

WHAT YOU DON'T KNOW CAN HURT YOU[®]



- REAC/AFS
- New Flag Protocols
- Nuances of the new 2530

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MURPHY CONSULTING LLC
Making the *Complex* Comprehensible[®]

About Us

Murphy Consulting is a Baltimore-based team that provides clients nationwide with assistance in:

- ▶ Understanding HUD 2530 Regulatory Reporting Requirements
- ▶ Serving as an Outsourced APPS Submission Coordinator
- ▶ Managing Coordinator and User Set-up for EIV
- ▶ Advising on Security Policies & Best Practices for HUD Secure System
- ▶ Identifying and addressing HUD Flags
- ▶ Troubleshooting access problems for PASS, FASSUB & EIV

Denise Murphy-Edwards

- ▶ Is the leading HUD 2530 regulatory expert and HUD Secure System specialist in the country
- ▶ Worked ten years for an affordable housing developer and management agent on LIHTC and HUD application submissions, and their associated multi-layered loan closings.
- ▶ Frequently presents for industry groups around the country

You can learn more about us at our web site: www.MurphyConsultingSvs.com

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New World 2530

- ▶ Federal Register Publication - October 14, 2016
 - 24 CFR 200.210-222
- ▶ HUD Housing Notice - October 20, 2016 **
 - Notice 2016-15 Processing Guide for Previous Participation
- ▶ Effective Date of Change - November 14, 2016
 - The night of the Super Moon!



** Link is available on our web site under the Useful Links tab www.MurphyConsultingSvs.com

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Change in Terminology:

- ▶ Covered Project → HUD Property
- ▶ Triggering Event → Reason for HUD review
- ▶ Specified Capacities → Primary Applicant
- ▶ Controlling Participant → Principal



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Change in Reporting Requirements:

- ▶ Principals / Controlling Participants
- ▶ Types of Projects that must be disclosed
- ▶ How Flags are placed / resolved



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Implementation

- ▶ Quick Start – 30 days
- ▶ Slow Training Roll Out
- ▶ Transformation approach



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HUD's Review

The Plan:

1. Review Organization Chart for Controlling Participants
2. No False responses to 2530 Certifications
3. Check for Flags → If none, approve!



Applicants with "issues":

1. Review of Findings
2. Strong consideration will be given to explanations, mitigation efforts, Flag history, misconduct and risk to HUD
3. Options: Approval, Conditional Approval, Limited Participation, Temporarily withholding Approval, Require Remedy or Remediation before Approval, Disapproval



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Hurdles:

- ▶ Differing Analysis
 - ▶ among lenders, among transactions, from HUD
- ▶ Guidance is purposefully flexible in areas
- ▶ Overlap of exclusions vs requirements
- ▶ Inconsistency in presentation of Org Charts
- ▶ Overcoming "discomfort" with the new look



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Other considerations:



- ▶ 2530's approved before 11/14 with closings after
- ▶ Impact on Existing HUD properties - for profit
- ▶ Impact on Existing HUD properties - non-profit
- ▶ How are a7's viewed
- ▶ What if folks are already in APPS under the old rules?

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Changes to Risk Assessment across the HUD portfolio

New Flag Protocols:

- Tier 1: Significant Risk → Permanent Flags
- Tier 2: Compliance Risk → Flag for up to 5 years
- Tier 3: Temporary Risk → Flag resolved when issue resolved



Details on Flag Tiers can be found on pages 17-21 of the HUD Processing Guide.

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Good News on Flags

- ▶ Clarity and specificity
- ▶ Term limits
- ▶ Resolution criteria spelled out
- ▶ Flag comments in the system required
- ▶ Notice in writing when Flag placed
- ▶ Elevation of consideration
- ▶ Flags do not automatically prevent 2530 approval
- ▶ Consideration of mitigating circumstances
- ▶ Consideration of resolution of Flags on non-Controlling Participants



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Spring is Flag Season

Important Dates to remember

- ▶ FYE 12/31 → 3/31, 4/10 and 5/10

And for some non-profits

- ▶ FYE 6/30 → 9/30, 10/10, 11/10
- ▶ FYE 9/30 → 12/30, 1/10, 2/10



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AFS Flags



- ▶ Automatic
- ▶ Includes failure to submit Stub Period Waiver in FASSUB
- ▶ Impact on 2530 approval
- ▶ Resolution Criteria
- ▶ Flag Tier Level 3 but could be compacted to Tier 2
- ▶ Be sure iREMS set up issues do not count as a 1st offense

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REAC Physical Inspection Issues



Know you #'s:

- ▶ Below 60 → failure
- ▶ 30 & below → Immediate Tier 2 Flag and referral to DEC
- ▶ 2 REAC scores below 60 in past 7 yrs → Tier 3 Flag (not necessarily consecutive)

Consider:

- ▶ Impact on 2530 approval
- ▶ Recent case study → 2012 Inspection w/ 2015 Flag

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Common Questions with Tier 1 Flags and other required disclosures

- ▶ Can borrower receive 2530 approval with Tier 1 Flag for a Default?
- ▶ Do defaults have to be disclosed on 2530 if they are over 10 years ago?
- ▶ Can a borrower be approved who has been convicted of fraud or embezzlement?
- ▶ Have you ever had a borrower be approved who was on LDP list?

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BPRS is Dangerous!



- ▶ Errors are problematic to correct
- ▶ Impacts HUD's iREMS set up post closing
- ▶ Only for Specified Capacities and Controlling Participants
- ▶ APPS submissions should not require additional "evidence" of BPRS

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Closing or Firm Commitment Stage

- ▶ Seeing more check-ins on 2530
- ▶ Asking for Evidence of BPRS
- ▶ Confirming System Access post closing
- ▶ What else?



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Additional Questions?

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