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## CHAPTER 9. REQUIRED 50059 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"> <li>• 50059 Data Requirements</li> <li>• Assistance payment</li> <li>• Gross rent</li> <li>• Housing Assistance Payment (HAP)</li> <li>• PAC (Project Assistance Contract)</li> </ul>	<ul style="list-style-type: none"> <li>• PRAC (Project Rental Assistance Contract)</li> <li>• Project assistance payment</li> <li>• Project rental assistance payment</li> <li>• Service bureaus</li> <li>• Utility reimbursement</li> </ul>
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**NOTE:** Form HUD-50059, *Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures*, has been eliminated. It has been replaced by the 50059 data requirements which make up the tenant data that are electronically submitted. Like the former form HUD-50059, the 50059 data requirements identify the data that owners are required to collect from applicants and tenants and the calculations that owners must perform to certify eligibility and tenant rents. For record-keeping purposes, owners must print out and retain a signed copy of the 50059 data requirements (referred to as the 50059 facsimile) for each tenant.

## **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**

The Tenant Rental Assistance Certification System (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:

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1. 50059 Data Requirements;
  2. Form HUD-52670, *Housing Owner's Certification & Application for Housing Assistance Payments*;
  3. Form HUD-52670-A part 1, *Schedule of Tenant Payments Due*;
  4. Form HUD-52670-A part 2, *Schedule of Section 8 Special Claims*;
  5. Form HUD-52671-A through D, *Special Claims Worksheets*; and
  6. Assistance payments contracts, assistance payments renewal contracts, and contract rent increases, including contract Exhibit A (Identification of Units and Contract Rents).

**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.

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## 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. The Contract Administrator is the entity that issues subsidy payments for the assistance contract.
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 requirements and forms. A separate submission must be prepared and submitted for each of the property assistance contracts.
  - a. 50059 Data Requirements. For information on 50059 data requirements, please refer to **Appendices 6, 7, and 8**.
  - b. Form HUD-52670, *Housing Owner's Certification & Application for Housing Assistance Payments* (see **Appendix 9**). Data submitted from form HUD-52670 must be properly supported by:
    - (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**); and
    - (3) Form HUD-52671-A through D, *Special Claims Worksheets* (see **Appendix 12**).

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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 other contract administrator on the owner's behalf.
    - a. In cases in which an owner uses a service provider, that company must provide the owner with printed facsimiles of the 50059 data requirements, 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 a facsimile of the completed certification (50059 data requirements) that is transmitted to HUD or the Contract Administrator, whether the facsimile printout was produced on site or received from a service provider. The owner must provide the tenant a copy of the signed facsimile and retain a copy in the tenant's file. The owner must also sign and retain a facsimile of the voucher (form HUD-52670).
    - c. 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.
  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 include:
      - (1) Preparation of facsimiles based on the 50059 data requirements. Their users (owners and management agents) are responsible for the verification of information contained in the 50059 data requirements they provide to the service bureau. The bureaus transmit tenant certifications to TRACS or to Contract Administrators. In instances where the software being used to double-check

calculations before transmission discovers errors in the 50059 data requirements provided, these organizations print out revised 50059 data requirements and return the revised documentation to their sites for signature by the household and management and for copying and filing in the tenant file.

- (2) Preparation of monthly subsidy voucher facsimiles based on the 50059 data requirements.
  - (3) Preparation of approved special claims and transmission to the user's Contract Administrator or TRACS for processing and payment. Otherwise the service bureau will follow instructions received from HUD or the Contract Administrator on special claim payments.
  - (4) May provide their users with the monthly benefit history reports used in annual recertifications, as well as returning TRACS messages received from the Contract Administrator or TRACS.
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.

## 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.htm> for detailed information on using these applications. The following specific Internet applications may be of particular interest to project owners.

1. Voucher query. The Internet Voucher Query returns status data on vouchers submitted for a specified contract or project number for the 24-month period prior to the date of the query submission. The voucher status code indicates whether a subsidy payment was scheduled for payment by the Treasury Department, or was not scheduled for payment for a given reason. The User Guide provides an explanation of each code and any further action required of the owner in order for the payment to be released. Some status levels require that the owner resubmit the payment request as a correction, while others do not require resubmission. Users are also able to view the Voucher Summary Details and Voucher Discrepancies.

## 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 10<sup>th</sup> 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 10<sup>th</sup> 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 or for an approved special claim must be submitted within 60 days of the approval date. Any requests submitted after 60 days will be subject to full voucher review and approval by HUD or the Contract Administrator, and to the availability of funds for the applicable subsidy year, as determined by HUD.

All 50059 data should be submitted during the month as completed. All 50059 data supporting a voucher must be transmitted prior to voucher transmission.

2. Certification query. This application permits the owner to query for a 50059 certification list by contract or project using several different sort options. Certifications displayed are limited to those with effective dates within 15 months prior to the query date. Besides the Certification List, the application also displays Certification Detail, Benefit History reports, and other information directly related to 50059 certifications. Additional queries exist under the tenant section of the Certification Query. These include a Move-In and Move-Out Query, which views project turnover activity; a Multiple Occupancy Query, which offers two views – by units in a project, to look for overcrowded households, and by social security numbers, to look for households living in more than one project; a Project Evaluation Query, which views possible problem areas within the project; and a Verification Query, which lists the items that need to be independently verified. The query provides links to useful information on printing and interpreting data in the query reports, and a download option is available so that queried data can be downloaded into an ASCII file.
3. Manual voucher submission. This application provides the capability to submit form HUD-52670 requests for assistance payments under unusual circumstances directly over the Internet. Before using this application, owners should verify that the need for submitting the voucher manually conforms to the permissible circumstances posted to the HUD website. All manual submissions from project owners require additional time for approval processing.

### 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 6 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 the signed form HUD-52670-A part 1 and 2 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. These requirements apply to Contract Administrators, both Performance-Based Contract Administrators (PBCAs) and Non-Performance Based 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. 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 TRACSMail 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: MAT Tenant System Record Format (MAT 10) and MAT Voucher/Payment System Record Format (MAT 30), for data on tenants and vouchers, respectively.

- a. The MAT Tenant System Record Format is based on the HUD 50059 Data Requirements, Move-Out, Termination, and Unit Transfer or Gross Rent Change data. The MAT 10 records are subdivided into “sections” to further clarify the data in the 50059 data requirements. Refer to the MAT System specifications at <http://www.hud.gov/offices/hsg/mfh/trx/trxdocs.cfm> for a complete listing of the MAT Tenant System Record types, along with descriptions of each record type, edits, and additional information on data submissions. Refer to Figure 9-3 for the MAT Tenant System Record Types.

**Figure 9-3: MAT Tenant System Record Types**

Type	Description	Notes
TENHR	Tenant Header Record (one)	
MAT10*	<p><i>Section</i></p> <p>1 – (Re) Certification Header Record</p> <p>2 – Basic Record (one per MAT 10)</p> <p>3 – Family Record (multiple per MAT 10)</p> <p>4 – Income Record (multiple per MAT 10)</p> <p>5 – Asset Record (multiple per MAT 10)</p>	<p>There is always a single header record for each (Re) Certification.</p> <p>There is always a single basic record for each (Re) Certification.</p> <p>There is a record for each family member recorded on the (Re) Certification.</p> <p>There is a record in this Section for each family member.</p> <p>There is a record in this section for each asset recorded on the (Re) Certification.</p>
MAT 15	Address Record (multiple)	
MAT 20	Delete (Re) Certification	Further record type.
MAT 40	Move-Out Record (multiple)	
MAT 65	Termination Record (multiple)	
MAT 70	Unit Transfer or Gross Rent Change Record (multiple)	
TENND	Tenant Batch Trailer Record (one per TENHR)	
TENER	Tenant MAT Error Record (multiple)	
TENTR	Error Trailer Record (one per transmission)	

**\*MAT 10 Note:** MAT 10 records are subdivided into “sections” to further clarify the data on the form previously identified as HUD-50059. An error detected in one of these sections is identified not only by the record (MAT 10), but also by the specific section. Because the MAT 10 record is further subdivided into sections, each MAT 10 has a dedicated header record of its own to summarize its transmitted data. These header records are in addition to the single MAT header record defining the entire transmission.

- b. The MAT Voucher/Payment System Format compiles assistance payment and voucher data. Refer to the MAT System specifications at <http://www.hud.gov/offices/hsg/mfh/trx/trxdocs.cfm> for a complete description of this record type, edits, and additional information on data submissions. Refer to Figure 9-4 for the MAT Voucher/Payment System Record Types.

**Figure 9-4: MAT Voucher/Payment System Record Types**

Type	Description	Notes
VCHHR	Voucher Header Record (one)	
MAT30	Assistance Payment Header Section  1 – Assistance Payment Header Record  2 – Assistance Payment Summary Record  3 – Voucher Detail Record  4 – Voucher Adjustment Detail Record  5 – Approved Special Claims: (Subsections are as follows) <ul style="list-style-type: none"> <li>• For Unpaid Rent and Damages</li> <li>• For Rent-Up Vacancy</li> <li>• For Regular Vacancy</li> <li>• For Debt Service</li> <li>• For Debt Service Summary</li> </ul> 6 – Miscellaneous Accounting Request	Future Record from 52670-A  Future Record from 52670-A  Submit one section 5 for each special claim.  Future Record  Future Record  Future Record  Future Record  Submit one Section 6 for each miscellaneous payment request.
MAT 31	Delete Voucher Record	
VCHND	End of Transmission Record (one per transmission)	This record format is shared with the MAT Tenant System.
VCHER	Voucher Error Record	
VCHTR	Voucher Error Trailer Record	
VCHVC	Voucher Transaction Control Record	

3. The MAT system validates the data.
  - a. Data that have not been validated by the MAT system are not submitted to TRACS. When data submissions are not validated, then the sender – either the owner or Contract Administrator – will receive an error message via TRACSMail. See Figure 9-5 for some examples of MAT error messages.
  - b. Data validated by the MAT system are sent to the TRACS databases. When data submissions are validated, then the sender – either the owner or Contract Administrator – will receive an acceptance message via TRACSMail.

**Figure 9-5: Sample MAT Error Messages**

Code	Error Message
<b>Transmission Level Errors</b>	
1	<b>“TRANSMISSION REJECTED: INVALID TENHR DATE/TIME”</b> Condition: This message is generated only for an invalid date/time in the TENHR. Processing resumes at the next TRACSMail header.
9	<b>“TRANSACTION RELEASE/VERSION NUMBER IS INVALID”</b> Condition: The MAT transaction contains a Release/Version Number that TRACS does not recognize as current. The complete transaction is rejected.
<b>MAT Tenant System Errors</b>	
3	<b>“MISSING BAD RECORD, SECTION 2, FOR MAT 10”</b> Condition: There must always be a basic record, Section 2, following a MAT 10 Section 1 record. All sections for this 50059 are rejected.
G	<b>“MAT 10 REJECTED: MISSING HEAD OF HOUSEHOLD IN FAMILY RECORDS”</b> Condition: One family member must have an “H” coded in Section 3 FIELD #7, Relationship Code, and “01” coded in Section 3 Field #3, Member Number. All sections for this MAT 10 are rejected.
<b>MAT Voucher/Payment System Errors</b>	
V7	<b>“MAT 30 REJECTED: MAT 30 SECTION RECORDS ARE OUT OF SEQUENCE”</b> Condition: MAT 30 Sections were not in the following order: 1, 2, 5, 6. All sections for this MAT 30 are rejected.
VO	<b>“MAT 30 REJECTED: A COUNTER MAT 30 SECTION 1 IS INCORRECT”</b> Condition: The count of Summary, Approved Special Claims, and Miscellaneous Accounting records in the MAT 30 Section 1 count fields does not equal the MAT calculated count. All sections for this MAT 30 are rejected.

4. The MAT system sends data that have passed the initial MAT edits to the TRACS database. TRACS further reviews the data for validation. Data collected and stored in TRACS undergo further edits to ensure consistency with data already in TRACS and criteria relating to accuracy and compliance with eligibility rules.

5. The sender of data will receive an error message from TRACS via TRACSMail when errors exist. The sender of data must correct the errors and resubmit the data for validation within the appropriate timeframe.
  - a. The MAT System identifies three categories of errors: field errors, mandatory errors, and format errors. Field errors denote data that failed data-type or date validation edits. Mandatory errors indicate data that contain inappropriate spaces, zeros, or incorrect values. Format errors represent record counts in the MAT transmission header or MAT 10 header records that did not equal the MAT calculated counts, or instances where the sequence numbering for the file is inconsistent.
  - b. The sender of data must attempt to correct all MAT and tenant errors prior to the end of the voucher filing period. Errors requiring retransmission must be corrected before the data are resubmitted to TRACS. Once a transmission is validated through MAT, the transmission is forwarded to TRACS to be checked against appropriate program-eligibility criteria.
  - c. TRACS processing compares the tenant and voucher data with the business rules for the associated subsidy program, confirms completeness of submitted information, and reviews calculations for accuracy. TRACS generates three categories of error messages: fatal error messages, discrepancy messages, and informational messages.
  - d. Error messages returned to the sender via TRACS Mail contain brief control and status messages and provide guidance on additional actions required. See Figure 9-6 for sample TRACS message transmissions. TRACS Discrepancy Code Tables are detailed in the MAT User's Guide. Additional information on TRACS error messages and appropriate follow-up actions can also be found in the Industry User Guide for TRACS Internet Applications.
6. The sender will receive an acceptance message when TRACS accepts the data via TRACSMail and the submission is complete.
7. The tenant/contract/voucher data stored in the TRACS database is available to authorized users for on-line viewing/updating and retrieval of voucher and certification information. Users should refer to the "Industry User Guide for TRACS Internet Applications" for detailed information to assist them in accessing and using the Voucher Query or a number of tenant queries. For additional information, refer to the Industry User Guide at <http://www.hud.gov/offices/hsg/mfh/trx/trxngde.cfm>.

**Figure 9-6: Sample TRACS Message Transmissions**

<b>@*@ TRACM00098TRACM00098</b>	
User Defined:	00065
Project Name:	PINECREST
Project No.:	24755316
Contract No.:	CA30M000001
Unit No.:	106
SSN:	399369712
Name:	WASHINGTON, REBECCA
Tenant No.:	106C
Effective Date:	2001-10-01
<b>Fatal Error:</b>	<b>F0145</b>
CERT EFFECT DATE MUST BE UNIQUE OR BASELINE "Y" OR ACTION PROCESS CODE "1"	
<b>@*@ TRACM00098TRACM00098</b>	
User Defined:	00098
Project Name:	PINECREST
Project No.:	13644205
Contract No.:	CA30M000121
Unit No.:	100
SSN:	565883719
Name:	COLE, KENNETH
Tenant No.:	101C
Effective Date:	2001-06-01
<b>Discrepancy:</b>	<b>CE004</b>
Action Required:	3
INTERIM EFFECTIVE DATE IS PRIOR TO PREVIOUS EFFECTIVE DATE	
REPORTED EFFECTIVE DATE = 000000020010601	
REPORTED PRIOR EFFECTIVE DATE = 000000020011101	
VERIFY EFFECTIVE DATE OF THIS CERTIFICATION	
<b>@*@ TRACM00440TRACS00440</b>	
User Defined:	0003678
Project Name:	HOLIDAY HEAVEN
Project No.:	059685012
Contract No.:	
Unit No.:	D9
SSN:	223626782
Name:	VAUGHAN, SARAH
Tenant No.:	
Effective Date:	2001-06-01
Informational:	UA020
MAT10 SUBMITTED FOR AN OCCUPIED UNIT ADDRESS	
Reported Head Id:	223604832
Occupying Head Id:	224356673

**D. Record-Keeping Requirements for 50059 Data and Vouchers**

1. Owners must keep the signed 50059 facsimiles 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.
2. Owners must keep a signed paper copy of the subsidy vouchers for at least five years after HUD/Contract Administrator action.

**9-8 Correcting Discrepancies and Resubmitting Information**

- A. This paragraph identifies resources for correcting common errors and resubmitting the information to TRACS for final validation.
- B. Refer to Figure 9-7 for guidance on understanding and solving payments 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 9-7: Guide to Understanding and Solving Payments Error Messages**

<b>How to Obtain a Copy of the MAT Guide</b>
<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 Guide can be obtained by accessing the TRACS website at <a href="http://www.hud.gov/offices/hsg/mfh/trx/trxsum.cfm">http://www.hud.gov/offices/hsg/mfh/trx/trxsum.cfm</a>. Click the link to TRACS Documents and follow the instructions provided. Contact the HUD Multifamily Help Desk TRACS Hotline toll-free at 800-767-7588 with questions or problems.</p>
<b>Formatting Resources</b>
<p>If you need help correctly formatting a MAT record, 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 TRACS 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>
<b>Error Message Basics</b>
<p>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.</p>

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- C. If TRACS finds errors in the transmission, TRACS will send the sender an error message via TRACSMail.
  - D. Senders must correct errors before the data can be resubmitted to TRACS.
    - 1. Format errors, such as field format and missing mandatory data, affect the specific record or field in error. Other errors affect the entire transmission to the sender.
    - 2. Depending on the type of errors found, all or part of the transmission is rejected and an error report is made available to the owner for correction and resubmission of data via TRACSMail.
  - E. Resubmissions with corrected data follow the same procedure as the original submission.
  - F. Owners must attempt to correct all MAT errors and tenant errors prior to the end of the voucher filing period.
    - 1. The following TRACS Tenant Discrepancy Action Required Codes indicate the submission procedures for corrections.
      - a. 01 – Owner must submit correction within 45 days; these errors generally affect the assistance payment calculation.
      - b. 02 – Owner must submit correction on the next submission and/or certification.
      - c. 03 – Informational message; may or may not require correction.
      - d. 04 – Follow-up required. (For Field Office use only.)
      - e. 05 – Discrepancy exists between data submitted to TRACS and Social Security information for the tenant.
    - 2. Discrepancy data are stored in the TRACS database with the certification data as historical data. The record with corrections, the historical data, and the corrected information are loaded into the database. Transactions rejected by the MAT subsystem or rejected as fatal errors by TRACS are not stored in the TRACS database. Fatal errors must be corrected and resubmitted.

## 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 to use in interpreting and correcting error messages. 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. TRACS Information Packet is intended to assist in the data collection for TRACS: <http://www.hud.gov/offices/hsg/mfh/trx/trx500.cfm>
  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>
  3. 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>
  4. TRACSMail User's Manual walks owners through the process of installing and implementing TRACSMail. The document includes hardware and software standards and e-mail recommendations. It helps owners verify the information and requirements for creating MAT files, and it details the process to set up dial-up networks, e-mail installation and profiles, and connections to TRACSMail: <http://www.hud.gov/offices/hsg/mfh/trx/trxdocs.cfm>
  5. Owners also have the option of contacting the TRACS 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 TRACS hotline number, which is 800-767-7588.

- a. The TRACS hotline uses the MAT User's Guide to identify the mandatory field and format errors. The TRACS 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 TRACS 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.
6. TRACS 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 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 A 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 assistance; and
2. Section 221(d)(3) BMIR properties without assistance.

### 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 or that pertains to a contract administered by a non-performance based Contract Administrator paid through HUDCAPS, the voucher information is stored in TRACS and is not transmitted to the Line of Credit Control System (LOCCS).

2. A form HUD-52670, *Housing Owner's Certification and Application for Housing Assistance Payments*, or a facsimile of form HUD-52670 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 the signed form HUD-52670-A part 1, *Schedule of Tenant Assistance Payments Due* or a facsimile of form HUD-52670-A part 1 and forms HUD-52671-A through D, *Special Claims Worksheets* (if applicable), as supporting documentation.
3. A facsimile of the 50059 data requirements effective in the voucher month, with the original signature of the head, spouse, co-head, and all adult family members 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.
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 move-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.

**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 Contractor Administrator.

1. To secure payment, owners must complete forms HUD-52670 and HUD-52670-A part 1 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. The owner must submit all of the information requested on these forms electronically to TRACS, as described in Section 1 of this chapter.
3. The owner must supply the following information from form HUD-52670:
  - a. Contract information.

- (1) The property name as it appears on the assistance contract;
  - (2) FHA/EH number. For all Section 202 and Section 811 projects use the 8-digit project number;
  - (3) Section 8, PAC, or PRAC contract number. For properties with any type of Section 8 assistance, a PAC contract, or a PRAC contract, the owner should include the 11-digit contract number;
  - (4) Type of subsidy;
  - (5) Managing agent's name;
  - (6) Employer Identification Number (EIN); and
  - (7) Payee's name and address.
- b. Occupancy information.
- (1) Total units covered under the assistance contract;
  - (2) Number of units currently receiving tenant-based subsidy;
  - (3) Number of vacant units; and
  - (4) Number of units that are occupied by market-rate tenants.
- c. Information requirements for pre-1981 universe properties.  
Owners of properties with Section 8 contracts that became effective before October 1, 1981, must provide the information requested on form HUD-52670-A.
- d. Information requirements for post-1981 universe properties.  
Owners of properties with Section 8 contracts that became effective on or after October 1, 1981, must provide, in addition to the information requested on form HUD-52670-A, the following information:
- (1) Project-based exceptions in use;
  - (2) Project-based exceptions allocated; and
  - (3) Tenant-based exceptions in use.
- e. Other information.
- (1) Voucher month for which the owner is requesting the assistance;

- (2) The number of units for which each type of payment is requested; and
- (3) The total amount the owner is requesting from HUD.

#### 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. If the difference between the monthly operating rent potential and TTP for all units covered by the assistance payment contract is a negative amount, then the owner must deposit this amount into the property's Residual Receipts account on a monthly basis.

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

Owners are entitled to 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., \$1.645 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:	\$11.8275 = \$11.83 (daily assistance is rounded to the nearest \$0.01)
Multiply by the number of days the tenant actually lived in the unit:	17
Assistance earned by the owner:	\$201.11
Round to the nearest dollar:	\$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:	\$11.2903 = \$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. A Unit Transfer may involve two adjustment calculations. The end of subsidy 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 subsidy in the new unit (Unit Transfer-In) is as of the effective date of the unit transfer.
  - b. All adjustments are done from the effective date of the certification action forward to the earlier of the following:
    - (1) The date of the voucher on which the adjustment is being reported; or
    - (2) The effective date of the next certification in the historical chain of certifications.
  - c. 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 calculate the adjustment(s) related to that certification(s).
  - d. On the voucher, report each adjustment calculated. Do not simply report a grand total adjustment related to the action causing the adjustment. Reporting each adjustment calculated will result in a detailed audit trail for Contract Administrators and HUD.
  - e. Calculate daily subsidy by dividing by the number of days in a month.
  - f. Round the daily subsidy to the nearest \$0.01.
  - g. If an action generates an adjustment involving two partial months, each partial month adjustment would use the daily subsidy

calculated using the number of days in that month. An adjustment could use two different daily rates.

**F. Certifications Required of the Owner**

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

1. All of the required information was reported to HUD.
2. The information provided by the owner was true.
3. Assistance payments, recertifications, and special claims are computed accurately.
4. The owner has met all of the requirements in the assistance contract.
5. All required unit inspections have been completed (i.e., move-in and move-out).
6. All assisted units are in a decent, safe, and sanitary condition.
7. The owner has not previously billed for or received the assistance payments requested in the current voucher.
8. 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).
9. 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.
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 45 business days of receipt of that 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 a copy of the appropriate signed and dated claim forms will be sent to the owner.

**NOTE:** The owner is not entitled to vacancy payments for the period following occupancy by a police officer or security personnel.

3. Unacceptable claims (e.g., not allowed, or unsupported) will be marked as denied, along with a brief explanation in writing, and returned to the owners. If a claim is denied or reduced, the owner will be notified in writing of the reason(s) for denial, and of the right to appeal the decision. This letter will include 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 days of the receipt of the denied or reduced claim. The appeal should include a brief explanation as to why the claim should be paid, along with any new or additional supporting documentation. HUD will process the appeal within 30 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.
6. If HUD is not paying assistance for a household, the owner is not eligible for special claims.

### B. Claims for Unpaid Rent and Tenant Damages

1. Who may bill HUD for unpaid rent and tenant damages? Owners may file a claim for unpaid rent and tenant damage claims for Section 8, Section 202 PAC/PRAC, and Section 811 PRAC units.
2. Key requirements.
  - a. The owner must have collected from the tenant the maximum allowable security deposit in order to file a claim. If the owner has agreed to accept the security deposit on an installment basis and

the tenant moves out before the entire security deposit is collected, the unit is not eligible for special claims payment.

- b. HUD's liability is limited to the contract rent in effect when the tenant vacated the unit minus (1) the security deposit plus accrued interest and (2) any money collected from the tenant to cover the unpaid rent and damages.
  - 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. Owners must provide evidence that the tenant was billed for unpaid rent and/or damages and that 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.
  - 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 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).

**NOTE:** Although the claim form HUD-52671-A does not appear to accommodate it, amounts claimed for “other charges due under the lease” may be grouped with unpaid rent on this form.

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. HUD or the

Contract Administrator must approve the claim prior to payment. Claims should be submitted only after the claim period has ended. Owners may not submit both a request for special claim and a request for reimbursement from the Reserve for Replacement account for the same item.

b. The owner must submit the documentation to HUD or the Contract Administrator. The submission must include:

- (1) Form HUD-52671-A, showing the calculation of the claim amount; and
- (2) Evidence that reasonable steps were taken to collect the debt from the tenant:

Certified letter to tenant detailing the unpaid rent and other charges, the disposition of the security deposit, a demand for payment, and notice to the tenant that failure to pay the sums due will result in the owner/agent hiring a collection agency to collect the debt.

Documentation that the appropriate security deposit was collected from the tenant. A copy of the original lease will show the amount of the security deposit collected at move-in. To document that the correct amount was collected, the owner must submit a copy of the signed 50059 facsimile completed at move-in.

Documentation that the matter was turned over to a collection agency for collection and that the collection agency has attempted to collect the debt (i.e., a copy of the agency's first demand letter).

c. HUD or the Contract Administrator will:

- (1) Confirm that the owner submitted the required documents with the claim;
- (2) Confirm that tenant data exists in TRACS;
- (3) Review the calculation; and
- (4) Confirm that the appropriate security deposit was collected from the tenant.

d. If the review results in a reduction or denial of the claim, HUD or the Contract Administrator will notify the owner and give the owner the opportunity to submit additional documentation to support the claim.

- e. If the claim is approved, it will be assigned a processing number and a claim ID number, marked as approved, and returned to the owner. HUD or the Contract Administrator will maintain a copy of the approved form with supporting documentation.
- f. 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.

### C. **Special Claims for Vacancy Losses During Rent-Up**

1. Who may bill HUD for vacancy losses during rent-up? Only owners of Section 8, Section 202 PAC/PRAC, and Section 811 PRAC units may submit a claim for vacancy losses during rent-up.

**ELIGIBILITY EXCEPTION:** Loan Management Set-Aside, Part 886, Subpart A – Additional Assistance Program for Projects with HUD-insured and HUD-held mortgages are not eligible for vacancy loss recovery during rent-up.

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. Owners 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. Exceptions are as follows:
  - (1) Part 883, State Housing Agencies. In the case of substantial rehabilitation, owners must commence marketing 60 days prior to the anticipated date of initial occupancy.
  - (2) Part 884, 515 Rural Housing Projects. The owner must notify HUD of any units that may be vacant on the effective date of the contract 30 days prior to the established completion date and periodically thereafter.
- c. Owners 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.

- e. Applicants may not be rejected, except for good cause acceptable to HUD or the Contract Administrator.
  - f. The owner must submit a list of units leased and unleased as of the effective date of the assistance payment agreement or assistance contract, with justification for the unleased units.
3. Calculating the claim amount. Owners must use form HUD-52671-B to calculate the claim amount.
- a. The claim period begins on the earlier of the effective date of the contract or the date of permission to occupy.
  - 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 811 PRAC and Section 202 PRAC 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.
  - b. The owner must submit the documentation to HUD. The submission must include:
    - (1) Signed and completed claim form HUD-52671-B;
    - (2) A list of all units leased, and available for lease as of the effective date of the contract, including justification for the available units;
    - (3) Evidence that marketing began not less than 90 days prior to initial occupancy including:

Copies of advertisements or invoices for advertising expenses substantiating that date; and

Copy of the waiting list.
    - (4) 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

- (5) Copies of letters to rejected applicants demonstrating rejection for good cause.

**NOTE:** Owners need not submit, but must retain in the project's file, evidence of all feasible outreach methods used to establish and maintain the waiting list, such as newspaper advertisements, and fliers.

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;
- (6) Return approved or unapproved claims to owners; and
- (7) File a copy of the approved form along with supporting documentation.

**D. Claims for Vacancy Losses After Rent-Up**

1. Who may bill HUD for vacancy losses? Owners may file a vacancy loss claim for Section 8, Section 202 PAC/PRAC, and Section 811 PRAC units.
2. Key requirements. These requirements pertain to vacancy losses that occur after rent-up. Subparagraphs C and E address vacancy loss during rent-up and debt service losses.
  - a. The maximum vacancy period for each vacancy claimed is 60 days, beginning with the day the unit was ready for occupancy.

- b. 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.
  - c. Claims must be submitted after the move-out/move-in dates have been submitted to TRACS. Viewing this data in TRACS will serve as notification to the Reviewing Office of the vacancy. (The move-in date will not apply if the unit is still vacant when the claim is filed.)
  - 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 acceptable to the Reviewing Office.
  - g. The owner may not cause the vacancy by violating the lease, the contract, or any applicable law.
  - h. The owner must comply with all HUD requirements on termination of tenancy listed in paragraph 8-5, if the vacancy was caused by an eviction.
  - i. 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. Use form HUD-52671-C to calculate the claim amount.
- 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.

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- 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.
  - f. Security deposits are applied only if the tenant failed to give proper notice as required under the lease.
  - g. Total claims must be reduced by any amounts the owner has collected from other sources.
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 documentation to HUD or the Contract Administrator. The submission must include:
    - (1) Forms HUD-52670-A part 2, and HUD-52671-C, showing the calculation of the claim amount;
    - (2) Documentation of 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);
    - (3) Copy of the reconditioning unit log or other maintenance record showing the move-out date, start and finish of each process, date the unit was ready for occupancy, and date the unit was rerented; and
    - (4) If either the move-out or move-in is a tenant transferring from another unit, the claim period is limited to 60 days for all units involved in the transfer. The owner must submit the following information relating to the tenant transfer:
      - Documentation stating the reason for the transfer to another unit; and
      - Evidence the security deposit was transferred, or a new security deposit was secured.

- c. HUD or the Contract Administrator will:
- (1) Confirm that all required documents are submitted with the claim and are signed appropriately;
  - (2) Confirm that tenant and move-in and move-out data exist in TRACS;
  - (3) Review all calculations on form HUD-52671-C for accuracy;
  - (4) 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;
  - (5) Return approved or unapproved claims to owners; and
  - (6) File a copy of the approved form along with supporting documentation.

**NOTE:** If the waiting list is closed, it is not necessary to review the owner marketing and outreach methods.

#### E. Special Claims for Debt Service Losses

1. Who must approve claims? Performance-Based Contract Administrators (PBCAs) will not review or approve special claims for debt service payments. PBCAs do not have oversight responsibility for the financial integrity of the projects that they monitor and are not in a position to evaluate these claims. Therefore, the appropriate HUD office will have responsibility for the review and approval of any debt service special claims from properties assigned to a PBCA. HUD will, in turn, forward the results of its review to the owner, who will forward the results to the PBCA for information and further processing as necessary.
2. Who may bill HUD for debt service claims? Only owners of Section 8 units (except Section 8 LMSA) and Section 202 PAC units may bill HUD for debt service claims. Section 202 PRAC and Section 811 PRAC properties are not eligible for debt service claims.
3. Key requirements.
  - a. Units must have been vacant for over 60 days. Owners may not receive both vacancy and debt service payments for a unit at the same time. Therefore, a unit is not eligible for debt service payments until the 60-day vacancy period has passed.
  - b. Claims are limited to 12 months.

- c. 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.
- d. Units must be in decent, safe, and sanitary condition and available for occupancy during the vacancy period for which the payments are claimed.
- e. Owners must certify that all appropriate actions are being taken to market and fill the vacant units.
- f. Projects must show a net operating loss on an unaudited financial statement.

**NOTE:** Depreciation and owner expenses cannot be included in this statement.

- g. 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 may request a claim for the lesser of the following:
- a. The amount of the amortized principal and interest payments attributable to the vacant unit(s). Form HUD-52671-D must be used to calculate this amount.

**NOTE:** Daily debt service is found on Exhibit 2 of the HAP Contract.

- b. 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) Form HUD-52671-D, showing the calculation of the claim amount;
  - (2) Unaudited financial statement, covering a six-month period for which claims are made; and
  - (3) Written narratives detailing the items below:

Causes of the vacancies;

Causes of the financial problems;

Actions taken to correct the financial condition and to prevent recurrence; and

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) Confirm that tenant and move-in and move-out data exist in TRACS;
- (3) Review all calculations on form HUD-52671-D for accuracy;
- (4) Confirm that the owner will not receive both vacancy and debt service payments for the same period for the unit(s) in question;
- (5) Review the property's audited or unaudited financial statement to confirm that the property has not provided the owner with sufficient revenue to cover expenses less depreciation, (i.e., the property must show a net operating loss);
- (6) 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;
- (7) Return approved or unapproved claims to owners; and
- (8) 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.

**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 either the HUD-

approved unassisted basic rent or the new authorized rent under the Section 8 Mark-Up-To-Market Program. 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 10<sup>th</sup> 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;

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- (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.