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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)
<p>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.</p>	<ul style="list-style-type: none"> • Via Telephone Call • Via Email • Via letter 	<p><input type="checkbox"/> 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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <ul style="list-style-type: none"> • Asset Financial Statements and Auditor Notes, if available 	<p>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.</p> <p>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.</p> <p>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</p>

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<p>A2. AE sends introductory letter and checklist (Exhibit 2) to buyer</p>		<ul style="list-style-type: none"> • 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. <p><input type="checkbox"/> 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.</p>	<p>condition of the property was complete and agreeable to HUD rules and regulations.</p>
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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)
<p>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.</p>	<ul style="list-style-type: none"> • 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 	<p>AE reviews submission for completeness:</p> <ul style="list-style-type: none"> <input type="checkbox"/> 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. <input type="checkbox"/> HUD Form 2530 (paper or electronic); <input type="checkbox"/> Ensure DUNS number is active; <input type="checkbox"/> Purchase and Sales Agreement, if necessary; <input type="checkbox"/> A Residual Receipts Depository Agreement, if necessary; <input type="checkbox"/> A Replacement Reserve Depository Agreement, if necessary; 	<ul style="list-style-type: none"> • 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 <p>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.</p>

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	<p><input type="checkbox"/> 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.);</p> <p><input type="checkbox"/> 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.;</p> <p><input type="checkbox"/> Organizational documents, including org chart and fiscal year end date, for the new owner (i.e. partnership agreement);</p> <p><input type="checkbox"/> A copy of the IRS ruling conveying the Taxpayer Identification Number (TIN) for the new owner;</p> <p><input type="checkbox"/> 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;</p> <p><input type="checkbox"/> Obtain a new Capital Needs Assessment (CNA) if one has not been performed within the last 10 years.</p>	<ul style="list-style-type: none"> • 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 <p>See Exhibit 5 – Form 1199-A</p> <p>See Exhibit 6 – Sample Letter</p> <p>AE's MUST assess the financial strength, net worth, liquidity and credit history of the Assignee:</p> <ol style="list-style-type: none"> 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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<p>B2. AE determines submission completeness.</p>		<p>AE completes the following tasks:</p> <p><input type="checkbox"/> Log receipt of package as iREMS Project Action – <i>Transfer of Physical Assets Activity</i>. Note in comment field – “HAP Assignment”</p> <p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> 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.</p>	<p>See Exhibit 11 – Sample Preliminary Approval Letter</p>
<p>B3. AE sends Approval letter</p>		<p><input type="checkbox"/> AE instructs Owner to move forward with closing and to send fully executed Assignment Documents to HUD once signed.</p> <p><input type="checkbox"/> 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).</p>	<p>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</p>

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			<p>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.</p>
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)
<p>C1. AE receives copies of ownership transfer documents and updates iREMS</p>	<ul style="list-style-type: none"> Documents executed at the property transfer closing 	<p>AE should update the following iREMS screens (DO NOT UPDATE IREMS UNTIL ALL FINAL DOCUMENTS HAVE BEEN RECEIVED):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Ownership Screen – all fields, except Date Deed Recorded <input type="checkbox"/> Management Agent Screen, if necessary <input type="checkbox"/> Close Project Action <p>Provide notification to Performance Based Contract Administrator (if necessary) regarding the change in ownership and forward copies of the following:</p>	<p>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).</p> <ul style="list-style-type: none"> Memorandum from Beverly Miller dated January 6, 2005. HUD guidance regarding submission of Financial Statements dated June 22, 2004. <p>Note: date Deed is recorded may differ from the date Deed is Signed. However, these are two separate IREMS entries.</p>

IREMS Number: _____ Date: _____

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		<p><input type="checkbox"/> Approved Management Documents, if necessary</p> <p><input type="checkbox"/> HAP Assignment</p> <p><input type="checkbox"/> Ensure and get confirmation that Owner worked with PBCA to update banking information.</p> <p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> 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.</p>	<p>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.</p>
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Signed: _____ Date: _____

Last Updated 1/18/2018