



# OFFICE OF HEALTHCARE PROGRAMS



## Office of Hospital Facilities Lender Training

Virtual Training Session  
September 22<sup>nd</sup> and 24th

HOSPITAL

## Overview of the Construction, Limited Rehabilitation, and Critical Repair Processes

- **The “construction” process is different for**
  - 2-endorsement deals (typically 242 and 241 construction projects), where there is an Initial and a Final Endorsement
  - And 1-endorsement deals (223(f) and 223(a)(7))
- **The terminology is also different**
  - 242 and 241 allows for “Construction”
  - 223(f) allows for “Limited Rehabilitation”
  - 223(a)(7) allows for “Critical Repairs”

## ➤ Definitions §242.1

- *Construction* means the creation of a new or replacement hospital facility, the substantial rehabilitation of an existing facility, or the limited rehabilitation of an existing facility. The cost of acquiring new or replacement equipment may be included in the cost of construction.

## ➤ Definitions §242.1

- *Limited rehabilitation* means additions, expansion, remodeling, renovation, modernization, repair, and alteration of existing buildings, including acquisition of new or replacement equipment, in cases where the hard costs of construction and equipment are less than 20 percent of the mortgage amount.

## ➤ And for 223(a)(7) §242.91

- *Critical Repairs* – as determined by HUD, the improvements, upgrades or additions REQUIRED to be made to the property

# Construction Process

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## We will cover:

- Initial Budgets
- Construction or Escrow Draw Requests
- Change Orders
- Line Item Transfers
- Project Closeout
- Cost Certification



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## Initial Budget Process:

- The HUD-92013-OHF
  - <https://www.hud.gov/sites/documents/92013-OHF.PDF>
- And for 223(f) Limited Rehabilitation:
  - Escrow Form HUD-92476A-OHF
  - <https://www.hud.gov/sites/documents/92476A-OHF.PDF>
- And for 223(a)(7) critical repairs
  - Escrow Form HUD-92476-OHF
  - <https://www.hud.gov/sites/documents/92476-OHF.PDF>

## Initial Budget Process:

- **Equipment list ([Handbook](#)) – applies to all commitment types**
  - Applicants must submit an itemized list of major medical equipment broken out by broad categories. This list must be classified as follows:
    - Equipment to be purchased from mortgage proceeds
    - Equipment to be purchased with other funds
    - Leased equipment
    - For replacement hospitals, the net book value of property to be transferred to the new building(s), and plans for the existing site
  - For each category provide total cost by department
  - For the Application, consolidate the equipment list to broad categories and pieces of major equipment with costs in excess of \$700,000. A complete listing will still be required for closing and cost certification



# Construction Process

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## Construction Draws - (242 and 241)

➤ **See Handbook 4615.1 Rev-1, Appendix 8, Section 1-15**

➤ Draw Request package includes:

- AIA G702-Application and Certificate for Payment signed by the Architect and Contractor
- Form HUD-92448-OHF-Contractor's Requisition signed by the Contractor and Architect
- Form HUD-92403-OHF-Application for Insurance of Advance of Mortgage Proceeds signed by the Borrower and Lender, along with supporting documentation:
  - All detailed receipts and invoices to support the requested draw
  - All payment authorizations to support the requested draw
  - The above should be identified and in the same order as the cost categories on the 92403 and correlate with the line items in the final HUD-92013-OHF



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## Construction Draws - (242 and 241)

- Mortgagor/Borrower submits two complete (currently electronic) draw packages to the Lender
- Lender performs a full review of the complete draw packages for adherence to the HUD approved project scope and HUD regulations and policies. This includes:
  - All receipts, invoices, and payment authorizations ensuring the amounts and line items on the HUD-92403-OHF are correct
  - Change orders and line item transfers
  - Remaining line item balances
  - Identification of the amounts to be drawn from the mortgage proceeds and mortgagor's equity/cash
  - Completion of the form HUD-92403-OHF
  - Request issuance of mortgage insurance of the requested amount, if applicable
- Lender submits the two completed packages to HUD OAE and OHF

# Construction Process

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## Construction Draws - (242 and 241)

- OAE performs a (currently virtual) site visit to verify the work contained in the draw request and completes a Site Visit Report for OHF
- NOTE: OAE reviews and verifies construction related items within requests and provides approval or disapproval on construction related items. This includes construction aspects related to certain equipment.
- OHF reviews the draw packages and site visit report from OAE and prepares a transmittal letter to the Lender identifying any adjustments and specifying the approved draw amounts.
- OHF Director issues the transmittal letter, along with copies of the 92403 and 92448
- Lender processes the disbursement of funds, mortgage insurance, and title policy date-down



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## Limited Rehabilitation and Critical Repair Escrow Draws - (223(f) and 223(a)(7))

- The process is similar though the documents are different:
- Lender submits either **HUD-92476A-OHF for Limited Rehab** or **HUD-92476-OHF for Repairs**, along with the **HUD-92117-OHF Borrower's Certification of Full or Partial Completion of Project to OAE/OHF**
- Lender and OAE perform their respective reviews of the submission
- OAE performs a (currently virtual) site visit to verify the work contained in the draw request and completes a Site Visit Report for OHF
- OHF reviews the escrow draw packages and site visit report from OAE and prepares a transmittal letter to the Lender identifying any adjustments and specifying the approved draw amounts.
- OHF Director issues the transmittal letter, along with copies of either the **HUD-92476A-OHF for Limited Rehab** or **HUD-92476-OHF for Repairs**
- Lender processes the disbursement of funds

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## Construction Change Orders - (242 and 241)

- Mortgagor/Borrower submits a written request to OAE and Lender stating the requested change, where funds will come from to support the change, and be on AIA change order forms or in a similar format. Requests need to be submitted separately from draw requests
- Lender reviews the request for adherence to HUD regulations, policies, and the sufficiency of the Owner's Contingency balance. Then provides written approval/disapproval to OAE
- OAE reviews the request and Lender decision and
  - If the amount of the change order is less than \$250,000, approves or disapproves the change order.
  - If the amount of the change order is greater than \$250,000, provides memorandum to OHF with recommendation and the amount of the change order
  - Note: Requests that have insufficient Owner's Contingency funds will not be approved
- Once approved, the Lender/Borrower can requisition for payment of change order work
- See Handbook 2615.1 Rev-1 Appendix 8



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## Construction Change Orders - (223(f) and 223(a)(7))

- Most Limited Rehabilitation and Critical Repair projects will likely not have major change order requests. However, for larger projects, the process is similar to traditional two endorsement deals:
- Mortgagor/Borrower submits a written request to OAE and Lender stating the requested change, where funds will come from to support the change, and be on AIA change order forms or in a similar format. Requests need to be submitted separately from draw requests
- Lender reviews the request for adherence to HUD regulations, policies, and the sufficiency of the Owner's Contingency balance. Then provides written approval/disapproval to OAE
- OAE reviews the request and Lender decision and provides a memorandum to OHF regarding OAE decision and amount of change order. Requests that have insufficient Owner's Contingency funds will not be approved
- For change orders above \$250,000, and/or those requiring a Line Item Transfer, OHF also reviews the request and OAE recommendation and issues a letter to the Mortgagor/Borrower
- Once approved, the Lender/Borrower can requisition for payment of C.O. work



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## Line Item Transfers- (242 and 241)

- Lender may request a transfer of funds from one line item on the approved HUD-92013-OHF to another when the category funds are coming from is complete or near completion
- Lender submits a written request to OAE and OHF clearly identifying:
  - The line item funds will be transferred from
  - The line item funds will be transferred to
  - The balances of the line items both before and after the transfer
  - The basis for the line item transfer
  - The overall resulting budget line items pre and post the requested adjustment
- OAE reviews the request related to the construction aspect of the project and provides a recommendation memorandum to OHF
- OHF reviews the request and issues a decision letter to the Lender
- NOTE: Change orders debiting Contingency funds, if approved, do not require a LIT request/approval



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## Line Item Transfers- (223(f) and 223(a)(7))

- Single endorsement deals typically do not have Line Item Transfer requests, since the total mortgage amount is released at initial endorsement (and/or escrowed)
- However, major scope changes and budgetary changes, if needed, should be communicated via the escrow draw process and formally approved by OAE and OHF.
- More detail will be forthcoming in our next Handbook revision





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## Project Closeout Process – 242 and 241 - OAE

- Conduct Final Inspection and prepare report.
- Review and recommend approval of retainage reduction/punch list completion.
- Review and recommend approval of final HUD loan endorsement
- Review Certificate of Actual Cost
  - HUD-92330-OHF (Borrower)
  - HUD-92330A-OHF (Contractor)
- Final Certificate of Occupancy.
- As Built ALTA Site Survey
- AIA Form G704-Certificate of Substantial Completion
- AIA Form G706-Certificate of Release of Liens
- AIA Form G707-Consent of Surety to Final Payment
- Architect's and Contractor's final Certificate for Payment
- Architect's letter asserting compliance with State Department of Health or Authority w/ Jurisdiction
- Certification all change orders have been included in the Final Certificate for Payment



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# Construction Process

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## Project Closeout Process – 242 and 241 - OHF

- Review/Accept OAE recommendation for project closeout
- Review Certificates of Actual Cost
  - HUD-92330-OHF (Borrower)
  - HUD-92330A-OHF (Contractor)
- Review Final Equipment list
- Issue HUD-92580 Maximum Insurable Mortgage based on acceptability of submissions
- Work with OGC/Borrower/Lender to schedule closing



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# Construction Process

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## Project Closeout Process – Differences for 223(f) and 223(a)(7)

- Depending on the size of the project, the documents to be submitted to OAE and OHF can vary.
- For single endorsement commitments where the amount attributed to Limited Rehabilitation or Critical Repairs exceed \$5,000,000, audited cost certification documents from at least the mortgagor will be required.
- Note, however, there is no potentiality of a mortgage size reduction as a result of the cost certification process.
- For projects under \$5M, submission of HUD-92117-OHF – Certification of Full or Partial Completion of Project (along with the Escrow draw requests) will suffice



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## Cost Certification Process (242 and 241)

- Establishes the Maximum Insured Mortgage Amount
- Parties involved:
  - Mortgagor/Borrower
  - Lender
  - Independent auditor
  - Contractor
  - HUD's Office of Architecture and Engineering (OAE)
  - HUD's Office of Hospital Facilities (OHF)



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## Cost Certification Process (242 and 241)

- **Mortgagor/Borrower Responsibilities:**
  - Establishes the Substantial Completion date with the Architect, Contractor, and OAE (HB 4470.2 REV-1, Ch 2)
  - Completes HUD Form 92330-OHF (HB 4470.2 REV-1, Ch 4)
  - Obtains Independent CPA audit opinion on final costs
  - Submits HUD Form 92330-OHF inclusive of CPA audit; Certificate of Occupancy/Completion; Final Equipment List; and any additional supporting documentation to OAE, OHF, and Lender

## Cost Certification Process (242 and 241)

### ■ Contractor Responsibilities:

- Establishes the Substantial Completion date with the Architect, Contractor, and OAE (HB 4470.2 REV-1, Ch 2)
- Completes HUD Form 92330A-OHF (HB 4470.2 REV-1, Ch 5)
- Obtains Independent CPA audit opinion on final costs
- Submits HUD Form 92330A-OHF inclusive of CPA audit; any additional requested supporting documentation to OAE, OHF, and Lender

## Cost Certification Process (242 and 241)

- **Independent Auditor Responsibilities:**
  - Certified Public Accountants (CPA), engaged by Contractor and Mortgagor respectively, prepares the HUD-92330A-OHF and HUD-92330-OHF, along with supplemental supporting documents and schedules, in accordance with professional standards of practice HUD Guidance
  - Provides OAE and OHF with an express opinion
  - See official HUD forms for guidance and references

## Cost Certification Process (242 and 241)

- **Lender Responsibilities:**
  - Should facilitate / coordinate submission of the cost certification and project close out documents between parties
  - Review submissions for adhered to HUD regulations and policies
  - Monitor the project budgets and address discrepancies between budget and actual costs incurred



## Cost Certification Process (242 and 241)

- HUD Office of Architecture and Engineering
  - Reviews the construction related aspects of the HUD-92330-A-OHF and HUD-92330-OHF and supporting documentation
  - Initiates OHF process by recommending project close out / movement to final endorsement

## Cost Certification Process (242 and 241)

- **HUD Office of Hospital Facilities**
  - Reviews all Line Item Transfers and final project budgets to ensure consistency was maintained across the project timeline
  - Reviews all aspects (hard and soft costs) of the HUD-92330-A-OHF and HUD-92330-OHF and supporting documentation in order to establish a maximum insurable mortgage
  - Reviews equipment list for adherence to HUD guidelines
  - **Issues HUD-2580 Maximum Insurable Mortgage**
  - **Schedules Final Endorsement closing with Office of General Counsel, Lender, Borrower**

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## Cost Certification Process Differences for 223(f) and 223(a)(7)

- No reduction in mortgage
- Attestation from CPA using HUD-92330-OHF from mortgagor only required for projects over \$5M\*
- Attestation from CPA using HUD-92330-A-OHF from Contractor only required for contracts over \$5M\*
- No maximum insurable mortgage issuance
- Savings or 'disallowed' costs could result in an escrow deposit
- Projects under \$5M are attested to via the Escrow Draw process and HUD-92117-OHF described previously

\*unless identity of interest exists between parties



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# Construction Process

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## Process Graphic for 223(f) & 223(a)(7)

Figure 1 - Insurance on Completion Process and Documents – 223(f) or 223(a)(7) Project with Rehabilitation or Repairs

