HUD MODEL LEASES
QUESTIONS AND ANSWERS

Question 1: What is the definition of a HUDCLIPS lease?

Answer 1: A HUDCLIPS lease is any one of the OMB approved four model leases obtained by going to www.hud.gov/hudclips and either printing a hard copy of the lease directly from HUDCLIPS and writing or typing in the information required to be filled in by the owner/management agent (O/A) or using the form fillable lease on HUDCLIPS, when available.

Question 2: What information must be included on the OMB approved lease?

Answer 2: The answer depends on how the O/A produces the OMB approved lease. If the O/A uses TRACS software or other purchased computer software, then the OMB approved lease must contain the public reporting burden language, the HUD form number and form approval date. If the O/A uses the HUDCLIPS lease it will automatically contain the OMB approval number, OMB expiration date, HUD form number and form approval date.

Question 3: When must owners/agents (O/As) start using the OMB approved model leases?

Answer 3:

Leases Generated by TRACS Software or Other Purchased Computer Software

- Without HUD/CA Approved Modifications
    - New Tenants – O/As do not have to use the OMB approved lease until the earlier of the software being updated to the computer generated OMB approved leases, or HUD issues revisions to the lease language. The computer-generated leases do not need to include the OMB approval number or the OMB expiration date.
    - Existing Tenants – Existing tenants will remain on the lease they originally signed unless they are required to sign a new lease in instances such as when the tenant moves to a new unit or when HUD issues modifications to the lease.
- With HUD/CA Approved Modifications
    - New Tenants – O/As may continue using these leases until such time as HUD issues modifications to the language in the leases. Once HUD issues modifications to the language in the leases, the O/A must begin using the OMB approved leases, which will contain

the HUD modifications. At that time, any O/A modifications to the lease will have to be moved to a lease addendum (see Question 20).

- Existing Tenants – Existing tenants will remain on the lease they originally signed unless they are required to sign a new lease in instances such as when the tenant moves to a new unit or when HUD issues modifications to the lease.

HUDCLIPS Lease

O/As using the HUDCLIPS lease by going into HUDCLIPS from their computer and either printing a hard copy of the lease directly from HUDCLIPS and writing or typing in the information required to be filled in by the O/A or using the form fillable lease on HUDCLIPS, when available, must begin using the OMB approved lease now for new admissions.

Question 4: If the O/A's TRACS or other purchased software was already updated to include the OMB approval number and OMB expiration date prior to notification that this information was not required and the leases were issued to tenants, will the O/A have to re-issue the leases when the OMB expiration date expires and a new OMB expiration date is approved?

Answer 4: No, the OMB approval number and OMB expiration date are not required to be on leases generated by TRACS or other software purchased by the O/A. Therefore, the O/A would not need to re-issue leases to the tenants when the OMB expiration date expires and a new OMB expiration date is approved as posted on HUDCLIPS.

Question 5: Does the public reporting burden language have to be included at the end of the lease or can it be removed?

Answer 5: When updating TRACS or O/A purchased software, the OMB approved lease must include the public reporting burden language, HUD form number and form approval date. OMB has given HUD approval not to include the OMB approval number or OMB expiration date on leases generated by TRACS or O/A purchased software. The HUDCLIPS lease (see Question 1 for definition) will automatically include the OMB approval number, OMB expiration date, public reporting burden language, HUD form number and form approval date.

Public Reporting Burden language that must be included on all OMB approved leases:

"Public reporting burden: HUD is not requesting approval of any burden hours for the model leases since use of leases are a standard business practice in the

housing rental industry. This information is required to obtain benefits. The request and required supporting documentation are sent to HUD or the Contract Administrator (CA) for approval. The lease is a contract between the owner of the project and the tenant(s) that explains the terms for residing in the unit. Leases are a standard business practice in the housing rental industry. Owners are required to use the HUD model lease which includes terms normally covered by leases used in the housing rental industry plus terms required by HUD for the program under which the project was built and/or the program providing rental assistance to the tenants.

This information is authorized by 24 CFR 5.360, 236.750, 880.606, 883.701, 884.215, 886.127, 891.425 and 891.765 covering lease requirements and provisions. This information is considered non-sensitive and does not require any special protection."

Question 6: If the tenant has initially fulfilled the 1-year lease requirement, must he/she fulfill this requirement again or does the month-to-month lease term apply?

Answer 6: If the tenant has fulfilled the 1-year lease requirement, the month-to-month lease term will apply.

Question 7: Most Section 8 programs require a minimum lease term of one year. We have always computed this as starting on a date and ending the day before, one year later. A lease starting on January 1st would end on December 31st. However, the lease instructions in Appendices 4 E and G state that the term would end on the "same day one year later". I do not believe that to be correct and there are PBCAs using that guidance to cite non-compliance on MORs. Is there a clarification on this?

Answer 7: The definition for the initial term of the lease in the instructions in Appendices 4 E, F and G is being revised to twelve calendar months beginning at any point, e.g., beginning January 1 and ending December 31; or beginning May 1 and ending April 30. O/As may use this definition when completing the initial term section of the lease.

Question 8: How should the lease term be completed when the tenant has fulfilled the initial one-year term and is now on a month-to-month lease?

Answer 8:

A. HUD Model Lease for Subsidized Programs, Form HUD-90105-a, paragraph 1 should be completed by inserting the beginning and ending day of the month the lease is issued to the tenant. The "initial" term in this case is for one month. The successive term would be for one "month". For example, if the lease were issued on July 1, 2008, paragraph 1 would read as follows:

1. The initial term of this Agreement shall begin on July 1, 2008 and end on July 31, 2008. After the initial term ends, the Agreement will continue for successive terms of one month each unless automatically terminated as permitted by paragraph 23 of this Agreement.

B. HUD Model Leases for Section 202/8 or Section 202 PACs, Section 202 PRACs and Section 811 PRACs, HUD Forms 90105-b, c and d, respectively, will require a lease addendum modifying paragraph 1 of the leases indicating the month-to-month lease term. If the addendum only includes modification to paragraph 1 of the lease, the addendum does not have to be approved by HUD/CA. See Question 20 for additional information on modifications to the lease that were previously approved by HUD/CA.

Question 9: If an O/A has the lease translated to a different language used for reference purposes, should the alternative language lease include any reference to the OMB number, OMB expiration date and public reporting burden information or is the OMB information on the executed, English version of the lease sufficient?

Answer 9: The OMB information would only be included if the leases were translated and issued by HUD. Translated leases that are not issued by HUD must not include the OMB information. The executed English version would be the only lease required to have the appropriate OMB information, depending on how the lease is generated (i.e., TRACS software/other purchased computer software or HUDCLIPS produced).

Question 10: Most of our tenant population is Spanish speaking, do we have to use the English version of the OMB approved lease or can we use a Spanish version of the lease?

Answer 10: Residents who speak Spanish should be provided the lease that has been translated to Spanish in order for them to read and understand the lease provisions. However, the official, signed copy is the English version of the lease.

Question 11: All of the leases have blanks that are to be completed by the O/A. Can these blanks be completed within the leases themselves or must the information be placed on a lease addendum?

Answer 11: Wherever there is a blank within the lease that needs to be completed by the O/A, the O/A may complete the blank fields within the leases themselves in accordance with Appendices E, F and G of Handbook 4350.3 REV-1, *Occupancy Requirements of Subsidized Multifamily Housing Programs*.

Question 12: When an O/A modifies the lease using an approved lease addendum, should the OMB information be included on the addendum?

Answer 12: No, the OMB approval number, OMB expiration date, public reporting burden, HUD form number and form approval date should not be on the addendum.

Question 13: Since the leases now have an expiration date, does that mean the leases cannot be used in perpetuity?

Answer 13: If the O/A is using the lease generated by their TRACS or other purchased computer software, the OMB approval number and the OMB expiration date are not required to be on the lease thereby eliminating the need to re-issue leases.

If the O/A is using the lease directly from HUDCLIPS (see Question 1, above), the O/A will be required to use the lease with the new OMB expiration date for new tenants and when a new lease needs to be issued to an existing tenant for any reason (e.g., tenant moves to a different unit).

Question 14: Can the size of the font be increased or decreased, the font style changed, formatting corrected, misspelled words corrected, etc.?

Answer 14: The text/words and overall format of the leases must be identical to the OMB approved leases. However, O/As may correct typographical errors, such as errors in spelling; change font size and style; correct formatting, if needed; make the margins wider or narrower; and, re-paginate pages.

Question 15: Does the HUD form number and form approval date have to be included on the lease?

Answer 15: On leases generated by TRACS software or other software purchased by the O/A, the OMB approval number and OMB expiration date does not have to be on the leases. On the HUDCLIPS lease, it must remain as printed out directly from the HUDCLIPS website.

Question 16: Can the Fair Housing logo be included in the footer to the lease?

Answer 16: Yes

Question 17: Can the O/A transfer the model lease to his/her letterhead in order to provide company name, address, telephone numbers, etc. to ensure that legal requirements are met?

Answer 17: No, O/As should not transfer the OMB approved lease to his/her letterhead. If more information is needed relative to the location of the company, telephone numbers, etc. a cover page can be added to the lease.

Question 18: The Section 202/8 or Section 202 PAC, Section 202 PRAC and Section 811 PRAC leases do not have a field for the unit number? Can a unit number field be added?

Answer 18: No. As stated in the instructions for completing the leases (Appendices 4-F and 4-G) the field in paragraph 1 with the alphabetical letter "D" states: Enter the dwelling unit number and name of the project. Paragraph 1 of the leases would read: "The LANDLORD leases to the TENANT, and the TENANT leases from the LANDLORD dwelling unit in the project known as Unit 205, U.S.A. Apartments....."

Question 19: If an O/A has an elderly property requiring the use of the HUD Model Lease for Subsidized Programs and has incorporated into the lease the pet language from the Section 202/8 lease can this language be incorporated into the OMB approved lease?

Answer 19: No. The language will have to be incorporated into the OMB approved lease by use of a lease addendum. As long as the language was incorporated into the lease previously and is the identical language that is in the Section 202/8 lease, the addendum will not have to be approved by HUD/CA.

Question 20: If an O/A has modified the lease to be in compliance with state law and the modifications have been approved by HUD/CA, can the O/A incorporate the approved modifications into the lease with the OMB information?

Answer 20: No. Any modifications to the OMB approved lease must be incorporated with the use of a lease addendum. However, O/As may continue using the 5/2003 lease or the 5/2003 lease with the 6/2007 page changes **and** where the lease has HUD/CA approved modifications until such time as HUD issues modifications to the language in the leases (see Question 3, above).

Lease modifications approved by HUD/CA, will not have to be approved again when moved to the lease addendum as long as there is no change in the previously approved modification language. Any new modifications or modification language changes must be approved by HUD/CA.

Question 21: What do we do with properties using leases provided by the contract administrator (CA)? Some states have significantly different lease requirements and CAs have developed leases that O/As are required to use. Will the CAs instruct the O/As to use the HUD model leases and the CA will then provide an approved lease addendum?

Answer 21: O/A should be using the HUD model leases and not leases developed by CAs. HUD model leases that have been modified to include state requirements must have the state requirements incorporated by use of a lease addendum. Whether or not the CA will provide the approved lease addendum or whether it will be up to the O/A to develop, we cannot answer. Normally it is the O/A's responsibility to ensure that the lease is in compliance with state laws.

However, for projects financed by a State Agency and under the jurisdiction of a Traditional Contract Administrator (TCA), the O/A will continue to use the lease provided by the State Agency as addressed in paragraph 6-5 A.2 of Handbook 4350.3 REV-1, *Occupancy Requirements of Subsidized Multifamily Housing Programs*.

Question 22: The HUD model leases for Section 202/8 or Section 202 PAC (paragraph 16) and Section 202 PRAC and Section 811 PRAC (paragraph 14) contain some optional language the O/A can elect to include in the lease. If the O/A elects not to use this language, can this optional paragraph be removed from the lease they use?

Answer 22: If the O/A elects not to use the optional language, the optional language can be removed from the OMB approved lease. If the O/A elects to use the optional language, the word "Optional" can and should be removed at the beginning of the paragraph.