE: For processing unit transfers and gross rent increases in TRACS, refer to the instructions posted with the HUD-50059 and HUD-50059-A on HUDCLIPS at <http://www.hud.gov/offices/adm/hudclips/forms/> or the MAT Users Guide posted at <http://www.hud.gov/offices/hsg/mfh/trx/trxdocs.cfm>.*

9-9 Resources

- A. This paragraph summarizes some of the resources available to TRACS users. Owners should visit the TRACS website often, as announcements and documents are posted regularly.

TRACS Information Updates

TRACS frequently posts announcements on the TRACS website. These announcements notify owners and management agents of new procedures being implemented in TRACS.

Link to <http://www.hud.gov/offices/hsg/mfh/trx/trxsum.cfm> for information on new TRACS error messages, for implementation of industry specifications, for TRACS Industry meetings, and for other important announcements.

- B. References are provided in this paragraph to resources for understanding TRACS and interpreting and correcting error messages. All resources can be accessed through the TRACS website located at <http://www.hud.gov/offices/hsg/mfh/trx/trxsum.cfm>.
- C. TRACS produces documents for owners. All documents can be accessed via the TRACS Documents website at the following address:

<http://www.hud.gov/offices/hsg/mfh/trx/trxdocs.cfm>. Documents that are current as of publication of this handbook are as follows:

1. *Integrated Multifamily Access eXchange (iMAX) User Guide provides guidance to Contract Administrators, Owners and Management Agents who have subsidy contracts with HUD for transmitting tenant data and voucher data files to HUD and to other Owners, Management Agents and Contract Administrators registered with iMAX.
<http://www.hud.gov/offices/hsg/mfh/trx/pdf/imaxuserguide.pdf>*
2. Monthly Activity Transmission (MAT) User's Guide provides the information necessary to understand the MAT requirements for preparing and transmitting data. This guide describes the prescribed MAT record layouts, field characteristics, and procedures to respond to error messages returned by TRACS:
<http://www.hud.gov/offices/hsg/mfh/trx/trxmatg.cfm>
5. Industry User Guide for TRACS Internet Applications provides detailed information to assist you in accessing and using the Voucher, Certification, and Tenant Unit Address Queries. The queries are used to facilitate retrieval of voucher and certification information:
<http://www.hud.gov/offices/hsg/mfh/trx/trxngde.cfm>
6. Owners also have the option of contacting the Multifamily Help Desk hotline or their software vendor with any questions concerning MAT errors. Owners and Contract Administrators should always contact their software vendor first to address issues concerning their software. When the problem cannot be resolved by the software vendor, owners should then call the toll-free Multifamily Help Desk hotline number, which is 800-767-7588.
 - a. The Multifamily Help Desk hotline uses the MAT User's Guide to identify the mandatory field and format errors. The Multifamily Help Desk hotline is also authorized to respond to file transfer errors.
 - b. Except for fatal TRACS errors, the errors reported back to the owner are also available to the Field Office personnel through TRACS screens. With both owners and Field Offices equipped with summarized accounts of system-detected errors, inconsistencies in information can be quickly identified and corrected.
 - c. When Field Office and Multifamily Help Desk hotline staff interact with an owner to resolve errors or other problems, the TRACS on-line discrepancy screens are used to look up the tenant data and reported errors.
7. Multifamily Help Desk Hotline personnel, Field Office staff, and Contract Administrators cannot update information in TRACS. Owners must

always resubmit their own data to correct errors. Field Office staff can correct incorrect project/contract numbers in the Contracts database and update funding amounts in the Automatic Renewal and Amendment Management Sub-system (ARAMS) database.

Section 2: Payments

9-10 Key Regulations and Statutes

This paragraph identifies key regulatory and statutory citations pertaining to Section 2: Payments. The citations and their topics are listed below.

- A. 24 CFR 880.601, 881.601, 883.701, 884.118, 886.119 (Responsibilities of the owner)
- B. 18 U.S.C.1001 (Criminal prohibitions and penalties)
- C. 31 U.S.C. 3729 (Civil prohibitions and penalties)

9-11 Assistance Payments, Special Claims, Utility Reimbursements, and Excess Income – General

- A. This section describes the various types of payments that involve owners, tenants, and HUD in connection with rent payments and rent subsidy. In some cases, the owner receives assistance from HUD in the form of a rent subsidy. In HUD-subsidized multifamily properties where tenants pay for utilities, the owner receives assistance from HUD, which includes subsidy amounts for both rent and utilities. Under certain circumstances described in paragraph 9-13, the owner must remit a utility reimbursement to tenants.
- B. While paragraph 5-25 describes the methods by which the owner calculates the tenant rent and total tenant payment (TTP) for properties with project-based rental assistance, this section describes the requirements and procedures that owners must follow to receive assistance payments from HUD for the property.
- C. This section explains when owners may bill HUD for special claims: tenant damages, unpaid tenant rent, vacancy losses, and debt service. This section also describes the procedures owners must follow to file a special claim.
- D. In addition, this section describes the rules and procedures for handling utility reimbursements. Paragraph 5-26 C explains how utility allowances affect the rent the tenant ultimately pays for his or her unit. The owner may receive utility allowances in addition to rental assistance for households in assisted units when the tenants are responsible for paying utility costs. This section explains circumstances under which owners must give tenants utility reimbursements.
- E. Finally, this section discusses requirements and procedures that owners of Section 236 properties must follow to report and remit or retain excess income

(i.e., amounts the property receives when a tenant's rent payment is in excess of the basic rent for the unit).

9-12 Assistance Payments

A. Applicability

Assistance payments are available to all properties under the programs listed in Figure 1-1 except:

1. Section 236 properties without an assistance contract; and
2. Section 221(d)(3) BMIR properties without an assistance contract.

B. Key Requirements

1. To obtain assistance payments, the owner must submit a monthly subsidy billing to HUD or the property's Contract Administrator. The submission is required even when the owner is not requesting any assistance for the billing month. (See Section 1 of this chapter for information on required electronic transmissions to HUD through the Tenant Rental Assistance Certification System – TRACS.)

NOTE: When a voucher is submitted that does not request assistance, the voucher information is stored in TRACS and is not transmitted to the Line of Credit Control System (LOCCS).

2. A paper copy of form HUD-52670, *Housing Owner's Certification and Application for Housing Assistance Payments*, generated by the owner's TRACS software, bearing an original signature and consistent with the corresponding electronic transmission, must be kept on file by the owner for each monthly subsidy period that the owner receives assistance payments. The file must also include form HUD-52670-A part 1, *Schedule of Tenant Assistance Payments Due* (along with forms HUD-52670-A part 3, *Adjustments to Schedule of Tenant Assistance Payments Due*; part 4, *Misc. Accounting Request for Schedule of Tenant Assistance Payments Due*; and part 5, *Approved Special Claims for Schedule of Tenant Assistance Payment Due*, if applicable) and forms HUD-52671-A through D, *Special Claims Worksheets*, if applicable, generated by the owner's TRACS software, as supporting documentation.
3. A HUD-50059 effective in the voucher month, with the original signature of the head, spouse, co-head, and all adult family members (refer to paragraph 9-5 A.4.b regarding consideration of extenuating circumstances when a family member is not available to sign the HUD-50059) or a HUD-50059-A signed by the owner and the head of household, when applicable, and consistent with the forms HUD-52670 and HUD-52670-A must be on file at the project for each tenant listed on the form HUD-52670-A. The owner must also sign and retain copies of *

the facsimile of the voucher (form HUD-52670), forms HUD-52670-A parts 1, 2, 3, 4 or 5 and other related forms.

4. The owner's application for assistance payments must be limited to the number and type of units under contract as of the given subsidy month according to the identification of contract units and rents in the project-based assistance payments contract. Assistance for any particular unit cannot be claimed under more than one assistance contract for the same voucher period except for partial-month occupancy when a mve-in and move-out is processed in the same month.
5. The owner must comply with the assistance contract in order to continue receiving assistance payments from HUD.

NOTE: If an owner elects to grant rent concessions, the owner cannot bill HUD for either the rental assistance or the tenant's portion of the rent for the month or months the concession is given.

C. Procedures for Obtaining Assistance Payments from HUD

To obtain monthly assistance payments for all eligible units, the owner must submit a request for payment to HUD or the property's Contract Administrator.

1. *To secure payment, owners must complete forms HUD-52670 and HUD-52670-A part 1, along with HUD-52670-A parts 3, 4 and 5 as needed, on a monthly basis. The owner must submit form HUD-52670-A part 2 as applicable only after special claims have been approved by the HUD Field Office or Contract Administrator. The owner must prepare a separate form HUD-52670 for each of the property's assistance contracts to report the following:*

 - a. Regular tenant assistance payments and adjustments; and
 - b. Approved special claims.

2. *Prior to submitting requests for assistance payments or special claims payments to HUD or the Contract Administrator, all of the required HUD-50059 or HUD-50059-A tenant information must be submitted electronically to TRACS. *

D. Assistance Payment Calculations

1. For Section 8, Section 202 PAC, RAP, and Rent Supplement properties, the assistance payment is the gross rent minus the TTP. If applicable, the assistance payment may include a utility reimbursement that the owner must provide to the tenant. For a discussion of utility reimbursements, refer to paragraph 9-13.
2. For Section 811 PRAC and Section 202 PRAC units, the assistance payment is the difference between the unit operating rent and the TTP.

- a. The difference between the unit operating rent and the TTP may be a negative amount. If so, the owner must record this amount on the voucher.
- b. *When the total Regular Assistance Payments on the voucher for any given month is a negative amount, the owner must deposit this amount into the property's Residual Receipts account on a monthly basis.

When both the total Regular Assistance Payments and the total Adjustments to Regular Assistance Payments on the voucher for any given month are negative amounts, the owner must deposit the total negative amount of Regular Assistance Payments into the property's Residual Receipts account and make an adjustment on the next scheduled voucher to repay HUD the amount of the total negative Adjustments to Regular Assistance Payments.

- c. When the total Regular Assistance Payments on a voucher for any given month is a positive amount and both the total Adjustments to Regular Assistance Payments and the Total Subsidy Authorized are negative amounts, an adjustment must be made on the next scheduled voucher to repay HUD the amount in Total Subsidy Authorized.*
- d. When a project continuously has negative vouchers where adjustments cannot be made on the voucher to return amount(s) due HUD, the owner should be required to issue a check for payment

E. **Payments for Partial-Month Occupancies**

Owners are entitled to an assistance payment only for the actual number of days during the month that the tenant occupied the unit. If the move-out date is unknown because the tenant failed to notify the owner prior to moving out, the move-out date is the day the vacancy is discovered.

1. Exception for deceased tenants. The owner must prorate the assistance payment for a tenant who died during the month to the earlier of
 - a. 14 days after the tenant's death; or
 - b. The day the unit was vacated.
2. Calculating assistance for units vacated and re-occupied on the same day. For a unit that is vacated and re-occupied on the same day, the owner is only entitled to request assistance for the former tenant through the last full day of occupancy. The owner will request assistance for the new tenant beginning with the move-in day. The owner must never request assistance for both tenants on the same day.

3. Calculating partial-month occupancies.

- a. The owner must calculate partial-month occupancies by:
 - (1) Dividing the monthly assistance amount by the actual number of days in the month;
 - (2) *Rounding the result to the nearest \$0.01 (i.e., round up at \$0.005) (e.g., \$1.645012 becomes \$1.65); and *
 - (3) Multiplying the result by the actual number of days the tenant lived in the unit.
- b. The owner must round the result of the multiplication above to the nearest whole dollar. The owner will round up starting at \$0.50.
- c. When a tenant moves or transfers out of a unit or tenancy is terminated, owners must calculate assistance for these partial-month occupancies using the calculation method shown in Example – Move-Out below.

Example – Move-Out

A tenant moved out on February 17, 2000 (a leap year). The assistance payment is \$343 at the time of move-out. This example calculates the amount of money the owner must reimburse HUD for February.

Monthly assistance:	\$343.00
Divided by 29 days:	29
Daily assistance payment:	\$11.827586 = \$11.83 (daily assistance is rounded to the nearest \$0.01)
Multiply by the number of days the tenant actually lived in the unit:	
Assistance earned by the owner:	17
Round to the nearest dollar:	\$201.11
	\$201.00

This equals the amount of assistance the owner is entitled to keep. Because the assistance was billed for in advance, the owner must reimburse HUD the difference between the monthly assistance and the amount the owner is entitled to keep.

Monthly assistance:	\$343.00
Less eligible assistance:	<u>-\$201.00</u>
Amount reimbursed to HUD:	\$142.00

- d. When a tenant moves or transfers into a unit, converts from RAP or Rent Supplement, or undergoes initial certification, owners must calculate assistance for these partial-month occupancies

using the calculation method shown in the Example – Move-In below.

Example – Move-In

A new tenant moved in on December 16. The assistance payment is \$350. This example calculates the amount of money the owner/agent must bill HUD for December.

Monthly assistance:	\$350.00
Divided by 31 days:	31
Daily assistance:	$\$11.290323 = \11.29
Multiplied by the number of days the tenant actually lived in the unit:	16
Assistance earned:	\$180.64
Round:	\$181.00

The owner/agent will bill HUD for this amount.

4. Guidelines for adjustments.
 - a. *See Appendix H of the MAT User Guide for TRACS version 202.C for detailed instructions concerning the calculation of adjustments and their presentation on a voucher. The spreadsheet accompanying the Guide (Adjustment Calculations-TRACS 202C.xls) contains examples.*
 - b. A Unit Transfer may involve two adjustment calculations. The end of assistance in the old unit (Unit Transfer-Out) has an effective date one day earlier than the effective date of the unit transfer. The start of assistance in the new unit (Unit Transfer-In) is as of the effective date of the unit transfer.
 - c. *All adjustments are done from the first of the month during which billing changes caused by new or changed certifications start, forward to the earlier of the following:
 - (1) The day prior to the date of the voucher on which the adjustment is being reported; or
 - (2) The end of the month during which billing changes caused by new or changed certifications end.
 - d. All changed billing for a tenant and unit is reported by returning all previous billed amounts and then billing for the same period, including any new or correct amounts. See the MAT User guide, Appendix H, for examples.
 - e. If the action causing the adjustment affects a subsequent certification or certifications in the chain of certifications, then the *

owner must correct the subsequent certification(s) and report the billing changes as outlined in the MAT User Guide.

- f. When calculating an adjustment involving two partial months, calculate the daily assistance for each month by using the formula for calculating daily assistance. The adjustment for each month must be calculated separately following the rules in the MAT User guide and spreadsheet.

F. Certifications Required of the Owner

In order to receive an assistance payment, the owner must certify each month that:

1. The information provided by the owner was true.
2. Assistance payments, recertifications, and special claims are computed accurately.
3. All required unit inspections have been completed (i.e., move-in and move-out).
4. All assisted units are in a decent, safe, and sanitary condition.
5. The owner has not previously billed for or received the assistance payments requested in the current voucher.
6. The facts and data reported to HUD are actual and timely (i.e., the household for which the owner is requesting the assistance payment actually resides in the unit).
7. Payments have not been received from the tenant or other sources beyond that authorized in the assistance contract or the lease, except as permitted by HUD.

G. Criminal and Civil Penalties for Fraud

If owners knowingly submit false information on the assistance payment voucher, they may be subject to criminal and/or civil penalties, as well as penalties imposed by HUD.

1. Criminal prohibitions and penalties.
 - a. Owners and their agents are prohibited from knowingly and willingly making or using a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States.
 - b. The actions described above are punishable by a fine of not more than \$10,000, or imprisonment for up to five years, or both.

2. Civil prohibitions and penalties.
 - a. The owner is prohibited from knowingly presenting, or causing to be presented, a false or fraudulent claim; or knowingly making, using, or causing to be used, a false record or statement; or conspiring to defraud the government by getting a false or fraudulent claim allowed or paid.
 - b. An owner convicted of the actions described above is subject to a civil penalty of not less than \$5,000 and not more than \$10,000, plus three times the amount of damages.
3. Penalties imposed by HUD. If an owner makes false statements or false certifications on the voucher, this may lead to the imposition of:
 - a. Penalties and assessments under the Program Fraud Civil Remedies Act as implemented by HUD's Regulations, 24 CFR, part 30;
 - b. Civil money penalties under the HUD Reform Act of 1989, as implemented by HUD's Regulations, 24 CFR, part 28; or
 - c. Administrative sanctions by HUD pursuant to CFR Part 24.

9-13 Utility Reimbursements

A. Overview

In properties with individually metered units, tenants pay their own utility bills. However, HUD has established a means to help ensure that tenants can pay their utility bills; as part of the assistance payment, tenants may receive either a utility allowance or utility reimbursement.

B. Key Requirements

1. Funds covering the utility reimbursement will be paid to the owner in trust, solely for the purpose of making utility reimbursements. If the utility reimbursement is not disbursed to the tenant or utility provider (e.g., tenant never picks up the check, tenant never cashes the check or tenant moves-out), the funds must be returned to HUD. The check should be voided and the funds returned to HUD as an adjustment on the voucher. The owner needs to ensure before returning the funds that the tenant has been given sufficient opportunity to cash the checks and that all attempts have been exhausted in reaching former tenants, including any requirements under state or local law.
2. The owner must provide the utility reimbursement to the tenant or utility provider within 5 business days of receipt of the assistance payment from HUD.

C. Reimbursement Options

Rather than paying the utility reimbursement directly to the household, if the household and utility consent, the owner may:

1. Make the utility reimbursement payable jointly to the household and the utility company; or
2. Pay the reimbursement directly to the utility company.

9-14 Special Claims

A. General Guidelines for Processing Special Claims

HUD or the Contract Administrator will review and process special claims following the guidelines herein.

1. HUD or the Contract Administrator will review and process a submitted claim within 30 calendar days of receipt of the claim. All required documentation and materials must be submitted with the claim to ensure the timely processing of the claim.
2. Acceptable claims will be approved and Special Claim ID numbers assigned. A copy of the approved claim forms will be sent to the owner.
3. Unacceptable (e.g., not allowed, or unsupported) claims will be marked as denied and returned to the owner. If a claim is denied or reduced, the owner will be notified in writing of the reason(s) for denial or reduction, the right to appeal the decision and the name and address of the person to whom the appeal should be made. The owner may appeal a denied or reduced claim within 30 calendar days from the date of the letter denying or reducing the claim. The appeal should include a brief explanation as to why the claim should be paid, along with submission of any new or additional supporting documentation. HUD or the Contract Administrator will process the appeal within 30 calendar days of receipt of the appeal.
4. HUD or the Contract Administrator must assign the HUD-specified special claims ID to the submission and include this ID on documentation returned to the owner.
5. HUD or the Contract Administrator may pay the claim directly upon approval. Otherwise, the owner should follow instructions from HUD or the Contract Administrator for receiving payment of special claims.

B. Special Claims for Vacancy Losses During Rent-Up

Special claims for vacancy loss during rent-up are compensation to property owners for rental loss attributed to vacant units during the initial rent-up period of a property.

1. Who may bill HUD for vacancy losses during rent-up? Only owners of Section 202 PRAC and Section 811 PRAC units may submit a claim for vacancy losses during rent-up.

NOTE: Although vacancy loss during rent-up is permissible under the project-based Section 8 regulations, Section 8 and Section 202/8 projects are no longer eligible because the authority has been repealed and all of the projects have passed the rent-up stage. Therefore, no vacancy loss during rent-up should be submitted for project-based Section 8 and Section 202/8 projects.

2. Key requirements.
 - a. Units must be in decent, safe, and sanitary condition, and available for occupancy during the vacancy period for which the payments are claimed.
 - b. The owner must comply with the assistance payment agreement or assistance contract and implement diligent marketing not fewer than 90 days prior to the anticipated date of initial occupancy.
 - c. The owner must comply with the requirements of the HUD-approved Affirmative Fair Housing Marketing Plan (AFHMP) and all Fair Housing and Equal Opportunity (FHEO) requirements.
 - d. The owner must take all feasible actions to fill the vacancy, including contacting any applicants on the waiting list and advertising the availability of the unit in accordance with FHEO requirements.
3. *Calculating the claim amount. Owners must use form HUD-52671-B to calculate the claim amount following the rules in the MAT User Guide, Appendix H, and the associated spreadsheet.*
 - a. The claim period begins on the later of the effective date of the contract or the date of permission to occupy.
 - b. The claim period ends on the date preceding the day on which the unit is initially occupied, or 60 days from the start date, whichever is earlier.
 - c. The claim period cannot exceed 60 days.
 - d. Claims for Section 811 PRAC and Section 202 PRAC projects may not exceed 50% of operating rent for up to 60 days for each vacancy.
4. Processing claims for vacancy losses during rent-up.
 - a. The owner must submit a claim for approval within 180 days of the date the unit was available for occupancy (date the property received permission to occupy). Claims should be submitted only after the claim period has ended.

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- b. The owner must submit the claim form and supporting documentation to HUD. The submission must include:
- (1) Checklist of required documentation.
 - (2) Signed and completed claim form HUD-52671-B.
 - (3) Signed and completed form HUD-52670-A Part 2.
 - (4) A list of all units leased, and available for lease as of the effective date of the contract or signature date of Permission to Occupy (Form HUD-92485) whichever is later. Justification must be provided for all units available for lease, explaining why they remain vacant.
 - (5) Evidence that marketing began not less than 90 days prior to initial occupancy including.
 - a. Copies of advertisements or invoices for advertising expenses substantiating that date; and
 - b. Copy of the waiting list.
 - c. Documentation that explains the status of the waiting list and the outcome of applicant contacts (i.e., date applicant was contacted, response of applicant, status of applicant's move-in); and
 - d. Copies of letters to rejected applicants demonstrating rejection for good cause.
- c. HUD will:
- (1) Confirm that all required documents are submitted with the claim and are signed appropriately;
 - (2) Review all calculations on form HUD-52671-B for accuracy;
 - (3) Review the documentation describing the status of the waiting list and the outcome of applicant contacts to determine whether or not the owner is maintaining the waiting list and is processing applicants in a timely fashion, including following up on initial contacts and applicant responses;
 - (4) Confirm from copies of advertising and invoices that marketing began not less than 90 days prior to the anticipated date of initial occupancy;

- (5) Review copies of letters to rejected applicants to confirm that rejection was for good cause;
- (6) Review the list of units leased and unleased and the justification for the unleased units to determine the reasonableness of the justification;
- (7) Return approved along with a Special Claim ID number or unapproved claims to owners; and
- (8) Retain a copy of the claim form along with supporting documentation.

C. **Claims for Unpaid Rent and Tenant Damages**

A special claim for unpaid rent, other charges, or tenant damages is reimbursement to a property owner for a former tenant's failure to pay the monthly rent or other charges or for damages caused by the negligence or abuse of the former tenant.

1. Who may bill HUD for unpaid rent and tenant damages? Owners may file a claim for unpaid rent and tenant damages for Section 8, Section 202/8, Section 202 PAC, Section 202 PRAC or Section 811 PRAC units.
2. Key requirements.
 - a. The owner must have collected from the tenant the maximum allowable security deposit. If the owner did not collect the appropriate security deposit from the tenant, the claim will be reduced by the amount of the security deposit the owner should have collected from the tenant.
 - b. Other charges due under the lease are to be included with unpaid rent.
 - c. State and local law must permit claim amounts to be deducted from the tenant's security deposit.
 - d. Damages must be due to tenant negligence or abuse. The owner may not request a special claim for routine maintenance and normal wear and tear.
 - e. The owner must provide evidence that the tenant was billed for unpaid rent and/or damages and that all reasonable steps were taken to collect the debt.

3. Calculating the claim amount.

- a. *The owner must use form HUD-52671-A to calculate the claim amount following the rules in the MAT User Guide, Appendix H, and the associated spreadsheet.*
- b. The total claim for unpaid rent and tenant damages may not exceed the contract rent in effect when the tenant vacated the unit minus the security deposit plus any interest earned and amounts collected from the tenant or other sources to cover the unpaid rent and damages.

Example – Calculating the Claim Amount

The owner holds \$65.00, which includes the security deposit and interest earned. The tenant left owing \$300 in unpaid rent and \$200 in damages. The owner is unable to collect payment from the tenant for rent or damages. The contract rent at the time of the move-out is \$400.00. HUD will pay up to \$335.00 (contract rent minus the security deposit and interest).

4. Processing claims for unpaid rent and tenant damages.

- a. The owner must submit a claim for approval within 180 days from the date the vacated unit is available for occupancy. Claims should be submitted only after the claim period has ended.

NOTE: The owner cannot request reimbursement on the damage claim for items where reimbursement was made from the Reserve for Replacements or Residual Receipts accounts or by insurance coverage.

- b. The owner must submit the claim form and supporting documentation to HUD or the Contract Administrator. The submission must include:
 - (1) Checklist of required documentation.
 - (2) Signed and completed form HUD-52671-A.
 - (3) Signed and completed form HUD-52670-A Part 2;
 - (4) Evidence that reasonable steps were taken to collect the debt from the tenant

- (5) Certification that the submitted claim was due to the tenant's negligence or abuse.
 - (6) Copies of the move-in/out inspection reports.
 - (7) A copy of the security deposit disposition notice
 - (8) A copy of the itemized listing of damages provided to the tenant.
 - (9) A breakdown of the repair costs:
- c. HUD or the Contract Administrator will:
- (1) Confirm that all required documents are submitted with the claim and are signed appropriately;
 - (2) Review all calculations on form HUD-52671-A for accuracy;
 - (3) Confirm that the appropriate security deposit was collected from the tenant. If the appropriate security deposit was not collected from the tenant, the claim will be reduced by the amount of the security deposit that should have been collected;
 - (4) Confirm that any charges due under the lease are allowed under the lease for the project;
 - (5) If the tenant did not make payment, confirm that the owner pursued the collection of the debt through a collection agency and the collection agency attempted to collect the debt; and
 - (6) Review the breakdown of costs to repair the damages and confirm that the costs are reasonable for the work described.
- d. If the review results in a reduction or denial of the claim, HUD or the Contract Administrator will notify the owner of the reason the claim is reduced or denied and give the owner the opportunity to submit additional documentation to support the claim.
- e. Return approved claims along with a Special Claims ID number or unapproved claims to the owner; and
- f. Retain a copy of the claim form along with supporting documentation.
- g. HUD or the Contract Administrator may pay the claim directly upon approval. Otherwise, the owner should follow instructions

from HUD or the Contract Administrator for receiving payment of special claims.

D. Claims for Vacancy Losses After Rent-Up (Regular Vacancy)

A special claim for vacancy loss after rent-up is a compensation to the property owner for the loss of rental income of a unit that was previously occupied by an assisted tenant and where the unit has been vacant for circumstances beyond the owner's control.

1. Who may bill HUD for vacancy losses? Owners may file a vacancy loss claim for Section 8, Section 202/8, Section 202 PAC, Section 202 PRAC, and Section 811 PRAC units.
2. Key requirements.
 - a. Upon learning of a vacancy, the move-out data must be transmitted to TRACS.
 - b. The former tenant must have been receiving rental assistance at move-out, or if the rental assistance had been terminated prior to move-out, the assistance was terminated based upon the tenant's failure to comply with his/her responsibilities to fulfill program requirements.

NOTE: Owners cannot submit a special claim for the unit when termination of rental assistance was based on the tenant's income increasing to where he/she no longer qualifies for assistance or for the period of occupancy by a police officer or security personnel.

- c. HUD will only pay claims if the units are in decent, safe, and sanitary condition and available for occupancy during the vacancy period. HUD will not pay for vacancy loss for the days in which unit repairs were being made and the unit was being prepared for occupancy.
- d. The owner must comply with the requirements of the HUD-approved Affirmative Fair Housing Marketing Plan (AFHMP) and all Fair Housing and Equal Opportunity requirements. (See Chapter 2 and paragraphs 4-11 and 4-12.)
- e. The owner must take all feasible actions to fill the vacancy, including contacting any applicants on the waiting list and advertising the availability of the unit in accordance with Fair Housing and Equal Opportunity requirements.
- f. The owner may not reject applicants, except for good cause in accordance with the owner's tenant selection plan.
- g. The owner may not cause the vacancy by violating the lease, the contract, or any applicable law.

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- h. Owners must not submit vacancy loss claims for amounts that have been paid by other sources, (e.g., forfeited security deposit or Title I payments for vacancy loss incurred while holding units vacant for relocatee).
3. *Calculating the claim amount. The owner must use form HUD-52671-C to calculate the claim amount following the rules in the MAT User Guide, Appendix H, and the associated spreadsheet.*
- a. The claim period begins the day the unit is available for occupancy by another tenant.
- For example, if a unit was vacated May 5 and cleaned May 5 through May 8, the claim period would begin on May 9.
- b. The claim period cannot exceed 60 days.
- c. Claims for Section 8 and PAC properties may not exceed 80% of the contract rent for up to 60 days for each vacancy.
- d. Claims for Section 202 PRAC and Section 811 PRAC properties may not exceed 50% of operating rent for up to 60 days for each vacancy.
- e. Claims for Property Disposition Set-Aside units may not exceed the housing assistance payment for the number of days elapsed between the date the tenant vacated the unit and the last day of that month plus 80% of the contract rent for any days the unit remains vacant in the following month.
4. Processing claims for vacancy losses.
- a. An owner must submit a vacancy-loss claim within 180 days of the date the unit was available for occupancy. Claims should be submitted only after the claim period has ended.
- b. The owner must submit the claim form and supporting documentation to HUD or the Contract Administrator. The submission must include:
- (1) Checklist of required documentation.
 - (2) Signed and completed form HUD-52671-C.
 - (3) Signed and completed form HUD-52670-A, Part 2;
 - (4) Documentation supporting the amount of security deposit that should have been collected from the tenant.
 - (5) Copy of the waiting list from which the tenant was selected or information from previous waiting list describing contact

with the applicant and the outcome of the contract, or if the unit was not filled from the waiting list, documentation of marketing efforts must be included such as copies of advertisements or invoices for advertising expenses that substantiate the date marketing occurred in accordance with the AFHMP.

- (6) Copy of the security deposit disposition notice provided to the tenant indicating the move-out date, amount of security deposit collected, amount of security deposit returned and any charges withheld from the deposit for unpaid rent, tenant damages or other charges due under the lease.
- (7) Documentation that verifies the date the unit was ready for occupancy by a new tenant.

c. HUD or the Contract Administrator will:

- (1) Confirm that all required documents are submitted with the claim and are signed appropriately;
- (2) Review all calculations on form HUD-52671-C for accuracy;
- (3) Verify that the correct amount of security deposit was collected from the tenant at move-in.
- (4) Review documentation submitted supporting the move-out and move-in dates.
- (5) Review the documentation describing the status of the waiting list and the outcome of applicant contacts to determine whether or not the owner is maintaining the waiting list and is processing applicants in a timely fashion, including following up on initial contacts and applicant responses;
- (6) Return approved claims along with a Special Claims ID number or unapproved claims to the owner; and
- (7) Retain a copy of the claim form along with supporting documentation.

E. Special Claims for Debt Service Vacancy Payments

Special claims for mortgage debt service vacancy payments are compensation to a property owner for units that have been vacant beyond the 60-day limit for regular vacancy (either during or after initial rent-up), in order to avoid mortgage default.

1. Who must approve claims? HUD Field Office only, except in the case where the Traditional Contract Administrator is a State Housing Finance Agency and the property was financed by that agency. In that case, the CA will review all debt service claims.
2. Who may bill HUD for debt service claims? Owners may file a claim for debt service vacancy payments for Section 8 NC/SR (New Regulation contracts), Section 202/8, Section 202 PRAC, RHS 515/8, PDSA/8.
3. Key requirements.
 - a. Units must have been vacant for more than 60 days. Owners may not receive payment for special claims for vacancy loss and debt service at the same time. Therefore, a unit is not eligible for debt service payments until the 60-day vacancy period has passed.
 - b. Payments may not exceed the amortized principal and interest payments due for that unit on the property's first mortgage, or the net operating loss on an unaudited financial statement.
 - c. Units must be in decent, safe, and sanitary condition and available for occupancy during the vacancy period for which the payments are claimed.
 - d. Owners must certify that all appropriate actions are being taken to market and fill the vacant units.
 - e. Projects must show a net operating loss on an unaudited financial statement.

NOTE: Depreciation and owner expenses cannot be included in this statement.
 - f. The Reviewing Office must determine if the project can achieve financial soundness within a reasonable period of time.
4. *Calculating the claim amount. The owner must use form HUD-52671-D to calculate the claim amount following the rules in the MAT User Guide, Appendix H, and associated spreadsheet.*

The amount of the operating loss attributable to the unit, exclusive of depreciation and any owner expenses. This amount is calculated on an unaudited financial statement.
5. Processing claims for debt service losses.
 - a. The owner must submit the claims on a semi-annual calendar basis beginning 6 months after the initial 60-day vacancy period.
 - b. The owner must submit the documentation to HUD. The submission must include:

- (1) Checklist of required documentation.
- (2) Signed and completed form HUD-52671-D, showing the calculation of the claim amount;
- (3) Signed and completed form HUD-52670-A Part 2;
- (4) Unaudited financial statement, covering a six-month period for which claims are made; and
- (5) Written narratives detailing the items below:
 - (a) Causes of the vacancies;
 - (b) Causes of the financial problems;
 - (c) Actions taken to correct the financial condition and to prevent recurrence; and
 - (d) Sources of funds and timeframes for paying off delinquent mortgage and excessive accounts.

c. HUD will:

- (1) Confirm that all required documents are submitted with the claim and are signed appropriately;
- (2) Review all calculations on form HUD-52671-D for accuracy;
- (3) Review the narratives provided and available financial information to determine whether the property is likely to achieve financial soundness in a reasonable period of time;
- (4) Review the documentation of advertisements or invoices for advertising expenses that support that marketing was undertaken and substantiates the date marketing occurred.
- (5) Review financial statement to confirm that the project has not provided the owner with sufficient revenue to cover expenses less depreciation.
- (6) Return approved or unapproved claims to owners; and
- (7) File a copy of the approved form along with supporting documentation.

F. Special Claims Record-Keeping

Owners must retain copies of all special claims approved or denied by HUD, along with all relevant documentation, for a minimum of three years from the date of HUD's action.

G. Special Claims Processing Guide

Refer to the *Special Claims Processing Guide* for further information and guidance on submission and processing of special claims.

9-15 Excess Income**A. Overview**

Excess income in Section 236 properties consists of rent collected from the tenants by the owner, on a unit-by-unit basis, that is in excess of the HUD-approved basic rent. This paragraph discusses the owner's reporting requirements for excess income.

B. Key Requirements

1. All Section 236 property owners must report excess income received on a monthly basis to HUD, even in cases where the property does not receive any excess income.
2. If an owner receives excess rent for a unit, the excess income must be remitted to HUD unless the property meets the criteria established in HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*, as described in subparagraph C below.

C. Preparing and Submitting Monthly Reports of Excess Income

1. Owners must prepare and submit form HUD-93104, *Monthly Report of Excess Income*, by the 10th of the month following the month covered by this report. All owners of Section 236 projects must submit this report even if the property did not generate excess income during the reporting period. Owners must also prepare and submit form HUD-93104 if HUD has approved the property to retain excess income. See **Appendix 13** for a copy of form HUD-93104.
2. The owner must use form HUD-93104, *Monthly Report of Excess Income and Accrued Unpaid Excess Income, Section 236 Projects*.
 - a. On this form, the owner must show total gross rent collections received by the property in excess of the HUD-approved unassisted basic rent or the new authorized rent under the Section 8 Mark-Up-To-Market Program less any amount retained by the property for HUD-approved purposes. The difference is the amount the owner must remit to HUD.

- b. The owner must not include the following in the gross rent amount:
 - (1) Late fees;
 - (2) Non-sufficient funds check fees;
 - (3) Utility surcharges;
 - (4) Security deposit damage surcharges;
 - (5) Section 8 damage surcharges;
 - (6) Section 8 vacancy payments;
 - (7) Local tax surcharges;
 - (8) Separate parking or cable television charges if these amenities are not included in the basic rent; or
 - (9) Tenant accounts receivable collected during the reporting period.
3. In addition to form HUD-93104, and unless the information may be extracted from the property's rent roll, the owner must create a monthly rent schedule. The schedule must include:
 - a. The basic rental charge for each unit and the amount collected in excess of the basic rental charge for each unit; and
 - b. For each unit that does not receive Rent Supplement, RAP, or Section 8 Assistance of any type, including units in which the tenants pay market rent, the unit number, tenant name, basic rent, and tenant rental payment.
4. Prohibited reporting. It is not permissible for the owner to prepare an aggregate calculation of the excess income paid for all occupied rent-paying units and subtract from this figure any unpaid rent from occupied or vacant units before remitting excess income to HUD.
5. Refer to HUD Handbooks 4350.1, *Multifamily Asset Management and Project Servicing* and 4350.5, *Subsidy Administration* for further information about excess income.