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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

SEP 9 2005

MEMORANDUM FOR: All Multifamily Hub Directors
All Multifamily Program Center Directors
All Multifamily Operation Officers

FROM: for Reba L. Cook
Charles H. Williams, Acting Deputy Assistance Secretary for
Multifamily Housing Programs, HT

SUBJECT: Multifamily Disaster Clarification of Notice H 04-22 and
Additional Guidance

This memorandum is to provide field offices with HUD's specific response to questions related to Hurricane Katrina based on the general guidance set out in Notice H 04-22, "Disaster Recovery Guidance by Multifamily Housing after a Presidentially-Declared Disaster". It also covers some additional useful information.

In the Background discussion of the Notice, we state: "The Department will rely upon FEMA eligibility determination." For the Katrina disaster, we recognize that displacees are scattered widely, FEMA lines are busy, and all assistance offices have not been set up yet; all of which makes getting an eligibility certification from FEMA nearly impossible.

In lieu of the FEMA certification, until further notice from Headquarters, the owners should require documented identification that the applicant lived in the declared county AT THE TIME of the disaster. The disaster county listing is available on the FEMA Website at http://www.fema.gov/news/disasters.fema. The documentation should include one or more of the following:

- A drivers license or other picture ID with an address;
- Utility bills;
- In lieu of the above, tenants may have received an application number from FEMA, but have not yet received a letter of eligibility from FEMA; or
- The property owner should get verification of address, date of birth information, etc., from a credit agency.

Owners verify prospective tenants all the time. While we prefer having the FEMA determination of eligibility, the owners can use their judgment until further notice from Headquarters.

Owners should amend their leases to state that the tenants are certifying that they are eligible for assistance according to Notice H 04-22. If the tenant was found to have lied they can be evicted.

In the case of a Section 8 tenant who wants to transfer temporarily, we can be certain of eligibility as the owner of the off line unit must be party to the transfer so they will know the tenant is indeed eligible.

Right of Return – Tracking Displaced Tenants

- Displacees of the Katrina disaster have been widely dispersed in temporary housing in mass shelters and other temporary housing. Once their former unit is ready for re-occupancy, it may be difficult to contact these tenants as they have a right to return; owners should make a major effort to locate their tenants as soon as possible so they can notify them when their units are again habitable. Owners should encourage their tenants to keep them informed of their whereabouts at all times.

REAC Inspections and Management and Occupancy Review (MOR)

- For Mississippi, Alabama, and Louisiana, REAC physical inspections have been postponed until further notice.
- For the affected Florida counties, inspections and MOR have been postponed until September 30, 2006.

MF-FASS

- Owners of multifamily properties who are required to file an annual financial statement (AFS) on or before September 30, 2005, may request an extension of up to 30-days to file their AFS. This extension request must be submitted electronically to REAC via the Multifamily Financial Assessment Subsystem (MF-FASS). Owners making such a request should provide their FEMA application number as well as a brief statement explaining why the extension is necessary. The extension may be extended further if necessary, based on the particulars of the case, and upon another request through REAC/FASS.

Vacant Units

- In multifamily properties secured by HUD-insured or HUD-held mortgages with no Section 8 assistance, individuals and families displaced as a result of Hurricane Katrina may be given priority over other applicants for temporary or permanent rental housing assistance.

- For Section 221(d) and Section 236 properties, displacees SHALL be given priority over any other applicants and moved to the top of any waiting list for temporary or permanent housing.

- In 202 loans and 202/811 capital advance projects, displacees may be given preference over tenants on the waiting list so long as the applicant meets all other eligibility requirements (age, etc.). For units designated for the disabled in 811 projects, owners may consider temporary disability caused by the disaster in determining eligibility for temporary rental housing. For permanent 811 rental housing, follow outstanding guidance to determine disability eligibility.

- In any 202/811 project that does not have a waiting list, and there is no immediate market for elderly families, vacant units may be made available for temporary housing for displacees (a Presidentially-declared disaster, that do not meet the elderly, disability or income requirements) on a property by property basis, only with a Headquarters waiver. The request for approval must meet outstanding program requirements.

- In a property, where there is Section 8 assistance, vacant units, (not presently receiving Section 8) can be made available to any displacee on a first come first served basis for temporary housing assistance. If a displacee is requesting permanent housing in that unit, they can be placed at the top of the waiting list if they meet all other program requirements, including income.

In Summary Relative to Vacant Units

- Notice H 04-22 asks owners to hold all vacant units to make them available for persons displaced from occupancy of housing. If a displacee requests consideration, the only requirement is that they must be displaced from their permanent housing, whether it be subsidized or unsubsidized, government related or conventional or whether they owned their permanent housing.

- In a 236 or 221(d), a displacee applicant must be given priority over other applicants or placed on the top of the waiting list for temporary or permanent housing.

- In 202/811 displacees can be placed on the top of the waiver list if they meet program requirements. To be housed at all in 202/811, they must meet statutory and regulatory requirements. Otherwise, a waiver is needed.

- It is recommended all owners put their policy into writing.

<u>Additional Information</u>

Security Deposits

- There are no changes relative to collecting security deposits for tenants renting permanent housing.

- Owners renting to tenants who were displaced by the disaster are encouraged to be understanding in negotiating temporary leases. Should an owner require a security deposit, state and local law prevails. However, HUD would appreciate it if owners would waive security deposit requirements for those tenants who are financially distressed. Owners can also consider a reduced deposit. Or, a payment plan would be acceptable.

Criminal Checks

- Owners must decide if they want to conduct a criminal check on tenants applying for temporary housing. Should an owner decide criminal checks are necessary, they must have a policy that is uniform and evenly administered.

Multifamily Secretary-held Mortgage Servicing

- Owners in the impacted areas as described by the Presidential declaration are encouraged to continue to operate normally and pay all expenses if income is stable. However, in the case of a Secretary-held mortgage, HUD is willing to forbear delinquent mortgages for the next 90 days. Owners should devote all available income to restoring the property, paying expenses such as utilities, security, trash removal, etc. We are interested in providing services and the restoration of units so that displaced tenants and the community can return to a normal state as soon as possible. HUD is willing to work with owners on a case-by-case basis if additional relief is needed.