

civil money penalty action against any owner, general partner of a partnership, or agent employed to manage the property that has an identity of interest with the owner or general partner receiving project-based assistance under Section 8 of the United States Housing Act of 1937 for a knowing and material breach of housing assistance payment (HAP) contracts.

Section A. Authority

The Secretary of Housing and Urban Development hereby delegates the following authorities to the General Counsel:

1. To interpret the authority of the Secretary and to determine whether the issuance of any rule, regulation, statement of policy, or standard promulgated by HUD is consistent with that authority.

2. To direct all litigation affecting HUD and to sign, acknowledge, and verify on behalf of and in the name of the Secretary all declarations, bills, petitions, pleas, complaints, answers, and other pleadings in any court proceeding brought in the name of or against the Secretary or in which the Secretary is a named party.

3. To direct the referral of cases and other matters to the Attorney General for appropriate legal action and to transmit information and material pertaining to the violation of law or HUD rules and regulations. Excepted from this authority, however, are those referrals and transmittals that the Inspector General is authorized to make by law or by delegation of authority.

4. To accept, on behalf of the Secretary, service of all summonses, subpoenas, and other judicial, administrative, or legislative processes directed to the Secretary or to an employee of HUD in an official capacity, and to execute affidavits asserting HUD's deliberative process privilege.

5. Where not inconsistent with regulations pertaining to proceedings before administrative law judges, to approve the issuance of subpoenas or interrogatories pertaining to investigations for which responsibility is vested in the Secretary.

6. To consider, ascertain, adjust, determine, compromise, allow, deny, or otherwise dispose of claims under the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671 *et seq.* and the Military Personnel and Civilian Employees' Claims Act of 1974, 31 U.S.C. 3721 *et seq.*

7. To act upon the appeals and issue final determinations on appeals of denial of access or record correction under the Privacy Act of 1974, except appeals regarding records maintained by

the Office of Inspector General (Pub. L. 93-579), 5 U.S.C. 552(c).

8. To make written requests, for purposes of civil or criminal law enforcement activities, to other agencies for the transfer of records or copies of records maintained by such agencies under subsection (b)(7) of the Privacy Act of 1974, as amended (5 U.S.C. 552a(b)(7)).

9. To act upon appeals under the Freedom of Information Act, 5 U.S.C. 552, except appeals from decisions of the Office of Inspector General.

10. To appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner, to replace a previously designated foreclosure commissioner under:

(a) Section 805 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3754; the power to fix compensation for the foreclosure commissioner under Section 812 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3761; and to promulgate regulations necessary to carry out the provisions of the Single Family Mortgage Foreclosure Act of 1994; and

(b) Section 365 of the Multifamily Mortgage Foreclosure Act of 1981, 12 U.S.C. 3701, *et seq.*; the power to fix compensation for the foreclosure commissioner under Section 369(c) of the Multifamily Mortgage Foreclosure Act of 1981, 12 U.S.C. 3701, *et seq.*; and to promulgate regulations necessary to carry out the provisions of the Multifamily Mortgage Foreclosure Act of 1981.

11. To make determinations and certifications required under Section 1114 of the Right to Financial Privacy Act, 12 U.S.C. 3401, *et seq.*

12. To designate authorized officials to exercise the powers or perform the duties of the General Counsel, through an order of succession (subject to the provisions of the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345-3349d), during any period when, by reason of absence, disability, or vacancy in office, the General Counsel for HUD is not available.

13. Where not inconsistent with other regulations pertaining to proceedings before administrative law judges, to serve as an Attesting Officer and to cause the seal of HUD to be affixed to such documents as may require its application and to certify that a copy of any book, paper, microfilm, or other document is a true copy of that in the files of HUD.

14. To act as the designated official under Section 5(a) of Executive Order 12630, Governmental Actions and Interference With Constitutionally

Protected Property Rights, issued March 15, 1987, (53 FR 8859, March 18, 1988) consistent with Executive Order 13406, Protecting the Property Rights of the American People, issued June 23, 2006 (71 FR 36973, June 28, 2006).

15. To make determinations of federalism implications, preemption, or the need for consultations with state and local officials as required by Executive Order 13131, Federalism, issued August 4, 1999 (64 FR 43255, August 10, 1999).

Section B. Enforcement Authority

The Secretary hereby delegates the following authority to the General Counsel:

1. To issue suspensions, debarments, and limited denials of participation, under 2 CFR part 180.

Section C. Authority Delegated to the Designated Agency Ethics Official

The Secretary hereby delegates the following authority to the General Counsel when acting as HUD's Designated Agency Ethics Official:

1. To authorize the Alternate Designated Agency Ethics Official to perform the waiver function of the Designated Agency Ethics Official, as provided by 5 CFR Part 7501, concurrently with the Designated Agency Ethics Official.

Section D. Authority To Redelegate

The General Counsel is authorized to redelegate to employees of HUD any of the authority delegated under Sections A, B, and C above.

Section E. Authority Superseded

This delegation supersedes all previous delegations of authority from the Secretary to the General Counsel.

Authority: Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 9, 2011.

Shaun Donovan,
Secretary.

[FR Doc. 2011-18016 Filed 7-15-11; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5543-D-02]

Consolidated Redefinition of Authority to the Office of General Counsel

AGENCY: Office of General Counsel, HUD.

ACTION: Notice of Redefinition of Authority.

SUMMARY: This redelegation of authority consolidates and updates past redelegations of authority from the General Counsel to subordinate employees.

DATES: *Effective Date:* July 9, 2011.

FOR FURTHER INFORMATION CONTACT: John P. Opitz, Associate General Counsel for Finance and Administrative Law, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 8150, Washington, DC 20410-0500, telephone number 202-708-1999. (This is not a toll-free number.) Individuals with speech or hearing impairments may access this number through TTY by calling 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register** is a notice of a consolidated delegation of authority from the Secretary to the General Counsel. In that notice, the General Counsel is authorized to redelegate to employees of HUD authority delegated by the Secretary in that notice to the General Counsel. Through this notice, the General Counsel is redelegating certain authority to other employees of the Office of General Counsel.

Section A of this notice contains concurrent redelegations from the General Counsel to the Principal Deputy General Counsel, the Deputy General Counsel for Operations, the Deputy General Counsel for Housing Programs and the Deputy General Counsel for Enforcement and Fair Housing.

Section B of this notice contains redelegations from the General Counsel to specific positions within the Office of General Counsel.

Section C of this notice contains redelegations to the Departmental Enforcement Center within the Office of General Counsel.

Section D contains redelegations from the General Counsel, in his or her capacity as the Designated Agency Ethics Official, to the Deputy General Counsel for Operations when acting as the Alternate Designated Agency Ethics Official. The Secretary previously named the General Counsel as HUD's Designated Agency Ethics Official (DAEO) and authorized the DAEO to waive any provisions in 5 CFR part 7501 (Supplemental Standards of Conduct for Employees of the Department of Housing and Urban Development). See 5 CFR 7501.102 and 5 CFR 7501.103. The Secretary has also named the Deputy General Counsel for Operations as the Alternate Designated Agency Ethics Official to act in the absence of the DAEO. See 5 CFR 7501.102. Pursuant to the provisions of 5 CFR 2638.204, a DAEO may redelegate to one

or more ethics officials all duties of the DAEO under 5 CFR 2638.203, except those functions in 5 CFR 2634.605(c)(2) and 5 CFR 2638.203(b)(3). In this notice, the DAEO delegates to the Alternate DAEO the authority to perform all the functions of the DAEO under 5 CFR 2638.203 concurrently with the DAEO, except those functions described in 5 CFR 2634.605(c)(2) and 5 CFR 2638.203(b)(3). In the consolidated delegation of authority from the Secretary to the General Counsel, the Secretary delegated the authority to the DAEO to redelegate authority to the Alternate DAEO to perform the waiver function of the DAEO in 5 CFR part 7501 concurrently with the DAEO. In this notice, the DAEO redelegates the authority to the Alternate DAEO to perform the waiver function of the DAEO in 5 CFR part 7501 concurrently with the DAEO.

Section E of this notice redelegates Regional Counsel settlement authority, which is detailed in the Litigation Handbook and its appendices, i.e., HUD Handbook 1530.1 REV-5. First, for Federal Party Litigation, i.e., when HUD is a party, the Regional Counsel may now recommend to the U.S. Department of Justice (DOJ) whether to approve Routine Settlements of all cases that they are handling except where the settlement involves more than \$1 million. See Litigation Handbook, ¶ 2-3(g)(1)(a). This notice increases that amount to \$2 million. Second, for Non-Federal Party Litigation, i.e., when HUD has an interest but is not a party, the Litigation Handbook now authorizes the Regional Counsel to approve Routine Settlements not exceeding \$500,000 without the concurrence of the Program Associate General Counsel. See Litigation Handbook, ¶¶ 2-3(g)(2), 3-3(b)(5). This notice increases that amount to \$1 million. This notice does not alter any other requirement or guideline in the Litigation Handbook.

These redelegations revoke and supersede all previous delegations of authority from the General Counsel to subordinate employees, but specifically do not revoke the divisions of responsibility set forth in the Office of General Counsel Litigation Handbook and its appendices, except where specifically stated in Section E.

Section A. Authority Delegated to the Principal Deputy General Counsel and Deputy General Counsels

The General Counsel retains and redelegates the following authority concurrently to the Principal Deputy General Counsel, the Deputy General Counsel for Operations, the Deputy General Counsel for Housing Programs

and the Deputy General Counsel for Enforcement and Fair Housing.

1. To interpret the authority of the Secretary and to determine whether the issuance of any rule, regulation, statement of policy, or standard promulgated by HUD is consistent with that authority.

2. To direct all litigation affecting HUD and to sign, acknowledge and verify on behalf of and in the name of the Secretary all declarations, bills, petitions, pleas, complaints, answers, and other pleadings in any court proceeding brought in the name of or against the Secretary or in which he/she is a named party.

3. To direct the referral of cases and other matters to the Attorney General for appropriate legal action and to transmit information and material pertaining to the violation of law or HUD rules and regulations. There are excepted from this authority, however, those referrals and transmittals that the Inspector General is authorized to make by law or by delegation of authority.

4. To accept, on behalf of the Secretary, service of all summons, subpoenas, and other judicial, administrative, or legislative processes directed to the Secretary or to an employee of HUD in an official capacity and to execute affidavits asserting HUD's deliberative process privilege.

5. Where not inconsistent with other regulations pertaining to proceedings before administrative law judges, to approve the issuance of subpoenas or interrogatories pertaining to investigations for which responsibility is vested in the Secretary.

6. To consider, ascertain, adjust, determine, compromise, allow, deny or otherwise dispose of claims under the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671 *et seq.* and the Military Personnel and Civilian Employees' Claims Act of 1974, 31 U.S.C. 3721 *et seq.*

7. To act upon the appeals and issue final determinations on appeals of denial of access or record correction under the Privacy Act of 1974, except appeals regarding records maintained by the Office of Inspector General (Pub. L. 93-579), 5 U.S.C. 552(c).

8. To make written requests, for purposes of civil or criminal law enforcement activities, to other agencies for the transfer of records or copies of records maintained by such agencies under subsection (b)(7) of the Privacy Act of 1974, as amended (5 U.S.C. 552a(b)(7)) ("Privacy Act").

9. To act upon appeals under the Freedom of Information Act, 5 U.S.C. 552, except appeals from decisions of the Office of Inspector General.

10. To appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner under:

(a) Section 805 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3754; the power to fix compensation for the foreclosure commissioner under Section 812 of the Single Family Mortgage Foreclosure Act of 1994; 12 U.S.C. 3761, and to promulgate regulations necessary to carry out the provisions of the Single Family Mortgage Foreclosure Act of 1994; and

(b) Section 365 of the Multifamily Mortgage Foreclosure Act of 1981, 12 U.S.C. 3701, *et seq.*; the power to fix compensation for the foreclosure commissioner under Section 369(c) of the Multifamily Mortgage Foreclosure Act of 1981; 12 U.S.C. 3701, *et seq.*, and to promulgate regulations necessary to carry out the provisions of the Multifamily Mortgage Foreclosure Act of 1981.

11. To make determinations and certifications required under Section 1114 of the Right to Financial Privacy Act, 12 U.S.C. 3401, *et seq.*

12. To designate authorized officials to exercise the powers or perform the duties of the General Counsel, through an order of succession (subject to the provisions of the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345–3349d), during any period when by reason of absence, disability, or vacancy in office, the General Counsel for HUD is not available.

13. To serve as an Attesting Officer and to cause the seal of HUD to be affixed to such documents as may require its application and to certify that a copy of any book, paper, microfilm, or other document is a true copy of that in the files of HUD.

14. To act as the designated official under Section 5(a) of Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights, issued March 15, 1987 (53 FR 8859, March 18, 1988) consistent with Executive Order 13406, Protecting the Property Rights of the American People, issued June 23, 2006 (71 FR 36973, June 28, 2006).

15. To make determinations of federalism implications, preemptions, or the need for consultation with state and local officials as required by Executive Order 13131, Federalism, issued August 4, 1999 (64 FR 43255, August 10, 1999).

Section B. Authority Redelegated to Specific Positions Within the Office of General Counsel

The General Counsel hereby retains and redelegates the following authority to the Principal Deputy General Counsel, the Deputy General Counsel and to specific positions identified below within the Office of General Counsel. This authority may not be further redelegated unless expressly stated in the redelegation.

1. To the Associate General Counsel for Litigation and to Regional Counsel, the authority to accept, on behalf of the Secretary, service of all summons, subpoenas, and other judicial, administrative, or legislative processes directed to the Secretary or to an employee of HUD Headquarters in an official capacity. The Associate General Counsel for Litigation may redelegate this authority within the Office of Litigation and the Regional Counsel may redelegate this authority to Associate Regional Counsel for Housing Finance and Programs within their operating jurisdictions.

2. To the Associate General Counsel for Finance and Administrative Law, or designee, the authority to implement the policies of the National Environmental Policy Act (NEPA) and other environmental requirements of HUD, including the performance of the responsibilities of the Program Environmental Clearance Officer for the Office of General Counsel; 24 CFR 50.10(a), 50.16. The Associate General Counsel retains and redelegates this authority to the Assistant General Counsel, Administrative Law Division, and to the Senior Environmental Attorney.

3. To the Associate General Counsel for Fair Housing and to Regional Counsel, the authority to process cases arising under the Fair Housing Act, as set forth in 24 CFR parts 103 and 180 (with the exception of 24 CFR 180.675). The Associate General Counsel for Fair Housing retains this authority and further redelegates it to the Assistant General Counsel for Fair Housing Enforcement and the Assistant General Counsel for Fair Housing Compliance.

4. To the Associate General Counsel for Fair Housing and to Regional Counsel, the authority to process cases arising under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, and the Age Discrimination Act of 1975, as set forth in 24 CFR part 180 (with the exception of 24 CFR 180.675). The Associate General Counsel for Fair Housing

retains this authority and further redelegates it to the Assistant General Counsel for Fair Housing Compliance and the Assistant General Counsel for Fair Housing Enforcement.

5. To the Associate General Counsel for Fair Housing, the authority under 24 CFR 180.675(b), (c), (d) and (e) concerning petitions for review. The Associate General Counsel for Fair Housing retains and redelegates this authority to the Assistant General Counsel for Fair Housing Enforcement and the Assistant General Counsel for Fair Housing Compliance.

6. To the Associate General Counsel for Program Enforcement, the Associate General Counsel for Finance and Administrative Law, the Associate General Counsel for Ethics and Personnel Law, the Associate General Counsel for Litigation, the Associate General Counsel for Fair Housing and each Regional Counsel, the authority to make written requests, for purposes of civil or criminal law enforcement activities, to other agencies for the transfer of records or copies of records maintained by such agencies under subsection (b)(7) of the Privacy Act of 1974, as amended (5 U.S.C. 552a(b)(7)) (“Privacy Act”), except appeals involving records maintained by the Office of Inspector General.

7. To the Associate General Counsel for Ethics and Personnel Law and the Regional Counsel the authority to make determinations and certifications required under section 1114 of the Right to Financial Privacy Act, 12 U.S.C. 3401, *et seq.*

8. To the Associate General Counsel for the Office of Assisted Housing and Community Development, the authority to make legal determinations on behalf of the Department of Housing and Urban Development on matters involving the financing of obligations guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5308.

9. To the Senior Counsel for Appeals, the Associate General Counsel for Ethics and Personnel Law, the Associate General Counsel for Finance and Administrative Law, and the Regional Counsel, the authority to act upon appeals emanating from Headquarters or Regional Offices under the Freedom of Information Act (“FOIA”), 5 U.S.C. 552, except appeals from decisions of the Office of Inspector General. To the Regional Counsel, the authority to act upon appeals emanating from Field Offices under the Freedom of Information Act (“FOIA”), 5 U.S.C. 552, except appeals from decisions of the Office of Inspector General.

10. To the Associate General Counsel for Ethics and Personnel Law and the Assistant General Counsel, Ethics Law Division, the authority to serve as Deputy Agency Ethics Officials in Headquarters responsible for undertaking Standards of Conduct program duties as directed by the General Counsel. The Associate General Counsel for Ethics and Personnel Law and the Assistant General Counsel, Ethics Law Division, may redelegate these duties to the Deputy Assistant General Counsel, Ethics Law Division. To the Regional Counsel, the authority to serve as Deputy Agency Ethics Officials responsible for undertaking Standards of Conduct program duties for the Regional and Field Offices as directed by the General Counsel. The Regional Counsel may redelegate their duties to Deputy Regional Counsel.

11. To Regional Counsel, the authority to appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner under Section 805 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3754; the power to fix compensation for the foreclosure commissioner under Section 812 of the Single Family Mortgage Foreclosure Act of 1994, 12 U.S.C. 3761. This authority may be redelegated to the Deputy Regional Counsel with the approval of the General Counsel.

12. To Regional Counsel, the authority to appoint a foreclosure commissioner or commissioners, or a substitute foreclosure commissioner to replace a previously designated foreclosure commissioner, under Section 365 of the Multifamily Mortgage Foreclosure Act of 1981 and the power to fix compensation for the foreclosure commissioner under Section 369C of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3701, *et seq.*). This authority may be redelegated to the Deputy Regional Counsel.

13. To Regional Counsel for Region I (Boston, MA), through the Federal Tort Claims Center, the power and authority to consider, ascertain, adjust, determine, compromise, allow, deny or otherwise dispose of claims under the Federal Tort Claims Act and the Military Personnel and Civilian Employees' Claims Act of 1964. This authority may be redelegated by the Deputy Regional Counsel for Region I (Boston, MA).

14. To Regional Counsel, the authority to concur on the issuance and settlement of limited denials of participation (LDPs) issued by HUD program officials pursuant to 2 CFR part 2424.

15. To the positions listed below, the authority to serve as Attesting Officers and to cause the seal of HUD to be affixed to such documents as may require its application and to certify that a copy of any book, paper, microfilm, or other document is a true copy of that in the files of HUD:

- (a) Each Associate General Counsel;
 - (b) Each Assistant General Counsel;
 - (c) Each Regional Counsel;
 - (d) Each Deputy Regional Counsel;
- and
- (e) Each Associate Regional Counsel for Housing Finance and Programs.
- This authority may be redelegated.

Section C. Authority Redelegated to the Departmental Enforcement Center

The General Counsel retains and redelegates the following authority to the Principal Deputy General Counsel, the Deputy General Counsel for Enforcement and Fair Housing, Director of the Departmental Enforcement Center, the Deputy Director of the Departmental Enforcement Center, and the Directors of the satellite Departmental Enforcement Centers. This authority may not be further redelegated unless expressly stated in the redelegation.

1. The authority to take all actions permitted under 24 CFR 30.36, not to include the authority to waive any regulations issued under the authority of the Assistant Secretary for Housing-Federal Housing Commissioner.

2. The authority to take all actions permitted under 24 CFR 30.45, not to include the authority to waive any regulations issued under the authority of the Assistant Secretary for Housing-Federal Housing Commissioner.

3. The authority to take all actions permitted under 24 CFR 30.68, not to include the authority to waive any regulations issued under the authority of the Assistant Secretary for Housing-Federal Housing Commissioner or the Assistant Secretary for Public and Indian Housing.

4. The authority to issue notice of default under the terms of a section 8 housing assistance payments contract, Rental Assistance Payment contract, Project Rental Assistance Contract or Use Agreement, issued under the authority of the Assistant Secretary for Housing-Federal Housing Commissioner.

5. The authority to issue notice of violation under the terms of a regulatory agreement entered under contract issued under the authority of the Assistant Secretary for Housing-Federal Housing Commissioner.

6. The authority to initiate a civil money penalty action against:

(a) Employees who improperly disclose information pursuant to section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a(c)) and 24 CFR part 4, subpart B in accordance with the provisions of 24 CFR part 30.

(b) Applicants for assistance, as defined in 24 CFR part 4, subpart A, who knowingly and materially violate the provisions of subsections (b) or (c) of Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) in accordance with the provisions of 24 CFR part 30.

7. The authority to issue suspensions, debarments, and limited denials of participation, under 2 CFR part 2424.

Section D. Authority Redelegated to the Alternate Designated Agency Ethics Official

The General Counsel, acting as the Designated Agency Ethics Official (DAEO), hereby retains and redelegates the following authorities to the Deputy General Counsel for Operations when acting as the Alternate Designated Agency Ethics Official. This authority may not be further redelegated.

1. To perform all the functions of the DAEO under 5 CFR 2638.203 concurrently with the DAEO, except those functions described in 5 CFR 2634.605(c)(2) and 5 CFR 2638.203(b)(3).

2. To perform the waiver function of the DAEO in 5 CFR part 7501 concurrently with the DAEO.

Section E. Settlement Authority Redelegated to the Regional Counsel

The General Counsel hereby retains and redelegates the following authority to the Regional Counsel. This authority may not be further redelegated.

1. To recommend whether DOJ should approve Routine Settlements of all Federal Party Litigation that they are handling except where the settlement involves more than \$2 million.

2. Except where the settlement involves more than \$1 million, to approve Routine Settlement of Non-Federal Party Litigation without the concurrence of the Program Associate General Counsel.

The settlement authority granted in this section does not supersede the requirements or guidelines in the Litigation Handbook, except in respect to the dollar amount increases.

Section F. Authority Superseded

This delegation supersedes all previous delegations of authority from the General Counsel to subordinate positions within the Office of General

Counsel, but specifically do not revoke the divisions of responsibility set forth in the Office of General Counsel Litigation Handbook and its appendices,

except where specifically stated in Section E.

Authority: Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 9, 2011.

Helen R. Kanovsky,
General Counsel.

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