

ATTACHMENT A

**SAMPLE NOTICE OF DEFAULT OF THE HOUSING ASSISTANCE PAYMENTS
(HAP) CONTRACT AND COMPLIANCE, DISPOSITION AND ENFORCEMENT
(CDE) PLAN**

[HUD office letterhead with address]

[Date]

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

[Owner's representative name]

[Owner's name]

[Owner's address]

SUBJECT: Notice of Default of the Housing Assistance Payments (HAP)
Contract and Compliance, Disposition and Enforcement Plan
Project Name: [Project Name]
Project Location: [Project City/Town]
HAP Contract Number(s): [HAP #(s)]
iREMS Number: [iREMS #]

Dear [Owner's representative name]:

This letter constitutes formal notice by the Secretary of the United States Department of Housing & Urban Development ("HUD"), that [Owner's name], ("Owner"), owner of [Project's

Name] (“Project”), is in default of the HUD Housing Assistance Payments (“HAP”) Contract effective [original HAP date] with subsequent HAP Renewals, the latest HAP Basic Contract Multi-year Term Renewal with an effective date of [last renewal date]. Pursuant to paragraph [2.5(a)- verify paragraph #] of the HAP, the Owner “agrees to maintain and operate the contract units and related facilities to provide decent, safe and sanitary housing including the provisions of all the services, maintenance and utilities set forth...”. [Additionally, pursuant to paragraph [7(b)- verify paragraph #] of the HAP Renewal, the Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures) and shall be maintained in such condition during the term of the Renewal Contract.] This standard is set forth in HUD regulation 24 C.F.R. § 5.703, *et. al.*

On [date of REAC inspection] the Real Estate Assessment Center (“REAC”) inspected the Project and the Project received a score of [inspection score]. The inspection report identified serious deficiencies that demonstrate the Owner is in default of the HAP Contract [and HAP Renewal Contract]. Some of the deficiencies cited in the REAC report include, but are not limited to the following:

[Summarize the REAC inspection report here. Identify major health and safety issues from the Health and Safety Summary. Summarize systemic deficiencies from the Systemic Deficiencies section of the inspection report. The following is an example from a description used in the pilot:

Some of the deficiencies cited in the REAC report are Grounds – Overgrown/Penetrating Vegetation, Doors – Damaged Frames/Threshold/ Lintels/Trim, Emergency/Fire Exits – Emergency/Fire Exits Blocked/Unusable, Infestation – Insects/Roaches, Electrical Hazards – Exposed Wires/Open Panels, and Windows – Inoperable/Not Lockable.]

Compliance, Disposition and Enforcement (CDE) Plan

Accordingly, the Owner shall take the following corrective action within 60 days of the date of receipt of this Notice:

- Conduct a survey of 100 % of the Project, identifying all physical deficiencies;
- Correct all of the physical deficiencies identified at the Project from the survey, including, but not limited to, those deficiencies identified in the REAC inspection;
- Provide tenants with the enclosed “Notice of Compliance, Disposition and Enforcement Plan” for the Project.
- Execute the enclosed certification that the Project is in compliance with HUD’s physical condition standards of 24 CFR 5.703 and state and local codes and that the Owner has provided the tenants with the enclosed “Notice of Compliance, Disposition, and Enforcement Plan.”
- Submit the completed survey and certification within 60 days of receipt of HUD’s notice to:

U.S. Department of Housing and Urban Development

[HUD office address]

Attention: [Name of Account Executive, Project Manager or DEC Analyst handling the matter]

Unless HUD agrees otherwise in writing, the owner must correct all physical deficiencies identified in the survey of the Project within 60 days of receiving the CDE Plan. Should the necessary repairs extend beyond 60 days, the Owner must submit to HUD at the address noted above, a repair plan with the completed survey and request a reasonable extension of time to complete the repair of all deficiencies found by the survey, stating the cost and source of funds to be used for repairs. Any HUD approved extension to the 60-day deadline will be made in writing and will amend the CDE plan. HUD will work with the owner to determine if the owner's request to amend the CDE plan is acceptable and adequately protects the tenants' interests.

HUD will re-inspect the Project to confirm that the Owner is in compliance with the HAP Contract.

If the Owner fails to take the necessary corrective action, then the Section 8 assistance may be reduced, suspended, abated, or terminated under the above referenced HAP Contract, and any other remedies may be taken as provided by the parties' agreement(s) or as otherwise provided by law.

For the reasons described in this Notice and Compliance, Disposition and Enforcement Plan, HUD will flag the Owner in HUD's Active Partners Performance System (APPS). This flag may adversely affect the Owner's eligibility for participation in HUD programs, under HUD's Previous Participation Certification procedure, by constituting a standard for disapproval.

HUD may continue its review of any other contractual agreements between the Owner and HUD beyond the matters identified in this notice. If HUD determines that there are additional contractual violations or defaults, HUD's subsequent declaration of any such violations or defaults will not affect the requirements set out in this notice.

If there are any questions concerning this Notice, please contact [HUD contact name], [HUD contact title], at [HUD contact telephone number].

Sincerely,

[Name of signatory]

[Title of signatory]

Enclosures:

NOTICE OF A COMPLIANCE, DISPOSITION AND ENFORCEMENT (CDE) PLAN FOR
[PROJECT NAME, FHA Number, iREMS Number]
Certification

PROJECT OWNER’S CERTIFICATION THAT THE PHYSICAL CONDITION OF THE PROJECT IS IN COMPLIANCE WITH HUD CONTRACTS AND THE PHYSICAL CONDITION STANDARDS OF 24 C.F.R. § 5.703

[Name of project owner:] _____ (the “project owner”), the owner of [project name:] _____, [City:] _____, [State:] _____, Project No. _____ (the “project”), by and through its duly authorized representative identified below, hereby certifies that:

- 1. All physical deficiencies of the project identified in the HUD inspection(s) of the project performed on _____ and the attached project owner’s survey of the project performed on _____ have been corrected, and the project is in compliance with the physical condition requirements of all HUD contracts pertaining to the project and the physical condition standards of 24 C.F.R. § 5.703. The term “project” includes all units, common areas, building(s), grounds, and systems.
2. To the best of the project owner’s knowledge, the project is in compliance with all state and local codes.
3. All tenants residing at Project have received a “Notice of Compliance, Disposition and Enforcement Plan” relating to these physical deficiencies.
4. This certification is made by the project owner and is signed by a duly authorized representative of the project owner, who is so authorized by reason of his/her position as the [State fully relationship between signer of certification and project owner:]

_____.

All of the foregoing statements, as well as the date, signature and identifying information of the project owner and the signer that follows, are HEREBY CERTIFIED as true and accurate this ____ day of _____, 20____.

Project owner: _____

BY: Signature: _____

Print Name: _____

Title: _____

WARNING: Federal statutes and regulations, including but not limited to 18 U.S.C. §§ 287, 1001, 1010 and 1012; 31 U.S.C. §§ 3729 and 3802; and 24 C.F.R Parts 24, 28 and 30, provide for criminal, civil or administrative penalties, sanctions or other regulatory actions with respect to false, fictitious, or fraudulent statements or claims presented in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development.