



# U.S. Department of Housing and Urban Development, Office of Multifamily Housing Programs, Washington, DC

## Federal Housing Administration Mortgage Insurance Environmental Reviews

**Office of Audit, Region 7  
Kansas City, KS**

**Audit Report Number: 2021-KC-0001  
October 2, 2020**





**To:** C. Lamar Seats, Deputy Assistant Secretary for Multifamily Housing, HT

**From:** *//signed//*  
Ronald J. Hosking, Regional Inspector General for Audit, 7AGA

**Subject:** HUD's Office of Multifamily Housing Programs Did Not Always Follow Mitigation Requirements for Its FHA-Insured Multifamily Projects

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's Office of Multifamily Housing Programs' environmental oversight.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 913-551-5870.



Audit Report Number: 2021-KC-0001

Date: October 2, 2020

HUD's Office of Multifamily Housing Programs Did Not Always Follow Mitigation Requirements for Its FHA-Insured Multifamily Projects

## Highlights

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### What We Audited and Why

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We initiated an audit of the U.S. Department of Housing and Urban Development's (HUD) Office of Multifamily Housing Programs upon receiving a hotline complaint. The hotline complaint contained allegations that (1) HUD routinely fails to perform Endangered Species Act analysis or consultations; (2) there are many projects that have deficiencies in noise analysis and environmental assessment site factors; (3) the environmental reviews for projects with fewer than 200 units are not performed properly; and (4) there is no oversight for projects with fewer than 200 units, and there are no safeguards for checking reviews for projects with fewer than 200 units. Our objective was to determine whether (1) the complainant's allegations were substantiated for the 8 properties reviewed and (2) the Office of Multifamily Housing Programs properly followed mitigation requirements for the 17 properties reviewed.

### What We Found

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We partially substantiated allegation 3 and incorporated that issue into the finding. We were not able to substantiate the other allegations. HUD did not always properly follow mitigation requirements for its Federal Housing Administration-insured multifamily projects. Specifically, HUD did not always identify required mitigation measures or upload mitigation resolutions into the HUD Environmental Review Online System (HEROS) to document completion of its projects. Additionally, HUD did not conduct the required radon mitigation for one of its projects before final endorsement. This condition occurred because the multifamily HEROS users lacked training, HUD did not have procedures in place, and radon requirements were not updated on the closing documents. As a result, HUD was at risk of not conducting all required measures to mitigate conditions that would endanger the health and safety of its multifamily residents and lacked assurance that the new radon requirements were properly followed before the checklist update for the final endorsement closing documents.

### What We Recommend

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We recommend that the Deputy Assistant Secretary for Multifamily Housing (1) conduct and make available internal HEROS training, (2) implement written procedures, (3) upload the 17 missing mitigation resolutions and 1 missing radon testing document, (4) strengthen HEROS or internal procedures to add an additional requirement confirming mitigation resolutions are uploaded at final endorsement, and (5) strengthen HEROS by adding a column on the dashboard to show the progress of the overall mitigation status.

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# Background and Objective

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The Office of Multifamily Housing Programs is responsible for implementing multifamily housing programs authorized by the National Housing Act as amended by Congress, subsequent legislation enacted into law, and annual Appropriations Acts. Multifamily is widely responsible for production, asset management and portfolio oversight, recapitalization of assisted properties, and field operations.

Multifamily administers the Federal Housing Administration's (FHA) mortgage insurance programs that facilitate the construction, substantial rehabilitation, purchase, and refinancing of multifamily properties. FHA's multifamily mortgage insurance endorsement program is self-funded through FHA's General Insurance and Special Risk Insurance Fund. Multifamily insurance programs are funded through mortgage insurance premiums paid by lenders at the time of endorsement.

The U.S. Department of Housing and Urban Development's (HUD) Office of Environment and Energy has established an online system for developing, documenting, and managing environmental reviews. The HUD Environmental Review Online System (HEROS) covers all levels of environmental reviews for both part 50 and part 58 projects and includes on-screen guidance for completing HUD environmental reviews. Part 50 applies to programs for which HUD performs the environmental reviews, and part 58 applies to programs that allow a responsible entity to perform the environmental reviews. Multifamily staff is required to use HEROS to complete all environmental reviews prepared following the Multifamily Accelerated Processing Guide, revised in 2016. HEROS is available for HUD staff to prepare part 50 environmental reviews for Multifamily's FHA programs.

We received a hotline complaint containing allegations that (1) HUD routinely fails to perform Endangered Species Act analysis or consultations; (2) there are many projects that have deficiencies in noise analysis and environmental assessment site factors; (3) the environmental reviews for multifamily projects with fewer than 200 units are not performed properly; and 4) there is no oversight for projects with fewer than 200 units, and there are no safeguards for checking reviews for projects with fewer than 200 units.

We determined that three of the complainant's allegations were unsubstantiated, including (1) HUD routinely fails to perform Endangered Species Act analysis or consultations; (2) there are many projects that have deficiencies in noise analysis and environmental assessment site factors; and (4) there is no oversight for projects with fewer than 200 units, and there are no safeguards for checking reviews for projects with fewer than 200 units.

However, we determined that one allegation, (3) the environmental reviews for multifamily projects with fewer than 200 units are not performed properly, was partially substantiated. We reviewed eight projects and determined that the required environmental review mitigation actions were not properly documented in HEROS for three projects, and HUD did not complete

the follow up measure to upload documentation showing that the mitigation measures were carried out for six projects. (See the table in appendix C.) However, because the documentation and follow-up issues we identified pertained to only the mitigation portion of the projects related to the hotline complaint, we combined the results into the finding regarding mitigation requirements. (See finding 1.)

Our audit objective was to determine whether (1) the complainant's allegations were substantiated, and (2) Multifamily properly followed mitigation requirements for the 17 properties reviewed.

# Results of Audit

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## **Finding 1: HUD Did Not Always Follow Mitigation Requirements for its FHA-Insured Multifamily Projects**

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HUD did not always follow mitigation requirements for its FHA-insured multifamily projects. Specifically, HUD did not always identify required mitigation measures or upload mitigation resolutions into HEROS to document completion of its projects. Additionally, HUD did not conduct the required radon mitigation for one of its projects before final endorsement. This condition occurred because the multifamily HEROS users lacked sufficient training, HUD did not have procedures in place to specify which HEROS users needed to upload the mitigation resolutions, and radon requirements were not updated on the closing documents. As a result, HUD was at risk of not conducting all required measures to mitigate conditions that would endanger the health and safety of its multifamily residents, and HUD lacked assurance that the new radon requirements were properly followed before the checklist update for the final endorsement closing documents.

### **HUD Did Not Always Identify Required Mitigation Measures**

HUD did not always identify required mitigation measures in the appropriate HEROS screens. We selected 17 from a universe of 64 projects for our review of mitigation requirements and 8 from a universe of 37 projects to determine whether the hotline complaint allegations could be substantiated. We combined the results of the 25 projects reviewed because we identified issues with the mitigation portion of the environmental review process. We found six instances in which HUD did not document the mitigation measures on the applicable screens; however, HUD did complete the mitigation resolutions for these six projects. (See the table in appendix C.) We found that the required mitigation measures had been properly identified for the other 19 projects but found this issue to be pervasive in 24 percent of the projects reviewed. According to the HEROS instructions, HEROS users must first document all mitigation requirements on the laws and authorities and environmental assessment factor screens, which then automatically generate on the mitigation measures and conditions screen (screen 5000). Additionally, the mitigation measures from the screen 5000 generate into the mitigation follow up screen (screen 7000), which keeps HUD aware of what mitigation measure resolutions should have occurred before final endorsement.

### **HUD Did Not Always Upload Mitigation Resolutions Into HEROS**

HUD did not always upload mitigation resolutions into HEROS to document completion of its projects. Of the 25 projects reviewed, 17 projects did not have the mitigation resolution documentation uploaded into HEROS at project completion. (See the table in appendix C.) However, field office employees were tracking mitigation outside of HEROS and were able to provide documentation upon request. The intended use of HEROS is to maintain the complete environmental review record in one centralized location. According to the HEROS instructions,

HEROS users need to follow up on any measures by uploading documentation showing that the mitigation measures were carried out.

### **HUD Did Not Conduct the Required Radon Mitigation for One of Its Projects**

HUD did not conduct the required radon mitigation for 1 of the 25 projects reviewed before final endorsement. (See the table in appendix C.) We requested radon documentation from HUD, and at that time, HUD realized that the radon testing had not been conducted. The radon requirements had not been updated on the closing documents for both HUD and the project's lender at the time of final endorsement. However, the project's lender engaged a radon specialist to complete the required testing on the property after we brought it to HUD's attention. We found this issue to be rare for the projects reviewed.

### **HUD Lacked Training and Procedures**

The multifamily HEROS users lacked sufficient training on the proper way to identify required mitigation measures. HUD staff stated that since using HEROS, there had been a learning curve.

In addition, HUD did not have procedures in place to specify which HEROS users needed to upload the mitigation resolutions. HUD relied on its regional offices to designate which HEROS users would conduct uploads for the mitigation resolutions.

Also, HUD did not ensure that radon requirements were updated on the closing documents. The application for the project for which HUD did not conduct the required radon mitigation was processed at a time when the radon construction and post construction testing was a new requirement. The updated closing procedures were just being established for both HUD and the project's lender at the time of final endorsement.

### **HUD Risked Not Conducting All Required Mitigation**

As a result of the conditions described above, HUD could be at risk of not conducting all required measures to mitigate conditions that would endanger the health and safety of its multifamily residents. Additionally, HUD lacked assurance that the new radon requirements were properly followed before the checklist update for the final endorsement closing documents.

### **Recommendations**

We recommend that the Deputy Assistant Secretary for Multifamily Housing

- 1A. Conduct and make available internal HEROS training for all multifamily HEROS users on how to document the environmental review mitigation measures.
- 1B. Establish and implement written procedures specifying which multifamily employees are required to upload mitigation resolutions after construction completion and at final endorsement.
- 1C. Upload the 17 missing mitigation resolutions and the 1 missing radon testing document into HEROS for the projects in this finding.

- 1D. Strengthen HEROS or internal procedures to add an additional requirement confirming that the mitigation resolutions have been uploaded at final endorsement.
- 1E. Strengthen HEROS by adding a column on the dashboard to show the progress of the overall mitigation status.

# Scope and Methodology

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We performed our audit between April 2019 and February 2020 at our offices in Denver, CO, and Kansas City, KS. Our audit period covered multifamily projects that were endorsed for mortgage insurance from August 1, 2016, to August 1, 2019.

To accomplish our objective, we

- reviewed applicable Federal regulations and HUD requirements,
- reviewed policies and procedures in the 2016 Multifamily Accelerated Processing Guide,
- interviewed HUD staff,
- selected and reviewed 25 multifamily project environmental review files contained in HEROS, and
- collected environmental review documents from HUD staff.

For our review of mitigation requirements, we used a nonstatistical representative sample because we wanted to review a small number of project files, due to limited resources, from a date range of environmental review records that would be available in HEROS. To determine our universe, we accessed HEROS and developed a query. We set the query parameters as August 1, 2016, to August 1, 2019; chose the HUD program, Housing: Multifamily FHA; and selected the 221(d)(4) category. Then we exported the results. The query results provided us with a list of 1,154 projects that were section 221(d)(4)s with initial endorsements for mortgage insurance between August 1, 2016, and August 1, 2019. We sorted the results by the environmental review ID and then removed projects that did not have a final endorsement date, were not active, had any other section of the act code besides 221(d)(4), or had any other status besides completed or completed conditioned on mitigation. Those limitations provided us with a universe of 64 multifamily projects that were located in HEROS and were endorsed from August 1, 2016, to August 1, 2019, as part of the 221(d)(4) mortgage insurance program for new construction or substantial rehabilitation of multifamily rental housing.

We selected 17 of those projects for our review of mitigation requirements, including 6 for our survey phase and an additional 11 for our audit phase. We picked the 6 projects by selecting every 10<sup>th</sup> project, starting with the 10<sup>th</sup> project, after sorting the projects by the oldest to newest final endorsement date. We selected every 10<sup>th</sup> project because we wanted a sample of 6 (almost 10 percent of the universe), so we divided our universe of 64 by 6, and we rounded down to every 10<sup>th</sup> file so the sample was selected evenly. Similarly, we picked the 11 projects by selecting every 6<sup>th</sup> project, starting with the 1<sup>st</sup> project, after sorting the projects by oldest to newest final endorsement date. We selected every 6<sup>th</sup> project because we wanted to get a full coverage of the environmental reviews conducted during our audit period. This selection method provided full coverage of the different final endorsement date timeframes. We did find two exceptions in which we could not conduct a full review of the two projects because they were still in the construction phase and were not active due to the projects finding financing through

other avenues. We did not replace those sample items, and we reported the results as no deficiencies.

Due to the confidential nature of the hotline complaint, we have omitted the details of the sample selection of the eight projects that we reviewed to determine whether the four allegations were substantiated. However, because we identified issues with only the mitigation portion of the environmental review process, we combined the results of this review with the results of our review of the 17 projects above for a total sample size of 25. To maintain the complainant's confidentiality, we presented the results of the 25 in the audit report as though it were 1 large sample selection.

We reviewed the project files to determine whether HUD documented the required environmental review mitigation and the resolution of the mitigation for the sampled project files. We did not conduct a 100 percent review or a statistical sample; therefore, the results apply only to the items selected and cannot be projected to the universe.

We did not rely on computer-processed data to support our audit conclusion. We used only the computer-processed data to identify which multifamily projects to review. We based our conclusions on the environmental review documents in HEROS.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# Internal Controls

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Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

## Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Controls to ensure that HUD complied with environmental review requirements.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

## Significant Deficiencies

Based on our review, we believe that the following items are significant deficiencies:

- HUD lacked sufficient training to ensure that the multifamily HEROS users documented the environmental review's mitigation requirements (finding).
- HUD did not have procedures in place that specified which multifamily HEROS user needed to upload the mitigation resolutions (finding).
- HUD did not have updated radon requirements on its closing documents for one of its projects (finding).

## Separate Communication of Minor Deficiencies

We reported minor deficiencies to the auditee in a separate management letter.




# Appendixes

## Appendix A

### Auditee Comments and OIG's Evaluation

#### Ref to OIG Evaluation

#### Auditee Comments

	<b>U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b> WASHINGTON, DC 20410-8000
OFFICE OF HOUSING	
MEMORANDUM FOR:	Ronald J. Hosking, Regional Inspector General for Audit, 7AGA
FROM:	<b>JEFFREY LITTLE</b> <small>Digitally signed by JEFFREY LITTLE Date: 2020.09.02 16:28:15 -0400</small> C. Lamar Seats, Deputy Assistant Secretary for Multifamily Housing Programs, HT
SUBJECT:	Office of Inspector General's (OIG) final results of HUD's Office of Multifamily Housing Programs' environmental oversight discussion draft audit report
<p>Thank you for the opportunity to respond to the August 18<sup>th</sup>, 2020 Office of Inspector General's (OIG) final results of HUD's Office of Multifamily Housing Programs' environmental oversight discussion draft audit report. Office of Multifamily Housing staff have reviewed the report and have suggested edits on the finding, three of the recommendations, and on the body of the report.</p> <p><u>The Finding</u></p> <p>The Audit was initiated in response to a Hotline Complaint that included several allegations that the Office of Multifamily Housing (MF) did not follow identified programmatic requirements in relation to environmental reviews on FHA mortgage insurance applications. The OIG reviewed the four allegations and reports that three of the four were unsubstantiated and the fourth was "partially substantiated". Specifically, the partially substantiated Hotline allegation was that MF did not perform environmental reviews properly and the Audit found that "HUD did not always identify required mitigation measures or upload mitigation resolutions into the HUD Environmental Review Online System (HEROS) to document completion of its projects." The five related recommendations relate to HEROS administration and oversight and, with the edits</p>	

and clarifications discussed in the body of this letter, the Office of Multifamily Housing Programs generally agrees with the recommendations and believes that when implemented they will serve to improve program oversight.

However, the Finding, as stated, inaccurately reflects the results of the Audit. We request that the OIG remove the Finding be removed or wording changed.

Comment 1

The finding as stated: Finding 1: HUD Did Not Always Follow Mitigation Requirements for its FHA-Insured Multifamily Projects.

The Audit in fact reflects that HUD followed mitigation requirements in 24 of 25 surveyed projects. While agree that the one instance of failing to properly follow through and document radon testing presented a risk to the Department and the property residents, HUD did follow mitigation requirements in almost every (94%) one of the surveyed projects. The Audit reflects that HUD did not properly document the mitigation requirements in HEROS. We respectfully request that the Finding be changed to note that HUD failed to adequately document mitigation requirements in HEROS and note that HUD did follow mitigation requirements in 24 of 25 surveyed projects; or alternatively be removed in its entirety.

Recommendations

Comment 2

- Recommendation 1B states: "Establish and implement written procedures specifying which multifamily employees are required to upload mitigation resolutions after construction completion and at final endorsement." MF has no objection to this recommendation however, the body of the report states on page 6: "HUD relied on its regional offices to designate which HEROS users would conduct uploads for the mitigation resolutions." MF believes that each Production Division Director should retain flexibility on which staff may upload documentation into HEROS. Therefore, MF's policy is that each Regional Production Division Director will determine the appropriate staff positions in each office that can upload the mitigation resolutions after construction completion and final endorsement.

Comment 3

- Recommendation 1D currently reads: "Strengthen HEROS or internal procedures to add an additional certification requirement that would occur after the mitigation resolutions have been uploaded and at final endorsement." MF plans to strengthen internal procedures and will request that the Office of Environment and Energy update HEROS for mitigation in response to this recommendation. (The timing of any HEROS update will depend on the Office of Environment and Energy's list of priorities and available funding.) However, MF believes that a 'certification' is not necessary and would instead suggest the recommendation read: "Strengthen HEROS or internal procedures to add an additional requirement confirming that the mitigation resolutions have been uploaded at final endorsement."

Comment 4

- HUD cannot comply with recommendation 1E as currently written: “Strengthen HEROS to show a status of completed only after construction and final endorsement is complete. “ HEROS must continue to show status “complete” or status “complete conditioned on mitigation” when the Approving Official signs off in HEROS in order to comply with the regulations at 24 CFR Part 50 and with the National Environmental Policy Act (NEPA). The environmental regulations allow agencies to mark a review complete but with mitigation conditions. The ‘complete’ or ‘complete conditioned on mitigation’ status signifies that Multifamily Housing has completed its environmental review under 24 CFR Part 50 and may issue a Firm commitment. Without this status, HUD would be out of compliance with NEPA “limitations on actions during the NEPA process,” commonly referred to as ‘choice limiting actions.’ (40 CFR 1506, incorporated by reference at 50.1(c)).

Tracking the mitigation put in place as a condition of the completed environmental review is a separate issue. MF has checked with the HEROS team within HUD’s Office of Environment and Energy and it would be possible to add a column to the HEROS dashboard to document when mitigation is complete. MF will request this HEROS improvement. The timing will depend on the Office of Environment and Energy’s list of priorities and available funding.

We recommend changing recommendation 1E to read "Strengthen HEROS by adding a column on the dashboard to show when mitigation is complete."

Clarifications

Comment 5

- The report summary on Page 1 states that HUD did not always identify required mitigation measures. MF recommends clarifying that HUD did not always identify required mitigation measures in HEROS. We feel this is an important distinction because HUD was tracking and completing the mitigation requirements outside of HEROS. This is supported by the more detailed summary on Page 5, which specifies the issue is with HEROS documentation.
  - In a related edit, on Page 5 of the draft, it says “However, field office employees did provide copies of the mitigation resolution documentation upon request.” We recommend the following clarifying language: “However, field office employees were tracking mitigation outside of HEROS, and were able to provide copies of the mitigation resolution documentation upon request.”

Comment 6

○ In a second related edit, on the bottom of Page 3 of the draft, it says “We reviewed eight projects and determined that the environmental reviews were not properly documented for three projects”. We recommend the following clarifying language: “We reviewed eight projects and determined that the environmental reviews did not properly document mitigation requirements in HEROS for three projects”. This is supported by the very next sentence which states: “the documentation and follow-up issues we identified pertained to only the mitigation portion of the projects”.

• Projects in the Construction Phase. On page 8-9, the report states: “We did find exceptions, in which two projects had a status of completed conditioned on mitigation but were still in the construction phase and were not active due to the projects’ finding financing through other avenues.” MF requests that the OIG clarify this sentence. There is no issue with a project being marked 'completed conditioned on mitigation' while still in the construction phase. In fact, this is how HEROS and the Environmental Review Process is designed to work. It would be clearer to say the following: “We could not determine whether mitigation was completed and uploaded into HEROS for one project because the project was still in the construction phase. We could not make this determination for a second project because the applicant decided to pursue alternate financing and did not close with FHA.” Please note that MF is working with the field to make sure staff mark future HEROS reviews for projects that do not close as 'canceled.'

Comment 7

• Appendix B. We request that OIG clarify the headings on the table (either in the headings, or with footnotes.) Specifically, can you clarify that “Did not Identify” means MF did not identify the issue on the Mitigation Screen (HEROS Screen 5000); that “Did not complete” means did not complete required mitigation; and “Did not Upload” means did not upload to the Mitigation Follow-up Screen (HEROS screen 7000.)

## OIG Evaluation of Auditee Comments

Comment 1 HUD commented that the finding inaccurately reflected the results of the audit, and it requested that the finding be removed, or wording be changed. HUD agreed that the one instance of failing to properly follow through and document radon testing presented a risk to the Department and the property residents, but HUD did follow mitigation requirements in 94 percent of the surveyed projects. HUD requested that the finding be changed to note that HUD failed to adequately document mitigation requirements in HEROS and note that HUD did follow mitigation requirements in 24 of 25 surveyed projects.

We neither removed nor changed the finding. Our audit objective was to determine whether (1) the complainant's allegations were substantiated, and (2) Multifamily properly followed mitigation requirements for the 17 properties reviewed. We reviewed a total of 25 projects, which included 8 projects for our first objective and 17 projects for our second objective. We conducted a holistic review of the mitigation requirements, which began at identifying the mitigation and until the mitigation resolution was completed and uploaded in HEROS. HUD did follow the mitigation requirements of conducting mitigation resolutions for 24 out of 25 projects; however, conducting the mitigation resolutions was just one part of the mitigation requirements. Of the 25 projects reviewed, we found 6 instances in which HUD did not document the mitigation measures on the applicable screens, 17 projects did not have the mitigation resolution documentation uploaded into HEROS at project completion, and HUD did not conduct the required radon mitigation for 1 of the 25 projects reviewed before final endorsement. In order to answer the second part of our objective, we had to determine whether HUD did or did not properly follow mitigation requirements for the 17 properties reviewed. We answered our objective by stating, "HUD did not always follow mitigation requirements for its FHA-insured multifamily projects." Additionally, throughout the results of audit section of this report, we went into more details that explained the specifics of the finding.

Comment 2 For recommendation 1B, HUD commented that it has no objection to the recommendation; however, HUD commented on the sentence in the body of the report on page 6 that stated "HUD relied on its regional offices to designate which HEROS users would conduct uploads for the mitigation resolutions."

HUD explained that each Production Division Director (PDD) should retain flexibility on which staff may upload documentation into HEROS. HUD also explained that their policy is that each Regional Production Division Director will determine the appropriate staff positions in each office that can upload the mitigation resolutions after construction completion and final endorsement.



We would not object to a HUD policy that allows each PDD to retain flexibility on which staff may upload documentation into HEROS. We would encourage the PDD to specify in writing which employees are designated to upload mitigation resolutions after construction completion and at final endorsement.

- Comment 3 For recommendation 1D, HUD explained it will strengthen internal procedures and request that HUD’s Office of Environment and Energy update HEROS for mitigation; however, it does not believe a certification is necessary. HUD suggested changes to the recommendation.

We agree with the suggestion. We changed the wording of recommendation 1D to read “Strengthen HEROS or internal procedures to add an additional requirement confirming that the mitigation resolutions have been uploaded at final endorsement.”

- Comment 4 HUD stated it cannot comply with recommendation 1E as originally written and still be in compliance with the National Environmental Policy Act; however, HUD verified with HUD’s Office of Environment and Energy that it would be possible to add a column to the HEROS dashboard to document when mitigation is complete. Accordingly, HUD suggested changes to the recommendation.

We acknowledge that HUD cannot comply with recommendation 1E as originally written. We changed the wording of recommendation 1E to read "Strengthen HEROS by adding a column on the dashboard to show the progress of the overall mitigation status."

- Comment 5 HUD recommended that we clarify in the report summary on page 1 that HUD did not always identify required mitigation measures in HEROS. Similarly, HUD recommended that we clarify the language on page 5 of the report to state field office employees were tracking mitigation outside of HEROS and were able to provide documentation upon request.

In the report summary on page 1, we already clarified in the next sentence that “HUD did not always identify required mitigation measures or upload mitigation resolutions into the HUD Environmental Review Online System (HEROS) to document completion of its projects.” Additionally, we clarified the language on page 5 of the report to state “field office employees were tracking mitigation outside of HEROS and were able to provide documentation upon request.”

HUD also recommended that we clarify on page 3 that the environmental reviews did not properly document mitigation requirements in HEROS for three projects.

We agree with the recommendation. We clarified the sentence to read “We reviewed eight projects and determined that the required environmental review

mitigation actions were not properly documented in HEROS for three projects...”.

Comment 6 Regarding a statement in the Scope and Methodology section of the report, HUD stated that there is no issue with a project being marked 'completed conditioned on mitigation' while still in the construction phase, so HUD recommended we clarify the sentence on page 8-9 that explained that we found exceptions with two projects. HUD recommended that we make the sentence clearer by saying the following: “We could not determine whether mitigation was completed and uploaded into HEROS for one project because the project was still in the construction phase. We could not make this determination for a second project because the applicant decided to pursue alternate financing and did not close with FHA.”

We clarified the sentence to state, “We did find two projects for which we could not conduct a full review because they were still in the construction phase and were not active due to the projects finding financing through other avenues.” We did not report any deficiencies related to those projects.

Comment 7 HUD requested we clarify the headings on the table in Appendix B.

We agree. We added a note below the table with a better explanation of the headings.

## Appendix B

### Finding 1: Table of Project Deficiencies

Property name	Did not identify	Did not complete	Did not upload	No issues
6145 North Broadway Apartments*				X*
Albright Townhomes			X	
Brick Stone on Harmony**				X*
Community Homes			X	
Ebenezer Park Apartments				X
Enclave at Box Hill Phase II			X	
Gonzalez Apartments			X	
Govans Manor Apartments			X	
Hanover Townhomes				X
Lakeview Heights Apartments	X		X	
Legends Apartments			X	
Lenox at Bloomingdale	X		X	
Moon Meadows Apartments			X	
Mountain Heights Apartments			X	
Othello Square Building C			X	
Palladium Anna Apartments	X		X	
Park View Terrace II, LP				X
Pinon Lofts Apartments				X



Reata West Apartments		X		
Sagebrush Apartments	X		X	
St. Paul's Apartments			X	
The Enclave at Mira Lagos	X			
Vista Villa Apartments	X		X	
Warwick Apartments			X	
White River Apartments			X	
<b>Totals</b>	<b>6</b>	<b>1</b>	<b>17</b>	<b>6</b>

\*6145 North Broadway Apartments – We could not conduct a full review because the project was still in the construction phase.

\*\*Brick Stone on Harmony – We could not conduct a full review because the project was not active due to the project finding financing through other avenues but was listed as active in HEROS.

Explanation for Column Headings in Table Above

Did Not Identify – HUD did not identify mitigation measures or conditions on the HEROS screen 5000 or screen 7000. (See Appendix C, Screen 5000 – Mitigation Measures and Conditions, and Screen 7000 – Mitigation Follow-Up).

Did Not Complete – HUD did not complete the required mitigation. (See Appendix C, Section 9.2(B)(8)).

Did Not Upload – HUD did not upload the mitigation resolutions into the Mitigation Follow-up Screen. (See Appendix C, Screen 7000 – Mitigation Follow-Up).

No Issues – No Issues were found besides the exceptions listed with an asterisk.

## Appendix C

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### Criteria

#### **Multifamily Accelerated Processing Guide, Revised January 29, 2016**

##### **Section 9.2(A)(2)**

The lender must provide an environmental report to HUD. The environmental report must address National Environmental Policy Act environmental factors unless the categorical exclusions apply. The environmental report must also address the environmental laws and authorities listed at 24 CFR (Code of Federal Regulations) 50.4 unless the categorical exclusion applies. Also, the environmental report must identify any significant environmental issues to be resolved.

##### **Section 9.2(A)(8)**

Any identified environmental issues will require a discussion of impacts to human health and appropriate mitigation measures. The lender must provide mitigation plans for those environmental problems when the application is submitted. HUD will review the lender's plan and make it a condition of the firm commitment if HUD considers the plan acceptable. This would include any plans for remediation of site contamination, wetlands impacts, noise impacts, radon, historic preservation, endangered species, acceptable separation distance, and floodplain management issues.

##### **Section 9.2(B)(1)**

In accordance with 24 CFR 50.32, HUD, not the lender, is responsible for independently evaluating the information supplied by the lender in the environmental report, supplementing that information as needed, making the required findings, and preparing the environmental review in HEROS form HUD-4128 and supporting documentation as the environmental record for the project. HUD will determine whether the project raises environmental conditions that are prohibited by law, Executive order, or regulation or which would endanger health or safety or put FHA mortgages or the U.S. Government at financial risk or liability.

##### **Section 9.2(B)(3)**

Trained HUD staff must review the documentation submitted by the lender and must make a site visit. HUD staff will supplement the lender's documentation as needed, make the required findings, and prepare form HUD-4128 and supporting documentation. HUD staff must certify the completed environmental review in HEROS form HUD-4128 as the preparer. The environmental review in HEROS form HUD-4128 must also be certified by an approving official, who has authority to issue a firm commitment.

##### **Section 9.2(B)(7)**

The regional office will ensure that all environmental conditions are resolved and the environmental review in HEROS form HUD-4128 is completed and approved before issuance of a firm commitment.

### **Section 9.2(B)(8)**

When environmental reviews reveal environmental conditions that require mitigation, HUD will require completion of mitigation before firm commitment or will condition firm commitment on completion. HUD will discuss the requirements for completion of mitigation in the environmental review. Mitigation plans will be detailed in agreements and other relevant documents. HUD may also require an environmental management and monitoring program as discussed at 24 CFR 50.22.

### **Section 9.3(A)(1)(c)**

The phase I environmental site assessment (ESA) must be conducted (meaning the earliest of the date of the site visit, records review documents, or interviews) within 1 year of the submission to HUD. HUD may require updates or additional analysis in specific circumstances. A phase I ESA that was conducted more than 180 days before the submission date to HUD but within the allowable 1-year period must be updated in keeping with section 4.6 of American Society for Testing and Materials E1527-13. A phase I ESA prepared more than 1 year before submission to HUD, even if updated within 180 days of being submitted, is not acceptable.

### **Section 9.5(C)(2)(f)**

Radon-resistant construction is required for all new construction, and radon mitigation is required for existing construction where testing has revealed that radon levels exceed the threshold for unacceptability.

### **Section 9.5(C)(2)(g)**

For new construction and substantial rehabilitation properties, all mitigation, including follow up testing, must be completed before final closing. Radon mitigation included as part of a section 223(f) project's repairs must be completed as quickly as practicable and, in any event, no later than 12 months after closing.

### **Section 9.5(C)(2)(h)**

A certificate of completion from the radon professional must be submitted and appended to the radon report once radon testing or mitigation is required.

## **HEROS Users Guide, June 2019**

### **Screen 5000 - Mitigation Measures and Conditions**

If users identify any factors that require mitigation measures or conditions when completing Screen 2005-Related Laws and Authorities, Screen 4010-Environmental Assessment Summary, or Screen 4100-Environmental Assessment Analysis, they must include a mitigation plan on Screen 5000-Mitigation Measures and Conditions. Screen 5000 lists the factors requiring mitigation measures, along with the required measures and conditions as determined in the previous screens.

### **Screen 7000 – Mitigation Follow-Up**

Some projects are conditioned on mitigation measures as noted on Screen 5000-Mitigation Measures. Following completion of the review and implementation of the mitigation measures,

the environmental review record must be updated on Screen 7000-Mitigation Follow-Up. For each law, authority, or factor requiring mitigation (the list is automatically populated as a carryover from screen 5000), the user must complete the following fields: Upload Documentation, Comments, Cost Incurred, and Complete.