



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

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Special Attention of:

All Homeownership Center Directors
All REO Directors
All Management and Marketing Contractors

Notice: H 2003 - 19

Issued: September 2, 2003

Expires: September 30, 2004

Cross References:

Subject: Lead Disclosure Requirements and Addendum Format

In order to ensure that HUD's Management and Marketing (M&M) contractors, and the brokers working with HUD in the sale of its single family properties constructed prior to 1978 are in full compliance with the requirements of the Lead Disclosure Rule (24 CFR 35, subpart A), the following guidance is provided relative to the disclosure of known lead-based paint and lead-based paint hazards.

This guidance addresses lead-based paint disclosure only. Procedures for compliance with the requirements of the Lead Safe Housing Rule will be included in the scope of work for the new M&M contracts that will be procured this year.

These requirements shall become effective 30 days from the date of this Notice. Sales contracts shall not be executed for properties constructed prior to 1978 for which disclosure has not been provided as described below. In order to address the range of marketing situations in a simple manner in this Notice, the term "broker" refers, as applicable, to a selling broker, a buyer's broker, or a purchaser who is not represented by a broker.

Lead Disclosure Rule Compliance Procedure for HUD-Owned Single Family Properties

1. **Age Verification.** Within five (5) business days from the effective date of this Notice, M&M contractors shall verify, based on appraisal information or as determined by the initial inspection, the year of construction of each HUD-owned property in their inventory and ensure that this information is properly recorded in the Single Family Acquired Asset Management System (SAMS). Upon acquisition of any new property, M&M contractors will, within five (5) business days of acquisition, review the appraisal and initial inspection information to identify the year of construction of each property and record this information in SAMS.

- a. If the year of construction is 1978 or later, no further action is required regarding lead-

based paint.

- b. If the year of construction is prior to 1978, the M&M contractor shall comply with the following provisions of this memorandum.
2. **Replace Existing Lead Disclosures.** For properties that are listed in the inventory on the issuance date of this Notice, M&M contractors shall remove all existing lead-based paint disclosures from the property listing website and replace each with a properly completed “Lead-Based Paint Disclosure Addendum” (Addendum) executed by the M&M contractor on behalf of HUD, the seller, using the attached format. This action is covered under the Information Collection Request approved by the Office of Management and Budget for the Environmental Protection Agency-HUD jointly published Lead Disclosure Rule.
 3. **Listing Process.** Prior to listing any current or future HUD property constructed prior to 1978, the M&M contractor shall:
 - a. Complete parts (a) and (b) of the Addendum for each property based on all available information and documents related to known lead-based paint and lead-based paint hazards at the property. Sign and post the Addendum on the property listing website at the time the property is listed. The electronic version of the signed Addendum, and any supplements, shall accurately reflect the information in the paper version of the ink-signed Addendum, and any supplements. The electronic version of the Addendum, and any supplements, shall be capable of being printed, saved, or otherwise reproduced in the future by the broker.
 - b. Post any available lead information related to the subject property on the website in one or more portable document format (PDF) files. This information shall include all available lead-based paint inspection reports, risk assessment reports, and/or other records pertaining to known lead-based paint and/or lead-based paint hazards for the subject property.
 - c. Post records and/or reports obtained subsequent to listing on the website within two (2) business days of receipt. Such records or reports could include lead-based paint inspections, lead hazard control contracts or work orders, lead clearance examinations, or similar documents associated with the evaluation and control of lead-based paint and/or lead-based paint hazards on the property.
 4. **Before Bid Submission.** Through broker training and instructions published on its website, the M&M contractor shall be required to:
 - a. Provide the consumer electronic disclosures to the broker, pursuant to 15 U.S.C. 7001(c). Obtain the consumer electronic consents (or electronic confirmation of consent) from the broker, pursuant to 15 U.S.C. 7001(c). Direct brokers to download the Addendum and all available lead records and reports from the property website listing and deliver paper (or hard) copies of them to the potential purchaser prior to submission of a bid.
 - b. Direct brokers to provide potential purchasers with a copy of the Environmental Protection

- Agency (EPA)-approved pamphlet “Protect Your Family from Lead in Your Home.” The pamphlet can be downloaded from HUD’s website in English or Spanish, at www.hud.gov/offices/lead/disclosurerule/index.cfm#forms. A black and white camera-ready copy of the pamphlet ready for printing can be obtained from the National Lead Information Clearinghouse, by telephoning 1-800-424-LEAD (toll-free), or at www.epa.gov/lead/nlicdocs.htm.
- c. Notify brokers that they can obtain additional information on the Lead Disclosure Rule from the National Lead Information Clearinghouse (sponsored by HUD, EPA and the Centers for Disease Control and Prevention) by telephone at 1-800-424-LEAD, or at www.epa.gov/lead/nlic.htm. Questions can be submitted by e-mail, and documents can be ordered at this website. Other information on the Lead Disclosure Rule is available from HUD’s Office of Healthy Homes and Lead Hazard Control website at www.hud.gov/offices/lead.
 - d. Instruct brokers not to obtain the purchaser’s signature on the Addendum until after the receipt of the bid acceptance confirmation.
5. **Following Bid Acceptance.** Prior to execution of the form HUD-9548, Sales Contract, for any HUD property constructed prior to 1978, the M&M contractor shall ensure that the purchaser and broker have properly executed the new Addendum.
- a. If any available records or reports are not linked to the web listing, or if the broker notifies the M&M contractor that it is unable to provide the consumer electronic consent or is unable to access the electronic versions of any records or reports, the M&M contractor must provide paper copies of those documents to the broker by next-day delivery.
 - b. After the receipt of the bid acceptance confirmation, the broker, after verifying with the M&M contractor that it has provided the purchaser with all available records and/or reports related to known lead-based paint or lead-based paint hazards, must ensure that (1) the purchaser signs and dates the Addendum, and (2) the Addendum is submitted to HUD with the sales contract. The date of the purchaser’s signature on the Addendum shall be the beginning date for the contingency period discussed in paragraph 6, below. The purchaser shall not be required to sign the Addendum and return the sales contract until the purchaser has received all available records and/or reports related to known lead-based paint or lead-based paint hazards to the M&M contractor. In the event new lead reports and/or information on the subject property become available after the purchaser executes the Addendum, the M&M contractor shall provide these to the purchaser through the broker as well as a supplemental Addendum to be signed by the purchaser. If the sale has not closed when the M&M contractor provides the supplemental Addendum, the Purchaser shall have until the later of the original contingency period, above, or two (2) business days after the date of the Purchaser’s signature on the supplemental Addendum to exercise the right to withdraw from the contract.
 - c. In the case of a sale where the purchaser is not represented by a broker, the M&M

contractor shall complete the Addendum, entering "N/A" on the lines for selling broker's signature, sign on behalf of the seller and deliver the Addendum and full copies of all available lead related records and reports and a copy of the EPA-approved pamphlet "Protect Your Family from Lead in Your Home" to the purchaser within five (5) calendar days following bid acceptance.

6. **Contingency Period.** As a condition of sale for any HUD-owned property constructed prior to 1978, the purchaser shall have a lead contingency period of fifteen (15) calendar days from the date of its signature on the Addendum to review all documentation related to lead-based paint and/or lead-based paint hazards and to obtain, at its own expense, independent reports or assessments related to lead-based paint or lead-based paint hazards.
- a. The lead contingency period ends fifteen (15) calendar days from the date of the purchaser's signature on the Addendum.
 - b. If the purchaser is dissatisfied for any reason and notifies the M&M contractor by letter postmarked no later than the fifteenth (15th) calendar day following the date of the purchaser's signature on the Addendum, the purchaser may withdraw from the contract. Earnest money will not be refunded, except as provided in paragraph 6.c. of this memorandum.
 - c. The withdrawing purchaser will be entitled to a refund of earnest money if the purchaser obtains an independent lead-based paint inspection or risk assessment performed by a certified Lead-Based Paint Inspector or certified Risk Assessor, as applicable, and provides the M&M contractor with a copy of the inspection or risk assessment report. The report must be postmarked by the fifteenth (15th) calendar day following the date of the purchaser's signature on the Addendum.
 - d. If the purchaser requires additional time to receive the results of a lead-based paint inspection or risk assessment report, the broker must request in writing an extension from the M&M contractor. The M&M contractor must use its discretion in approving extension requests but is encouraged to provide purchasers with reasonable time to complete lead-based paint evaluations.
 - e. Neither the M&M contractor nor the broker may discourage the purchaser from obtaining a lead-based paint inspection and/or a risk assessment during the contingency period.
 - f. Within 30 calendar days after the purchase closes or the purchaser withdraws, the M&M contractor must attest that it has complied with the Lead Disclosure Rule and the provisions of this Notice in regard to the purchase or unsuccessful purchase, in a signed statement inserted into the property file.

If you have any questions regarding the implementation of these requirements, please

contact Wanda Sampedro, Director, Single Family Asset Management & Disposition Division, Department of Housing and Urban Development, at (202) 708-1672.

Attachment

John C. Weicher
Assistant Secretary for Housing-
Federal Housing Commissioner, H