



ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

As Special Attention of

All Multifamily Hub Directors
All Multifamily Program Center Directors
All Multifamily Operations Officers
All Directors of Project Management
All Field Counsel

Notice H 2012-5

Issued: April 23, 2012

Expires: This notice remains in effect until
amended, revoked, or superseded

Cross References: Housing Notice 2011-20

SUBJECT: Guidelines on Addressing Infestations in HUD-insured and Assisted Multifamily Housing

I. Purpose

This Notice supersedes Housing Notice 2011-20, “Guidelines on Bed Bug Control and Prevention in HUD Insured and Assisted Multifamily Housing.” Readers seeking guidance on the subject of bed bug infestations should instead refer to this Notice, which provides updated information to prevent and address infestations, including but not limited to bed bugs, insects, and all manner of vermin. HUD is providing guidance to Owners, Management Agents (O/As) and residents of HUD Multifamily insured and assisted properties to remind all parties of the importance of prevention, identification, and treatment of infestations in HUD-assisted and HUD-insured rental housing. The Department has received numerous inquiries and comments from the industry and HUD residents seeking clarification and information on appropriate steps to address infestations in Multifamily properties. This Notice provides information and references to best practices regarding the prevention and control of infestations. It also reaffirms existing program requirements with regard to infestations.

II. Background

Pursuant to 24 CFR Part 5, Subpart G, HUD housing must be decent, safe, sanitary and in good repair. Owners of HUD-insured or assisted housing must maintain such housing in a manner that meets physical condition standards. In accordance with project Regulatory Agreements and Section 8 HAP Contracts, the housing must have no evidence of infestation. HUD monitors Owners and Agents (O/As) to ensure that housing meets physical condition standards enumerated in 24 CFR 5.703. This includes providing guidance aimed at preventing and addressing infestations.

Many residents and O/As have contacted HUD to seek guidance on infestations. Of particular concern is the growing problem of bed bugs. According to the United States Environmental Protection Agency (EPA), bed bug populations have recently increased dramatically. HUD is working closely with other federal agencies to develop and share best practices for preventing, identifying and controlling bed bugs.

III. Applicability

This Notice provides guidance to the following types of projects:

- A. Properties assisted with Section 8 Project Based Rental Assistance, Rent Supplement or Rental Assistance Payment (RAP) contracts.
- B. Properties with active Section 202 Direct Loans, Section 202/162, Section 202 and 811 Capital Advances, and Section 202 Senior Preservation Rental Assistance Contracts or Section 811 Project Rental Assistance demonstration funding.
- C. Properties with active FHA insured first mortgages under Sections 207 pursuant to 223(f), 221(d)(3), 221(d)(4), 221(d)(5), 231, 213 or 236.

Certain provisions of this Notice are applicable only to assisted properties, as specified in various sections of the Notice below. The Notice does not supersede existing lease provisions that comply with state and/or local landlord/tenant laws and that have been approved by HUD (where such approval is required).¹ All parties should refer to the property lease executed between the tenant and the O/A, and the property House Rules, for details on Owner and resident rights and responsibilities related to infestations and housing physical condition standards. Certain assisted properties² are also subject to provisions of the HUD Model Lease for Subsidized Programs (Family Model Lease) (Form HUD-90105-A, HUD-90105-B, HUD 90105-C and HUD-90105-D) in HUD Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs*.

IV. Prevention of Bed Bug Infestations

Of particular concern for Multifamily O/As, as well as project residents, is the resurgence of bed bugs, which can cause discomfort and anxiety for residents and which can spread quickly. The ideal approach to bed bug infestations is to prevent them from occurring in the first place. Federal agencies, such as EPA and HUD, are working in tandem to develop and share recommendations to prevent infestations.

¹ For unassisted O/As, this Notice does not supersede state and local landlord/tenant law related to lease enforcement, housing habitability, and cure rights or damages.

² Section 221(d)(3) BMIR, Section 236, Section 8 New Construction, Section 8 Substantial Rehabilitation, Section 8 State Agency, RHS 515 with Section 8, Section 8 Loan Management Set-Aside (LMSA), Section 8 Property Disposition Set-Aside (PDSA), Rental Assistant Payment (RAP), and Rent Supplement projects are subject to the provisions of the Family Model Lease.

HUD encourages Multifamily O/As to develop an Integrated Pest Management Plan (IPM) to focus on preventing infestations. Such plans describe the ongoing efforts the property management will take to prevent and respond to pests. For more detail on IPMs generally, please see the online guide at <http://www.stoppests.org>. The information below pertains specifically to bed bug infestations.

According to the EPA, principles of IPM for bed bugs include:

- Raising awareness through education on prevention of bed bugs;
- Inspecting infested areas, plus surrounding living spaces;
- Checking for infestations on luggage and clothes when returning home from a trip;
- Reducing the number of secondhand items brought into units and looking for bed bugs or signs of infestation on secondhand items before bringing the items home;
- Correctly identifying the pest;
- Keeping records – including dates when and locations where pests are found;
- Cleaning all items within a bed bug infested living area;
- Reducing clutter where bed bugs can hide;
- Eliminating bed bug habitats;
- Physically removing bed bugs through cleaning;
- Using pesticides carefully according to the label directions; and,
- Following up on inspections and possible treatments.

In addition to or as part of an IPM program, Multifamily O/As are strongly encouraged to take the following steps to prevent bed bugs:

Provide training for staff to identify bed bugs, and to perform ongoing prevention actions as outlined in the IPM. When a community is at high risk for bed bugs (for example, if the community has experienced prior infestations), periodic building inspections are recommended.

Actively engage residents in efforts to prevent bed bugs. Education and involvement of project residents is a critical component of IPM for bed bugs. Bed bugs may often go undetected and unreported, because they are active at night, and tenants may not be aware of their presence. O/As may wish to hold workshops for tenants to teach them to identify bed bugs, to create unfriendly environments for pests, and to report suspicions of bed bugs as soon as possible.

Provide orientation for new tenants and staff, and post signs and handouts.

In addition, tenants should immediately report the suspicion of infestations in housing units or other areas of the property. Early reporting allows the pests to be identified and treated before the infestation spreads. Tenants are the first line of defense against infestations and should cooperate to create living environments that deter pests. This includes reducing unreasonable amounts of clutter that create hiding places for pests and deter treatment.

More information on bed bug prevention may be found by accessing the following websites:³

Healthy Homes Training: *What's Working for Bed Bug Control in Multifamily Housing?: Reconciling best practices with research and the realities of implementation.*
http://www.healthyhomestraining.org/ipm/NCHH_Bed_Bug_Control_2-12-10.pdf.

National Pest Management Association Bed Bug Hub:
<http://pestworld.org/pest-world-blog/the-bed-bug-hub-one-stop-shop-for-bed-bug-information>

National Pest Management Association Best Practices Website: <http://www.bedbugbmps.org>

IPM Curriculum and Blog: <http://www.stoppests.org>

Environmental Protection Agency:
<http://www.epa.gov/pesticides/bedbugs/>

V. Addressing Infestations

The O/A should respond with urgency to tenant reports of infestations. The O/A should endeavor to take appropriate action within a reasonable time period. However, tenants are advised that pest inspections and, if necessary, treatment, may take time to schedule, particularly for recently resurgent pests such as bed bugs, for which it may be difficult to find trained specialists to perform inspections and conduct treatments.

Residents should fully cooperate with the O/A's efforts to identify and address infestations. This tenant cooperation is shown to expedite the control of infestations. Cooperation includes allowing the O/A to enter the unit to perform inspections and treatments, allowing pest treatments to occur, following the pest treatment protocol, and removing infested furniture or other items from common areas such as hallways or community rooms.

Residents are advised that some infestations, including bed bugs, require multiple treatments over the course of several weeks. Generally, relocation from units is not necessary for effective pest treatment. However, if reasonable temporary relocation is necessary, the O/A may request withdrawals from available project funds (which may include Reserve for Replacement, project income, or Residual Receipts, if authorized by HUD), as described below in Section VI, for those days when treatment is actively occurring that may render the unit uninhabitable. All withdrawals of this type must be approved by the Hub/PC Director or designee. Any temporary relocation must be carried out in accordance with applicable civil rights laws, including, but not limited to, Title VI

³ An additional resource for interested parties is the *Bed Bug Handbook*. L.J. Pinto, R. Cooper, and S.K. Kraft, *Bed Bug Handbook: The Complete Guide to Bed Bugs and Their Control* (Mechanicsville, MD: S.K. Pinto & Associates, 2007).

of the Civil Right Act of 1964 and Section 504 of the Rehabilitation Act of 1973. For example, when persons with disabilities are temporarily relocated, they must be placed in housing that provides, at a minimum, the same accessibility features as the housing in which they currently reside. Additionally, the O/A must ensure the right of return for tenants who have had to be temporarily relocated while the treatment is being performed.

VI. Project Resources

An O/A may contact HUD to request project resources for control of infestations. An O/A may use available operating funds to pay for activities to prevent and/or treat infestations. When other sources of funds are not available or sufficient, the Hub/PC Director may honor requests to reimburse Owners for infestation treatment from the Reserve for Replacement account, or, if authorized, the Residual Receipts account. The releases should follow the processes outlined in HUD Handbook 4350.1, *Multifamily Project Servicing*, Chapters 4 and 25. Owners may make advances (loan without interest) when no reserves are available. With prior HUD approval, Owners may repay the advances from project resources as discussed in HUD Handbook 4350.1.

For assisted housing projects, HUD may consider use of rental assistance to pay reasonable and necessary project expenses, such as an increased pest control line item in the project's operating budget, if the Section 8 Housing Assistance Payments (HAP) contract allows for budget-based rent setting in accordance with the *Section 8 Renewal Policy Guide*.

Owners of assisted properties are advised that any rental assistance received under Section 8, Rent Supplement or RAP cannot be used to reimburse residents for the cost of any additional expense to the household, such as purchase of new furniture, clothing or cleaning services. Assisted project Owners' requests for tenants to pay the costs of infestation treatment must be in accordance with the provision for tenant payment of damages or noncompliance as required in the Family Model Lease.

VII. Recurring Infestations

Many properties face recurring infestations. O/As may take initiative to offer protective tools to residents to help safeguard properties from recurrences. To prevent pests from entering a Multifamily property, O/As may voluntarily offer to inspect tenants' furniture before move-in. Where there is an approved (for Assisted Owners) lease provision that complies with state and/or local landlord/tenant law, O/As may require appropriate treatment of furniture upon tenant move-in, or when a tenant moves furniture into the apartment. These services or products are to be offered at the Owner's expense, or may be paid from project operating funds if available.

All Owners (of assisted and unassisted properties) may pursue remedies provided in the lease agreement and in accordance with state and local rental law. Assisted Owners must follow additional guidelines including occupancy requirements for assisted housing, and must adhere to all HUD and state and local landlord/tenant laws before taking action to deny tenancy or remove residents for causes related to infestations. For O/As of assisted properties, the Family Model Lease provides remedies related to damages or noncompliance. Many O/As have proposed lease addenda

related to infestations. As detailed in HUD Handbook 4350.3, Section 6-9, Lease Addenda in assisted properties may not conflict with the Family Model Lease. HUD reserves the right to review and approve Lease Addenda for assisted properties, for example to ensure that tenant payment provisions in proposed Addenda do not exceed the remedies for damages or noncompliance provided in the Family Model Lease.

VIII. Responding to Inspection Findings

Infestations should be addressed when reported by staff, tenants or the Real Estate Assessment Center (REAC), or if an audit by the HUD Office of the Inspector General identifies possible infestation.

Presently, REAC inspectors will only deduct points if there is the “presence of rats, or severe infestation by mice or insects such as roaches or termites. The following deficiencies can be noted: 1) Insects and 2) Rats/Mice/Vermin.”⁴ If there is no evidence of infestation (i.e. there are baits, traps, and sticky boards with no presence of insects or vermin) inspectors are instructed not to record this as a deficiency. If evidence is identified, the infestation may be cited as a deficiency.

As per Inspector Notice No. 2010-01, “the presence and/or treatment of bed bugs will not be scored in the UPCS inspection.” However, inspectors now ask the O/A to identify any units and/or buildings that are infested before the inspection begins. If bed bugs are reported, the inspector will record the units and/or buildings affected in the comment section of the Physical Inspection report.

Because bed bug infestations are on the rise, HUD staff will take additional steps to monitor and track reports of bed bug infestation and treatments of such infestations. When bed bugs are reported by the Owner/Agent at the time of inspection or if the Inspector notes the presence of bed bugs, REAC sends a “Bed Bugs Reported” email to the Hub/Program Center Director. HUD staff must take the following steps upon receipt of the “Bed Bugs Reported” email from REAC (regardless of the PASS score the property receives) or if bed bugs are cited as a deficiency within the REAC report, or if bed bugs are reported by the O/A, project residents, the Performance Based Contract Administrator, or an OIG audit:

Enter the bed bug information on the Problem Statement screen in the Integrated Real Estate Management System (iREMS).

If bed bugs were identified by REAC, send the attached letter (Attachment 1) to the Owner regardless of the score of the REAC Physical Inspection.

Advise the Owner to describe what actions were taken or will be taken to eradicate the infestation.

Advise the Owner to inform HUD of the response to the infestation, and to inform HUD if and when the problem has been completely eradicated.

⁴ HUD Physical Inspection Program—Chapter 3: UPCS Definitions Training—Health & Safety

Release funds from Reserve for Replacement or Residual Receipts accounts if requested and if such funds are available and authorized.

Continue to enter all related information into the Problem Statement screen in iREMS; and,

Report any significant developments or problems regarding a bed bug infestation to Headquarters, Office of Asset Management.

If you have questions, please contact your Desk Officer in the Office of Asset Management.

Carol J. Galante
Acting Assistant Secretary for Housing –
Federal Housing Commissioner

Enclosures

ATTACHMENT

Property Owner
Address

SUBJECT: Bed Bugs
Property Name: _____

Dear Owner:

The [Hub Name] Multifamily Hub has received notification from the Real Estate Assessment Center (REAC) that during the physical inspection of your property performed on [Date], the inspector indicated that bed bugs were reported present at the property. The units/buildings below were identified as being infested with bed bugs:

Within 5 days of the date of this letter, please inform your Project Manager of the actions you are taking for bed bug control. This information should include the method of treatment used (or to be used), the timing for treatment(s), and your proposed plan for monitoring and preventing the possibility of future infestation.

If you have any questions, please contact your Project Manager, [Project Manager's Name], at [Project Manager's Telephone Number] ext. [Extension]

Sincerely,

Supervisory Project Manager
Project Management Division