

IREMS Number: _____ Date: _____

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Standard Work Punch List: Assignment of Section 8 Housing Assistance Payments (“HAP”) Contract

PART A – Initial Contact with Prospective Business Partner			
STEP	SOURCE DOCUMENT	ACTIVITY (check as appropriate)	KEY POINTS (to include Handbook reference/ML of other relevant official guidance on topic)
A1. Account Executive (AE) receives inquiry regarding a prospective transfer of ownership of a non-insured property with a Project-Based Section 8 Housing Assistance Payments (“HAP”) contract.	• Via Telephone Call • Via Email • Via letter	☐ Upon notification of proposed ownership change, AE must perform a complete review of IREMs information, Laserfiche, and project files regarding the specifics and current obligations of the property: • Current Owner and Management Agent • HAP information, renewal status and MAHRA obligations • Other grant restrictions such as Flexible Subsidy, Capital Repairs, Assisted Living Grants, etc. NOTE: If there is an active Service Coordinator Grant, collect a HUD 1044C, with the old owner information on the left column and new owner information on the right column--Signature is required on HUD 1044C by the old owner and the new owner at the bottom of the form. Forward to the Grant Specialist assigned to the state. • Asset Financial Statements and Auditor Notes, if available	Non-insured properties are not typically bound by a Regulatory Agreement, which restricts the transfer of physical assets (TPA). However, HUD does need to approve the new ownership entity (and new management agent, if necessary) for them to assume the responsibilities and benefits of a HAP contract. Account Executive’s should refer to procedures outlined in Exhibit 2 to ensure the new owner and agent have the capacity (experience) to manage the Section 8 contract and have no adverse previous participation (“flags”) in APPS. If a REAC inspection is stale/overdue in the excess of 12 months (outside of the 3-2-1 protocol), order a new inspection. If funding is not available, or if the new inspection is expected to be delayed, a newly completed CNA or other third-party report may be used. Ultimately, AE will need to determine that the owner’s due diligence on assessing the physical

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A2. AE sends introductory letter and checklist (Exhibit 2) to buyer		• Review recent Real Estate Assessment Center (REAC) physical inspection scores. The review should be twofold: 1. Assess stale/overdue REAC inspections; 2. review of last two REAC scores and identify if consecutive below 60 REAC scores have occurred. • Deed/Use Agreement restrictions • Reserve for Replacement and Residual Receipts requirements – Assess whether HAP Contract, or other HUD Requirement, requires the Owner to maintain a Reserve account. If yes, assess if Reserve for Replacement funds being maintained per HUD rules, and are adequate to make necessary repairs. If there is not a HUD requirement for a Reserve account, a Sources and Uses statement may be needed to assess Owner's ability or capacity for making necessary repairs. ☐ AE sends e-mail or letter to the requester regarding the initial inquiry and providing HAP Assignment Checklist (Exhibit 2). Advise owner to submit a fully complete package and follow checklist.	condition of the property was complete and agreeable to HUD rules and regulations.
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PART B – Initial Review of Prospective Business Partner’s Formal Section 8 HAP Contract Assignment Submission			
STEP	SOURCE DOCUMENT	ACTIVITY (check as appropriate)	KEY POINTS (to include Handbook reference/ML of other relevant official guidance on topic)
B1. AE receives formal proposal and documents and conducts a review of submission checklist of prospective business partner’s formal ownership Transfer and HAP Assignment request submission.	- Prospective business partner’s formal Section 8 HAP Assignment submission package and documents - HUD servicing file for property - HUD iREMS system database - Applicable HUD regulations, directives and applicable laws	AE reviews submission for completeness: ☐ Assignment, Assumption and Amendment Agreement Section 8 HAP contract (see Exhibit 1). AE must advise Owner to submit both a redlined version (against HUD original) of the Assignment and Assumption document to reflect changes, along with a clean version of the document.) NOTE: If there is a Performance Based Contract Administrator (PBCA) they are not required to execute the Assignment, Assumption and Amendment Agreement Section 8 HAP contract unless they were a party to the original HAP contract. ☐ HUD Form 2530 (paper or electronic); ☐ Ensure DUNS number is active; ☐ Purchase and Sales Agreement, if necessary; ☐ A Residual Receipts Depository Agreement, if necessary; ☐ A Replacement Reserve Depository Agreement, if necessary;	- See Exhibit 1 – Assignment, Assumption and Amendment Agreement - See Exhibit 2 – Assignment of Housing Assistance Payment Contract Checklist - See Exhibit 3 – Memorandum from Beverly Miller dated January 6, 2005. - See Exhibit 4 – HUD guidance regarding submission of Financial Statements dated June 22, 2004 - See HUD Handbook 4381.5 Management Agent See Housing Notice H-16-15, Processing Guide for Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Programs' Participants, for processing of HUD Form 2530 and who needs to submit.

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	☐ Consent to Assignment for Financing, if needed. (New financing may also be part of the transfer in which case the new lender may be requesting Consent to Assignment for Financing which should be submitted in the required HUD form for review.); ☐ Description of the sponsor, individual(s) and/or entity(ies) and their role(s) and resumes or mortgagor entity principals. Review/require the sponsor's Schedule of Real Estate Owned (paragraph III.B1) and evaluate the principal's FHA Insured and Commercial (if applicable) portfolios. This is needs to asses Owner's capacity and experience. Description should explain Owner's intentions regarding associated contract options/terminations/renewals/20-year term activity with the ownership.; ☐ Organizational documents, including org chart and fiscal year end date, for the new owner (i.e. partnership agreement); ☐ A copy of the IRS ruling conveying the Taxpayer Identification Number (TIN) for the new owner; ☐ Affirmative Fair Housing Marketing Plan for new owner, form HUD-935.2. Follow the guidance published in HUD Memo dated September 22, 2014 on when Owners are to review and update AFHMPs; ☐ Obtain a new Capital Needs Assessment (CNA) if one has not been performed within the last 10 years.	• HUD Handbook 4350.1, Chapter 4 (Reserve for Replacement) • HUD Handbook 4350.1, Chapter 25 (Residual Receipts) • HUD Handbook 4381.5, Chapter 2 • New Handbook Chapter for Consent to Assignment of HAP Contract as Security for Financing See Exhibit 5 – Form 1199-A See Exhibit 6 – Sample Letter AE's MUST assess the financial strength, net worth, liquidity and credit history of the Assignee: 1. AE MUST review the balance sheet to compare Total Assets versus Total Liabilities. Special attention should be paid to accounts payable and loan maturities. ALL ACCOUNTS PAYABLE MUST BE CLEARED AS A RESULT OF THE TRANSACTION.
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		NOTE: The AE can approach their Branch Chief and Asset Management Director if the buyer is asking for flexibility on this requirement due to it not being feasible. The Asset Management Director may request a deviation from the CNA requirement from OAMPO in those instances. These will be approved on a case-by-case basis. If consecutive below 60 REAC scores are observed, a Capital Needs Assessment (CNA) cannot be waived and must be completed. ☐ Sponsor and Principal Financial Statements, 10-K & 10-Q for Public Entities. Review of Balance Sheet, Income Statement, Statement of Retained Earnings, & Cash Flow Statement must be completed by HUD; ☐ Completed Project Proforma (required), Sources and Uses Statement and proposed closing date. Projected Project Proforma's Debt Service Coverage Ratio should ideally be somewhere near 1.25. AE will need to use discretion and knowledge of property history to ensure this is realistic and at a proper level; ☐ Obtain REO Schedule, showing public and privately held asset portfolio ☐ Any proposed Use Agreements to be recorded against the property, if applicable; ☐ Any proposed lease or lease addenda;	2. AE MUST review the Income Statement (Profit and Loss Statement). A horizontal like analysis should be performed to better understand how the entity performed over a set period of time. Previous year Income Statements should be used to determine whether the entity is performing better or worse than the previous year. Pay special attention to the Net Income Loss (or Loss). 3. AE can use the Statement of Retained Earnings as a tool to measure the amount of assets generated through profitable activities and retained in the company. AE's can view large amounts of retained earnings as a sign that the entity has done well and is reinvesting its profits in itself 4. AE should review the Cash Flow Statement to assess the Sponsors capacity to do the following: A. Entity's ability to generate future cash flow B. Entity's ability to meet debt and operational obligations AE should pay special attention to any variance between net income and net cash provided/used by operating activities. Net income provides information on the success or failure of an entity.
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		☐ A copy of the proposed deed to be used for the conveyance; ☐ Change of banking information – HUD form 1199-A, Direct Deposit form with copy of cancelled check. This is needed to send to the Fort Worth Accounting Office. In the case of a PBCA administered project, Owner will need to work with the PBCA, as each PBCA has their own requirements and procedures for receiving this information; ☐ If new Management Agent, Owner will submit: • New Management Certification • HUD-2530 for new Management Agent • Management Entity Profile for new management agent • Tenant Selection Plan (for tax credit transactions and first-time approval for agent); • request/justification for any new fees to tenants, in addition to rent If package deficient, AE prepares letter or email outlining deficiencies. *** If the new ownership entity is a Limited Liability Company (LLC), additional organizational documents are required for review*** a. Certified copy of Articles of Organization and Operating Agreement or Code of Regulations and all amendments thereto;	5. Obtain a Mortgage Credit Review by a Senior AE or ARS designated by the Branch Chief or Asset Management Division Director or, if possible from Production Staff or the Lender for each principle and sponsorship group (Preferred but not mandatory) 6. An Equity Distribution Waterfall and Capital Stack is preferred to supplement the Proforma, but not required. A complex sale on a troubled project would trigger this requirement. 7. A site visit of the Asset by the AE or Chief is Mandatory. HUD must assure that all existing restrictions are assumed by the new owner to ensure compliance with HUD requirements
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		b. Certificate of Continued Existence. If the mortgagor is a foreign limited liability company holding a license as a foreign LLC under laws of the state in which the project is located, a certified copy of said license, and Continued Existence from the state of organization, or a legal opinion from an attorney licensed to practice in the state in which the project is located, that the company is qualified to do business and hold title to real estate in that state; c. Enabling resolution which authorizes the loan and designates the appropriate manager or member to execute the loan documents; and d. Incumbency Certificate with authorized member's signature. **** If Low Income Housing Tax Credits are involved, additional documents are required: - Subsidy layering statements/submissions; - Sources and Uses of funds, including repair list; - Copy of the Low-Income Housing Tax Credit (LIHTC) lease rider; - Copy of the Tax Credit Regulation, Agreement/Extended Use Agreement.	
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B2. AE determines submission completeness.		AE completes the following tasks: ☐ Log receipt of package as iREMS Project Action – <i>Transfer of Physical Assets Activity</i>. Note in comment field – “HAP Assignment” ☐ Request legal review of the <i>Assignment, Assumption and Amendment Agreement Section 8 Housing Assistance Payments Contract</i> form and submit both redlined and clean version to legal for review. Local Counsel may need to review additional documentation as necessary (above and beyond review of HAP document) depending on transaction. ☐ Upon Legal Counsel’s approval of HAP Assignment document, advise owner with a Preliminary Approval letter and request submission of four (4) fully executed Assignments for HUD signature.	See Exhibit 11 – Sample Preliminary Approval Letter
B3. AE sends Approval letter		☐ AE instructs Owner to move forward with closing and to send fully executed Assignment Documents to HUD once signed. ☐ Owner will provide fully executed documents for HUD execution (HUD signs last). HUD delivers fully executed document to the title company/escrow agent, to be released at closing – Sample Letter Attached (Closing Transmittal Letter).	Owner and Lender provide fully executed documents for HUD execution (HUD signs last). If there is a Performance Based Contract Administrator (PBCA) they are <u>not</u> required to execute the Assignment, Assumption and Amendment Agreement Section 8 HAP Contract unless they were a party to the original HAP

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			contract. Pull the Original HAP Contract and determine if PBCA signed contract. If not, then they were not a party to the original HAP Contract and must not sign the Assignment.
PART C – Final Actions regarding Assignment of Section 8 HAP Contract			
STEP	SOURCE DOCUMENT	ACTIVITY (check as appropriate)	KEY POINTS (to include Handbook reference/ML of other relevant official guidance on topic)
C1. AE receives copies of ownership transfer documents and updates iREMS	Documents executed at the property transfer closing	AE should update the following iREMS screens (DO NOT UPDATE IREMS UNTIL ALL FINAL DOCUMENTS HAVE BEEN RECEIVED): ☐ Ownership Screen – all fields, except Date Deed Recorded ☐ Management Agent Screen, if necessary ☐ Close Project Action Provide notification to Performance Based Contract Administrator (if necessary) regarding the change in ownership and forward copies of the following:	HUD guidance regarding submission of Financial Statements dated June 22, 2004 (see page 13) – AE obtains copy of Signed Deed and updates iREMS (Ownership Screen). - Memorandum from Beverly Miller dated January 6, 2005. - HUD guidance regarding submission of Financial Statements dated June 22, 2004. Note: date Deed is recorded may differ from the date Deed is Signed. However, these are two separate iREMS entries.

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		☐ Approved Management Documents, if necessary ☐ HAP Assignment ☐ Ensure and get confirmation that Owner worked with PBCA to update banking information. ☐ Upon receipt of recorded Deed, AE will need to update the Ownership screen in iREMS with the date the Deed was recorded. AE should ensure all AFS requirements are updated in iREMS. ☐ Send a copy of the executed HAP Assignment and SF-1199 (with voided check) to Fort Worth Accounting Center via fax at 817-978-5748, send the original to the Fort Worth Accounting Center, P.O. Box 901013, Fort Worth, TX 76101, and upload to Laserfiche. As a best practice, call Accounting Center and confirm her receipt of the form. Follow up after 30 days to confirm LOCCS has been changed to reflect the new banking information.	Ensure Ownership screen is updated to reflect new "Date Owner Assumed Financial Responsibility" and make sure Owner is aware of when FASS must be submitted. Explain stub waivers, if necessary. If previous Owner submitted financial statements, be sure to inform them of their requirements.
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Signed: _____ Date: _____

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