



OFFICE OF HOUSING

ADMINISTRATIVE MEMORANDUM
OFFICE OF MULTIFAMILY HOUSING PRODUCTION

MEMORANDUM FOR: All Multifamily Mortgagees
All Multifamily Regional and Satellite Office Directors & Production Staff

Willie Fobbs III
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Date: 2022.08.29 16:35:06
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FROM: Willie Fobbs III, Director, Office of Multifamily Production

SUBJECT: AMENDED: Queue Management Modification - Transitioning
Section 221(d)(4) Pre-Applications to Firm Applications

A. PURPOSE & BACKGROUND

Multifamily Production is implementing a temporary procedural change that permits 1) eligible pre-applications to convert to firm applications while in the underwriter assignment queue and 2) future eligible applications to submit a direct to firm application. Such permission and lender election are subject to all requirements set forth in this memorandum and MAP Guide policy. This Memorandum and the procedural changes will be permitted through March 31, 2023¹.

Multifamily Production has considered the current market conditions for new construction/substantial rehabilitation of rental housing. During the last several months, unprecedented increases in construction material costs have occurred, due to both inflation and supply chain issues. This increase coincides with a steady rise in U.S. Treasury note yields (upon which FHA insured mortgage interest rates are based), resulting in reduced feasibility of new construction and substantial rehabilitation projects. Given the change in circumstances described above, Multifamily Production will temporarily permit pre-applications to convert to firm applications while in the queue and allow new applications to utilize a direct to firm election. This change will better align application submission information with current market conditions, thereby improving processing efficiency for

¹ The sole amendment to this memorandum is this procedural change remains continuously in effect through March 31, 2023. The original memorandum issued on May 26, 2022 specified a 120 day expiration date, or September 23, 2022.

borrowers, lenders, and HUD.

The direct to firm election and flexibility is entirely at the option of the borrower and lender, provided the project remains consistent with current MAP Guide policy permitting streamlined processing as summarized in Section 5.6. of the MAP Guide.

B. LENDER RESPONSIBILITIES & OPTIONS

During the effect of this memorandum lenders have the following two options: 1) those with eligible pre-applications currently submitted, but yet to be assigned to an underwriter, may elect to modify their application to a firm commitment; and 2) those with existing encouragement letters following a concept meeting held prior to this memorandum may elect to submit a direct to firm application.

After March 31, 2023, this direct to firm election permission will expire.

Lenders electing to submit a direct to firm application assume full risk of this option, in accordance with current guidance. Should the application be rejected for any reason, including but not limited to market, location, or environmental issues, the application fee will be considered earned and not refunded to the lender.

C. ELIGIBILITY CRITERIA

This memorandum applies only to applications submitted under Section 221(d)(4). Further, in all cases, development team members must have significant, successful experience with multifamily housing development and have experience commensurate in both scope and scale to the proposed project.

However, applications with the following criteria are excluded from direct to firm eligibility under this memorandum:

1. Deals with complex environmental issues. Examples include the following:
 - a. Noise measurement above 65 dB;
 - b. Historic properties;
 - c. Contamination that will require construction period site remediation to achieve regulatory closure through a No Further Remediation/no Further Action (NFR/NFA letter);
 - d. Project sites containing a floodplain or wetland that do not meet an exception at 24 CFR section 55.12(b) or (c);
 - e. Acceptable separation distance (ASD) risks from adjacent Above Ground Storage Tanks (ASTs) subject to HUD's regulation at 24 CFR Part 51 Subpart C, and Acceptable separation distance risks from high pressure pipelines transferring flammable and combustible liquids and gases as referenced in MAP Guide 9.5.P.1;

- f. The property having been built before 1978 and not having been found to be lead- based paint free by a lead-based paint inspection by a certified lead-based paint inspector or risk assessor, for which, abatement of all lead-based paint on the property is required by 24 CFR 35.630;
- 2. Projects with complex mixed-use, commercial use, or use of new, complex construction technology.

D. CONTACT

For any questions concerning this memorandum, please contact Zack Skochko, Acting Deputy Director, Office of Multifamily Production, at 202-402-7112 or Zachary.S.Skochko@hud.gov.