




OFFICE OF HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

SEP 30 2015

MEMORANDUM FOR: Owners of Sec. 202 and Sec. 811 PRAC with Contracts Terminating or Renewing in FY 2016

cc: All Multifamily Regional Center/ Hub Directors
All Multifamily Satellite Office/ Program Center Directors
All Multifamily Operations Officers
Office of General Counsel

FROM:  Benjamin T. Metcalf, Deputy Assistant Secretary for Multifamily Housing Programs, HT

SUBJECT: Residual Receipts Authority - Section 202/811 Project Rental Assistance Contracts (PRACs)

I. Purpose

The purpose of this memorandum is to communicate continued implementation of statutory language in the Consolidated and Further Continuing Appropriations Act, 2015 addressing the remission of residual receipts for projects subject to a Section 202 or 811 Project Rental Assistance Contract (PRAC). Under either a FY 2016 continuing resolution or annual appropriations bill, the Department expects to have statutory authority and direction from Congress to continue collection of excess residual receipt account balances in order to supplement appropriated funds for the Sec. 202 and Sec. 811 programs.

Any balance greater than \$250 per unit in a Residual Receipts account must be remitted to HUD's Accounting Center upon "termination" of the PRAC. Termination is defined as expiration of the contract term, which for most PRACs falls on the annual contract anniversary date. Residual receipts will be collected upon expiration ("termination") of a contract, even if that contract is renewed on the same day. This guidance is also applicable to multi-year PRACs at the time of contract expiration/renewal. By returning subsidy funds determined to be in excess of the needs of a project to HUD's Accounting Center, these funds may be reused pursuant to statute to offset PRAC renewal costs and for other program purposes, such as funding of renewal of Senior Preservation Rental Assistance Contracts (SPRACs) or new Section 811 PRA awards.

HUD defines “Residual Receipts” as Multifamily Housing project funds in excess of amounts needed for project operations and required reserves. Residual Receipts are typically required by regulation or applicable PRAC to be deposited by an owner into an interest-bearing account, often called a Residual Receipts account.

II. Applicability and Implementation

- A. This guidance applies to all projects that are subject to a Section 202 or Section 811 PRAC.
- B. This guidance will be effective for PRAC contracts with an annual or multi-year term renewal date or expiration date no less than 30 days after issuance of this memorandum.

III. Authority

The Consolidated and Further Continuing Appropriations Act, 2015 granted the Department Authority to claim Residual Receipts.

- A. The Act states:

Section 202 Residual Receipts Authority:

Provided further, That upon request of the Secretary of Housing and Urban Development, project funds that are held in residual receipts accounts for any project subject to a section 202 Project Rental Assistance Contract, and that upon termination of such contract are in excess of an amount to be determined by the Secretary, up to \$16,000,000 in any such excess amounts shall be remitted to the Department and deposited in this account, to be available until September 30, 2018, for purposes under this heading, and shall be in addition to the amounts otherwise provided under this heading for such purposes.

Section 811 Residual Receipts Authority:

Provided further, That, in this fiscal year, upon the request of the Secretary of Housing and Urban Development, project funds that are held in residual receipts accounts for any project subject to a section 811 Project Rental Assistance Contract and that upon termination of such contract are in excess of an amount to be determined by the Secretary shall be remitted to the Department and deposited in this account, to be available until September 30, 2018.

- B. There is regulatory authority in 24 CFR §891.400(e) “Use of project funds,” which provides for the protection of project operating funds and the use of any residual receipts: “Any remaining project funds in the project funds account (including earned interest) following the expiration of the fiscal year shall be deposited in a Federally-insured residual receipts account within 60 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD.

If there are funds remaining in the residual receipts account when the mortgage is satisfied, such funds shall be returned to HUD.”

IV. Programmatic Summary

- A. To the extent that Residual Receipts are available at a project, owners are allowed an initial residual receipts balance (Retained Balance) in an amount equivalent to \$250 per unit to use for project purposes.

An exception to this per/unit calculation may be granted under certain circumstances where HUD determines that larger balances are necessary to assure continued successful operation of the project. Such exceptions may be considered for repair plans or other approved uses for utilizing residual receipts that were initiated and approved prior to publication of this Memorandum; to repair Exigent Health and Safety (EHS) deficiencies required to meet HUD Physical Condition Standards; to liquidate accounts payable that may exist within the first 120 days of issuance of this memorandum; for one year of service coordination expenses, if not included in the PRAC budget etc.

HUD will continue to consider releases in accordance with the outstanding procedures and stated purposes found in HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*, as described in Section V of this memorandum.

- B. Annually upon expiration and/or renewal of the PRAC, Residual Receipts account balances in excess of \$250 per unit will be remitted to the Accounting Center in accordance with the instructions in this Memorandum.
- C. Owners of projects with Residual Receipts account balances at or below \$250 per unit shall retain the existing Residual Receipts balance until the next expiration/renewal date of the PRAC in accordance with existing procedures.
- D. Upon submission of the project’s fiscal year audit or certified financial statement, all project funds remaining must be deposited into the project’s Residual Receipts account.
- E. If, after all Residual Receipts have been applied and the Residual Receipts account balance exceeds the Retained Balance level of \$250 per unit due to an annual deposit of project funds, at the expiration and/or annual renewal of the PRACs, excess amounts will be remitted to the Accounting Center in accordance with the instructions in this Memorandum.

V. Owner Requirements

- A. Consistent with current requirements, owners shall submit Annual Financial Statements which include project funds computation sheets in the form and to the entity currently required by the Department, within 90 days of the end of the annual fiscal period. Owners who are not required to file annual financial statements shall submit a year-end

certified financial statement to REAC, including the beginning and year-end balance in the Residual Receipts account.

- B. Upon expiration and/or annual renewal of the PRAC, all project funds remaining must be deposited into the project's Residual Receipts account and shall be used based on the requirements and procedures established in this Memorandum.
- C. HUD will continue to consider approving requests for releases from the account in accordance with the outstanding procedures and purposes found in HUD Handbook 4350.1, Chapter 25, "Residual Receipts".
- D. At the expiration of the project's PRAC, and concurrent with the renewal of the PRAC, owners must prepare and submit form HUD-9250, "Funds Authorizations" for the release of those Residual Receipts funds in amounts exceeding \$250 per unit and not otherwise excepted from remission.

VI. Multifamily Field Office (Hub/Program Center or Regional Center/Satellite Office) Responsibilities

A. Owner Submissions of HUD-9250

- 1. Hub/Program Center or Regional Center/Satellite Office staff shall date-stamp and process owners' submissions upon receipt and within 10 business days.
- 2. Hub/Program Center or Regional Center/Satellite Office staff shall return incomplete submissions to owners immediately with a formal letter listing the deficiencies in the submission.

B. Reviews and Approvals

- 1. The effective date of the funds release will be the last day of the existing PRAC.
- 2. The field office Account Executive shall review and assure that the available funds amount is correct.
- 3. The Hub/Program Center Director or Regional Center Director/Asset Management Division Director or designee shall sign the request.
- 4. The Hub/Program Center or Regional Center/Satellite Office shall maintain copies of all approved releases in accordance with the document retention regulations (HB 2225.6 – HUD Records Disposition Schedules, Appendix 10).
- 5. To authorize releases, the Hub/Program Center or Regional Center/Satellite Office shall submit form HUD-9250 to the private bank that maintains the project's Residual Receipts account.

6. The Residual Receipts proceeds will be sent to the Accounting Center in either of the following ways:

- a) Checks through the Lockbox can be made payable to the U.S. Department of Housing and Urban Development (HUD) and sent to:

Bank of America
 PO Box 277303
 Atlanta, GA 30384-7303

The check information must include the iREMS project number and “PRAC ERR Termination”

- b) Funds may also be wired to the Department. If the project chooses to wire the funds, the following information is needed:

Bank Name:	U. S. Treasury FRB New York
Bank Address:	New York, NY
ABA Routing Number:	021030004
Beneficiary:	D
Account Number:	86011101
Account Holder:	U. S. Department of HUD (Ft Worth, TX)

Include the iREMS project number and “PRAC ERR Termination.”

C. Monitoring

The Hub/Program Center or Regional Center/Satellite Office shall:

1. For those 202 and 811 projects for which they are responsible, review owners’ annual financial statements to assure proper accounting of any deposits to and withdrawals from the Residual Receipts account.
2. After each release, enter comments into the “Servicing” screen of the Integrated Real Estate Management System (iREMS) stating the:
 - Date approval was given to use Residual Receipts, and
 - The amount approved.

VII. Headquarters Responsibilities

The Office of Asset Management and Portfolio Oversight in Headquarters shall process owners’ request for review of decisions that cannot be resolved at the Hub/Program Center or Regional Center/Satellite Office level. Owners must submit a letter describing the issue along with supporting documentation to the Hub or Program Center. The Hub/Regional Center will forward the owner’s request to the Director of Asset Management and Portfolio Oversight for response.

VIII. Information Collection Requirements

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number **2502-0555**. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

For more information, owners/agents may contact the Account Executive in the Hub/Program Center or Regional Center/Satellite Office with jurisdiction over the subject project. HUD staff may contact their Field Asset Management Account Executive in the Office of Asset Management and Portfolio Oversight, Headquarters.