

## Section B: Types of Directives

What constitutes a directive is not necessarily the title of a specific type of communication, but the content. The two broad types of directives subject to the requirements of this handbook are communications to the public and communications internal to HUD.

**B-1 Public communications:** These are communications that are *for the first time* relaying guidance to program participants or regulated parties beyond merely explaining provisions of existing HUD policy or requirements in statutes and regulations. They constitute a HUD directive, regardless of the title of the document.

Whatever the form of pronouncement, announcement, restatement, or interpretation to be made to the public about HUD statutes, regulations, or significant policy, such communication must first be cleared by offices with the appropriate policy and legal authority before it is released to the public.

Frequently asked questions (FAQs) and their corresponding answers that convey legal or policy interpretations *for the first time* require clearance. Information issued by HUD offices to program constituents that merely present information about access to HUD systems, identify HUD points of contact, or repeat information already cleared (with no further changes) are not subject to the HUD directives management system. However, certain processing information that impose new reporting and recordkeeping require compliance with the Paperwork Reduction Act (PRA) under the responsibility of the Chief Information Officer, and the PRA process includes clearance.

*When in Doubt, Check it Out.* If an office is uncertain whether a form of communication constitutes a directive, OCHCO and OGC's Office of Legislation and Regulations are available to assist in making that determination.

**B-2 Internal communications:** These are communications that affect HUD-wide operations, that may or may not result in impacts to HUD constituents. For example, a written explanation of what constitutes permissible work-time volunteer activities for HUD employees is an internal communication that requires clearance. A handbook that pertains to operations internal to a particular HUD office may require clearance, if such operations impact another HUD office or its programs.

Guidance on processing notices of funding availability (NOFA) requires clearance because these directions impact outside interests seeking federal financial assistance. The guidance is cleared to ensure that it is consistent with the NOFA, the HUD Reform Act, and other applicable statutes and regulations.

**B-3 Nondirective communications:** Directives do not include legal opinions, settlement agreements, interagency agreements, memoranda of understanding, grant agreements, procurement documents, or (e.g., bid proposals, requests for proposals, statements of work, contracts), memoranda from HUD Principals to their employees on matters that do not have cross-program impacts. Congressional correspondence, congressional testimony, press releases, communications to other federal agencies, or responses to audits of HUD's Office of Inspector General or the Government Accountability Office (GAO) are also not directives. Communications issued by the Government National Mortgage Corporation (Ginnie Mae) to issuers, servicers, and related contractors are also not directives. These communications are contractual in nature because they govern the relationship between Ginnie Mae and the issuers, servicers, and related contractors involved in Ginnie Mae's guarantee of mortgage-backed securities. These communications include changes to the Mortgage-Backed Securities Guide, All Participants Memoranda (APMs), and Multiclass Participants Memoranda (MPMs).

Studies or reports such as those prepared by PD&R or OHHLHC containing scientific, statistical, or technical data do not constitute directives but must still be cleared in accordance with the Information Quality Act and HUD's Information Quality Guidelines.

**B-4 Handbooks and guidebooks:** The objective of a handbook is to serve as a comprehensive document of current and applicable information on a specific HUD program and may include clarification of policies, instructions, guidance, procedures, forms, and reports. Handbooks are directed to HUD staff and/or program participants, are generally divided into chapters, and are issued in a format that allows for the insertion of changes over time.

Guidebooks were previously distinguished from a handbook in that guidebooks were not to communicate directions, instructions, or processing information. The distinctions between the two types of comprehensive documents are no longer applicable. The document entitled "Programs of HUD" is defined as a guidebook, yet still contains instructions on how to seek federal financial assistance.

Handbook Changes: These are changes to an existing handbook when the changes appear on less than half of the existing number of pages of the handbook and only these select pages are updated. Once more than half of a handbook's pages are new or revised, the entire handbook is replaced as a revision. That said, even if less than half the pages are impacted, a revision of the entire handbook may be cleared.

Handbook Revisions: This refers to a complete replacement of a handbook that cancels and supersedes the previously issued version. A revision is required when more than half of the handbook pages are new or contain revisions, regardless of the time passed during the various changes.

Handbook Transmittals: This refers to a signed statement issued with a handbook, revision, change, or cancellation that summarizes the significant matters covered in the directive. A handbook transmittal must include, if applicable, a list of all prior mortgage letters that have been incorporated and/or superseded by a new or revised handbook.

**B-5 Notices**: Notices are used to give instructions or guidance about aspects of HUD programs that generally supplement statutes or regulations. For example, guidance to program participants on how HUD's regulations govern equal treatment of faith-based organizations or on how an administrative provision in an appropriations act is implemented is typically released to the public in the form of a notice. Again, a notice is based on a preceding statute or regulation and does not impose new, binding requirements, unless, the preceding statute or regulation so permits.

Notices remain effective until amended, superseded, or rescinded. *However*, all notices must display the date of issuance and state that the notice remains in effect until amended, superseded, or rescinded. Additionally, if a notice amends or supersedes a prior notice, identification of the prior notice appears on the first page. If notices include a specific expiration date, the expiration date is identified on the first page.

Mortgagee Letters are a specific type of notice issued on the letterhead of the Federal Housing Commissioner to FHA-approved mortgagees. Notices of the Offices of CPD, Housing, and PIH are also a type of notice generally addressed to entities subject to regulations administered by those offices. Section C presents format requirements for notices.

**B-6 Protocols**: Protocols are internal directions or instructions to HUD employees regarding how to implement certain activities. An example is the protocol for interacting with GAO developed by Office of the Chief Financial Officer, dated August 11, 2006, and posted at: <http://hudatwork.hud.gov/pol/cl/gaoguidanceocfoandogc8112006.pdf>.