**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of December 21, 2017**



*December 21, 2017 Contents*

[Section 232 Documents – Current Date Extended, New Drafts FORTHCOMING](#_Toc501606637)

[ORCF Using Digital Signatures to Sign Firm Commitments](#_Toc501606638)

[Non-Critical Repair Escrow (NCRE) Request Clarification](#_Toc501606639)

[Environmental Review for Section 232 Asset Management Transactions](#_Toc501606640)

[Risk Notification](#_Toc501606641)

[Document Links Included In This Blast](#_Toc501606642)



**Section 232 Documents – Current Date Extended, New Drafts FORTHCOMING**

ORCF will soon be publishing the revised Section 232 documents for a second round of public comments.  This 30-day comment period will be announced in the Federal Register, so please be on the lookout for the announcement.  We encourage you to read, consider, and submit your comments.

Please also note that the current document collection has received OMB approval to extend its expiration date until March 31, 2018 (or until the collection is renewed, whichever occurs first). Even though the printed expiration date is June 30, 2017, they are remain in effect through the March 2018.

Additionally, please be aware that the draft documents published in the Federal Register, and posted on our website for public comment in May 2017, are not OMB-approved documents, and are **not** available for use in application submissions.

***Keywords:*** *Section 232 Documents*

[Back to top](#_top)

**ORCF Using Digital Signatures to Sign Firm Commitments**

The Office of Residential Care Facilities (ORCF) is now using digital signatures to sign Firm Commitments. Lenders will no longer receive a hard copy Firm Commitment. All other parts of the process will remain the same.

***Keywords:*** *Firm Commitments*

[Back to top](#_top)

**Non-Critical Repair Escrow** **(NCRE) Request Clarification**

Non-Critical Repair Escrow (NCRE) releases on all loans closed **on or after** July 20, 2015 will be conducted by ORCF’s closing team, as a post-closing item handled by the assigned ORCF Closer. NCRE submissions on these loans should be submitted via email to:  232NCRrequest@hud.gov.  If you submit these through the ORCF Portal, the requests will be returned as disapproved and you will be asked to resubmit to the 232NCRrequest@hud.gov mailbox. For loans closed **before** July 20, 2015, please submit NCRE releases through the ORCF Portal; these requests will be handled by the Asset Management assigned Account Executive. Eventually, all NCRE requests will be processed through the Portal but ORCF requests that the described process be followed until further notice.

***Keywords:*** *Non-Critical Repair Escrow*

[Back to top](#_top)

**Environmental Review for Section 232 Asset Management Transactions**

The Healthcare Regulatory Agreements for Borrower, Operator and Master Tenant require written approval from HUD prior to remodeling, adding to, subtracting from, reconstructing, or demolishing a portion of the mortgaged project. As previously stated in the Capital Improvements Application Checklist ([here](https://www.hud.gov/sites/documents/CapImpr_Chklst.docx)), **“remodeling”** is defined as repairs/improvements that constitute **“Substantial Rehabilitation”** (Please see Handbook 4232.1, Section II, Chapter 2.6.B).  When HUD’s approval is required for these activities, an environmental review pursuant to 24 CFR Part 50 is first necessary (Please see Handbook 4232.1, Section III, Chapter 3.4 on Request to Release or Modify Original Loan Collateral). This is consistent with language per 24 CFR Part 50.3(i)(4), which states a new Phase I ESA in accordance with ASTM E 1527-13 (or the most recent edition) is required if the activity being approved involves:

1. Significant ground disturbance (digging) or construction not contemplated in the original application.
2. A change in land use not contemplated by the original risk-based mitigation conducted on the site (i.e., from commercial to residential).
3. Site expansion or addition.
4. Any other activities that may result in contaminant exposure pathways or activities not contemplated in the original application.

Environmental reviews are not required when requesting a release from the Reserve for Replacements or Residual Receipts, unless the request is for funds to cover the expense of “remodeling” as described above.

Please note: this guidance applies to all ORCF projects, not just ones in Florida discussed in the November 17, 2017 Email Blast on emergency generator installations.

***Keywords:*** *Environmental Reviews*

[Back to top](#_top)

**Risk Notification**

Handbook 4232.1, Section III, Chapter 3.10 ([here](https://www.hud.gov/sites/documents/42321S3C3HSGH.PDF)), addresses situations in which the lender must promptly notify ORCF of the owner/operator’s plan to address risks identified in HUD-insured healthcare facilities. Such notifications are to address the risks by identifying mitigants and assessing any obstacles to implementing them. This includes consideration of projected timelines, identification of appropriate responsible persons, and consideration of required financial resources.

Several lenders are not proactively notifying the ORCF AE prior to requests for updates. Per Chapter 3.10, lenders are expected to take a proactive role in monitoring and reporting risk factors such as declining financial indicators, and owner/operator non-compliance with reporting requirements (Operating financials, Owner’s financials, Audited financials, adverse CMS ratings, Survey Issues, Delinquency/Default reports REAC responses, etc.).

Lenders should keep the following in mind when preparing their risk notification to ORCF.

1. Identify risk indicators promptly, and get ahead of your ORCF AE in communicating the problems.
2. An optional form, Servicer’s Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy, is available [(here)](https://www.hud.gov/sites/documents/93334_orcf.docx).
3. Although using this form is optional for lenders, they may find it a convenient tool for clearly and concisely conveying the relevant information, including improvement plans.
4. For lenders who choose to use the form, please do not combine or delete sections, or otherwise alter the document’s format; maintaining the format facilitates efficient review by ORCF staff. You need only complete those sections of the form that are relevant to the notification you are providing. Check only those relevant boxes on the first page of the form and use the hyperlink provided to skip to those sections to be completed.

Also, lenders should keep in mind that the lender-ORCF communication is ongoing. Thus, if the lender’s ongoing monitoring indicates that timelines and goals are not being met, the lender should follow up with the owner/operator for updated plans, and then promptly update your ORCF Account Executive.

***Keywords:*** *Risk Notification*

**Document Links Included In This Blast**

1. [Capital Improvements Application Checklist](https://www.hud.gov/sites/documents/CapImpr_Chklst.docx)
2. [Servicer’s Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy](https://www.hud.gov/sites/documents/93334_orcf.docx)

[Back to top](#_top)

****

Past Lean 232 Updates are [available online](http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/mail_blast_index).

Have questions about the Lean 232 Program? Please contact LeanThinking@hud.gov.

For more information on the Lean 232 Program, check out: <http://www.hud.gov/healthcare>.

Have your loan servicing colleagues joined our email list? The Email Blasts contain information relevant to them as well. You might suggest they [Join here](http://portal.hud.gov/hudportal/HUD?src=/subscribe/signup&listname=Lean%20232%20Updates&list=LEAN-232-UPDATES-L).

We hope that you will want to continue receiving information from HUD. We safeguard our lists and do not rent, sell, or permit the use of our lists by others, at any time, for any reason. If you wish to be taken off this mail list, please [go here](http://portal.hud.gov/hudportal/HUD?src=/subscribe/signup&listname=Lean%20232%20Updates&list=LEAN-232-UPDATES-L).