



December 20, 2023

In This Update

- Required Use of Portfolio Manager for Green Mortgage Insurance Premium Compliance Reporting
- Department of Labor Publishes Final Rule Updating Davis-Bacon and Related Acts Regulations
- Reminders on Environmental Items

REQUIRED USE OF PORTFOLIO MANAGER FOR GREEN MORTGAGE INSURANCE PREMIUM COMPLIANCE REPORTING

On November 20, 2023, HUD's Office of Multifamily Housing Programs and Office of Residential Care Facilities published a Housing Notice titled **Required Use of Portfolio Manager for Green Mortgage Insurance Premium Compliance Reporting**, which pertains to changes to annual compliance reporting for Green Mortgage Premium (MIP) rate recipients. The Notice replaces previous instructions provided to Section 232 properties as noted in ML 2022-13. Read the full Notice [here](#).

The Office of Residential Care Facilities owners must benchmark their properties using the Environmental Protection Agency (EPA)'s ENERGY STAR® Portfolio Manager® for Green MIP loans starting with all applications submitted on or after January 1, 2024. The client will be required to create an account in Portfolio Manager and enter queried property information. For Section 232 properties, the user must select ORCF Benchmarking and use the Healthcare, "Senior Living Community" property type in Portfolio Manager. To gain access to the benchmarking tool, property owner(s) can create a no-cost account at [Portfolio Manager Login | ENERGY STAR](#).

ORCF existing properties pursuing a Green MIP loan are required to benchmark both energy and water through Portfolio Manager in accordance with the benchmarking instructions. The benchmarked Statement of Energy Performance (SEP) must also be delivered with the mortgage application as required by ML 2022-13. The Statement of Energy Intent is not benchmarked but is delivered with the loan application. After the

retrofits or construction is complete, the client will submit the post-improvement (as-is) Statement of Energy Performance (SEP) in Portfolio Manager for both New Construction, Substantial Rehabilitation and Existing projects, then annually.

Annual SEPs will be submitted through Portfolio Manager no later than March 31 *after* the 12-month data collection period of January 1 to December 31. Portfolio Manager will automatically gateway the benchmarked SEP data to HUD's Integrated Real Estate Management System (iREMS).

Please review Multifamily and ORCF's Benchmarking Instructions here: [Benchmarking Instructions](#).

Keywords: *Green MIP, Benchmarking, Portfolio Manager*

[Back to top](#)

DEPARTMENT OF LABOR PUBLISHES FINAL RULE UPDATING DAVIS-BACON AND RELATED ACTS REGULATIONS

On August 23, 2023, the Department of Labor (DOL) published the [final rule](#) that updates regulations issued under the Davis-Bacon and Related Acts.

Please note the following:

- The final rule went into effect on October 23, 2023.
- Provisions of this final rule regarding wage determination methodology and related part 1 provisions prescribing the content of wage determinations may be applied only to wage determination revisions completed by the Department of Labor on or after October 23, 2023. Except with regard to § 1.6(c)(2)(iii), the provisions of this final rule are applicable only to contracts entered into after October 23, 2023.
- Many of the amendments to part 5 of the regulations are regulatory changes that codify the Department of Labor's current practices and interpretations of existing regulations. As a result, such changes do not, in practical terms, impose new obligations on contractors or contracting agencies.
- For contracts that lock-in on or after the final rule effective date, October 23, 2023, Contractors should consider the changes in the final rule when analyzing internal controls, developing their bids, and negotiating contract pricing.
- Contract clauses and related matters section of the rule covers the required contract clauses inserted into contracts.

Office of Residential Care Facilities Implementation

The Office of Residential Care Facilities will determine any needed edits to the Form HUD-92554-ORCF, Supplementary Conditions of the Contract for Construction, in light of these regulatory revisions, in our next revision update, subject to OMB Paperwork Reduction Act approval.

See the [DOL Final Rule](#) for additional information.

Keywords: *Davis-Bacon*

[Back to top](#)

REMINDERS ON ENVIRONMENTAL ITEMS

ORCF would like to remind lenders of a few environmental items:

1. Environmental items requiring repairs such as asbestos abatement, radon mitigation or recommendations of the Phase I consultant must be included in the repair list in the PCNA, in the Lender's Narrative and in Exhibit C to the Firm Commitment.
2. Radon Mitigation is considered to be a repair in excess of routine maintenance per [CPD Memo 16-02](#), so applications with Radon Mitigation are subject to Section 106 Historic Preservation review.
3. Repairs in the Repair list, Exhibit C to the Firm Commitment, must describe repairs in sufficient detail to facilitate inspections, schedules of repairs and credible bids. When repairs are not sufficiently described, HUD staff and the State Historic Preservation Office cannot determine whether a repair exceeds routine maintenance and whether the repair will have an adverse impact on historic properties.

Keywords: *Underwriting*

[Back to top](#)



November 20, 2023

In This Update

- CMS Red Hand Consumer Alert Icon
- Confirming Debt Service Coverage Ratio Before Underwriting Review Begins

CMS RED HAND CONSUMER ALERT ICON

ORCF has received inquiries from lenders regarding underwriting of projects with the Centers for Medicare and Medicaid Services (CMS) Red Hand Consumer Alert Icon. Successful applications have included a 3-month quality of care debt service reserve escrow, a one-time risk management assessment that has been complete prior to application submission, an analysis of the impact of the consumer alert icon on the marketability and occupancy of the project, and have addressed the items in the [December 19, 2018 Email Blast](#).

Criteria for the one-time on-site risk management assessment is described below.

The consultant must have demonstrated successful experience in risk management for healthcare facilities to conduct a one-time, on-site risk management assessment. The one-time on-site risk management assessment must include the following:

- A. Review of both operational and clinical processes.
- B. Review of the environment for liability risk exposures.
- C. Identification of operational and clinical opportunities.
- D. Making recommendations for improvement of operational and clinical processes.
- E. Developing a strategy to implement the recommendations.

Keywords: *Underwriting*

[Back to top](#)

CONFIRMING DEBT SERVICE COVERAGE RATIO BEFORE UNDERWRITING REVIEW BEGINS

As a reminder, the expected minimum underwritten Debt Service Coverage Ratio (DSCR) is 1.45, as set forth in Handbook 4232.1, Production Chapter 3.2. Moreover, when arriving at the underwritten revenue and expenses used to calculate Net Operating Income (NOI) used for the DSCR, the lender must consider the historic and trailing twelve-month (T12) performance. (See Handbook 4232.1, Production, Chapter 2.9.N.)

Although the NOI arrived at by the lender during underwriting will not necessarily be equal to the T12 NOI, ORCF generally uses that figure as a benchmark to discern when a project is ready for underwriting review (See [May 9, 2022 Email Blast](#)). This was necessary given the wide pandemic-related fluctuations in income and expenses. As facilities have been recovering from the pandemic and their NOI is trending upward, however, this screening benchmark appears to be unnecessarily delaying the underwriting review of numerous projects in which the underwritten NOI would appropriately be higher than the T12 NOI.

Accordingly, ORCF is adjusting the benchmark used to initiate underwriting review. In addition to the previously established benchmark of 1.45 DSCR on the T12, ORCF is generally willing to consider a T12 adjusted for a new published Medicaid Rate offset by some increase in expenses **and** an annualized T6 for purposes of initiating the review. Specifically, lenders may provide a sensitivity comparing the following two calculations:

1. T6 actual NOI annualized (no adjustments for rate increases may be applied);
and
2. T12 NOI adjusted to reflect a documented increase in Medicaid rate, if applicable, offset by some increase in expenses. The offset can be achieved by applying a reasonable, stabilized historical operating margin to the increased revenue. Any documented rate increases must be in effect as of the date of the T12.

When utilizing the above adjustments, in the Decision Circuit lenders should provide a column with the T12 without adjustments, a T12 adjusted for a new published Medicaid Rate (in a yellow column), as applicable, and the annualized T6 (in a yellow column).

Keywords: *Underwriting*

[Back to top](#)



October 25, 2023

REMINDER ON ADDRESSING CLIMATE IMPACTS IN ENVIRONMENTAL ASSESSMENTS

Lenders and environmental consultants are reminded that applications submitted after December 1, 2022, and which require an Environmental Assessment (EA) level review, must address current and reasonably foreseeable climate impacts along with Energy Efficiency and all other EA factors. Details were published in ORCF's [August 25, 2022 Email Blast](#).

The requirements do not apply to Section 232/223(f) projects or other Categorically Excluded projects. Please see Handbook 4232.1, Section II, Chapter 7 for a description of Categorical Exclusions.

Keywords: *Environmental Assessment, Climate, Environmental Consultant*

[Back to top](#)



August 30, 2023

In This Update

- Non-Profit Project Audited Financial Statement Submissions - Important Information for Borrowers and Auditors
- Notice H-2023-07 -- Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) Administrative Procedures- Applicability to ORCF Projects
- Webinar Presentation On HUD's 232 Program-Updates in Production and Asset Management– September 13, 2023, 2:00 p.m. Eastern Time
- Medicaid or CHIP Coverage Renewal Reminder to Residents

NON-PROFIT PROJECT AUDITED FINANCIAL STATEMENT SUBMISSIONS - IMPORTANT INFORMATION FOR BORROWERS AND AUDITORS

It has come to our attention that some audited financial statements submitted for non-profit owned ORCF projects have been using the incorrect Assistance Listing Number (ALN) when filing audited financial statements to the Federal Audit Clearinghouse (FAC). Note that the acronym ALN has just recently replaced the more commonly known Code of Federal Domestic Assistance (CFDA) number.

The correct ALN for all ORCF projects is 14.129. For example, a Section 232 pursuant to Section 223(f) would use the Section 232 ALN of 14.129, not the MFH ALN for 223(f)s.

Non-profit owners with unpaid principal balances over \$750,000 are subject to the Single Audit Act (SAA). For more information about SAA filing requirements, see 2 CFR, subpart F. While filing audited Financial Statements through REAC FASS satisfies ORCF program guidance, audited financial statements for auditees subject to the SAA must also be filed to the Federal Audit Clearinghouse. For more information about filing SAA audited financial statements through REAC and the Federal Audit

Clearinghouse, please see the current Federal Audit Clearinghouse website: Federal Audit Clearinghouse - Home (census.gov)

As noted on this website, the Federal Audit Clearinghouse now requires filers to use an Unique Entity Identifier (UEI) in lieu of an EIN. You can find more information about the UEI on the FAC FAQ page here: Federal Audit Clearinghouse - FAQs (census.gov)

Please reach out to your assigned Account Executive should you have further questions or LeanThinking@hud.gov.

Keywords: *Asset Management, Financial Statements, Non-Profit Entities*

[Back to top](#)

NOTICE H-2023-07 -- IMPLEMENTATION OF NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE) ADMINISTRATIVE PROCEDURES- APPLICABILITY TO ORCF PROJECTS

The Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) Administrative Procedures Notice (H-2023-7) covers the process and operational requirements for properties covered by the [NSPIRE Final Rule](#). Please note that although the Notice does not separately list the Section 232 Program, it does cross reference 24 CFR 5.701. 24 CFR 5.701(a)(7)(viii) makes the subpart applicable to projects with mortgages insured under Section 232 *to the limited extent* that REAC inspections are applicable to certain Section 232 properties (e.g., routinely on Assisted Living Facilities). The Notice covers what to expect before, during and after an inspection. It contains policies and procedures for properties participating in inspections, submitting evidence of deficiency correction, submitting technical reviews, administrative review, and other administrative requirements associated with the final NSPIRE rule.

Additionally, the NSPIRE administrative notice outlines roles and responsibilities for HUD's Real Estate Assessment Center (REAC), HUD field office staff, Property Owners and/or Agents/Operators. The notice also contains requirements for inspectors performing inspections for REAC under contract. The implementation date for ORCF projects is October 1, 2023.

Please reach out to your assigned Account Executive should you have further questions or LeanThinking@hud.gov.

Keywords: *Asset Management, Physical Inspections, REAC*

[Back to top](#)

WEBINAR PRESENTATION ON HUD'S 232 PROGRAM-UPDATES IN PRODUCTION AND ASSET MANAGEMENT– SEPTEMBER 13, 2023, 2:00 P.M. EASTERN TIME

In a webinar hosted by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL), HUD's Office of Residential Care Facilities (ORCF) will provide a brief overview of the Section 232 program and will cover a range of topics related to HUD's Residential Care Facility Mortgage Insurance Program. The webinar will run from 2:00 p.m. to approximately 3:00 p.m. Eastern Time on September 13, 2023, and will be open to AHCA/NCAL members and non-members. The webinar will be recorded. There is no charge for participation.

Presentation topics will include:

- The recently implemented Green Mortgage Insurance initiative for Residential Care Facilities
- HUD's risk analysis related to facility compliance with the Home and Community Based Services Settings Rule
- Compliance (by nonprofits) with the Single Audit Act Requirements
- Recent changes regarding REAC NSPIRE physical inspections
- The Why, Who, How, and When of HUD-required Action Plans
- New Quarterly Financial Statement Reporting Fields
- HUD's Tools for Comparing Underwriting Projections to Actual Performance
- Numbers/trends on application volume, timing, and underwriting issues of note

Speakers:

- John Hartung, Director, Policy, Risk Analysis and Lender Relations Division, Office of Residential Care Facilities, HUD
- Tim Gruenes, Director, Production Division, Office of Residential Care Facilities, HUD
- Philip Head, Director, Asset Management Division, Office of Residential Care Facilities, HUD
- Angela Collier, Deputy Director, Asset Management Division, Office of Residential Care Facilities, HUD

Event Date: September 13, 2023, 2:00 p.m - 3:00 p.m. (Eastern Time)

Registration Link: [Here](#)

Although membership to AHCA/NCAL is not required to participate in the webinar, you will still need to create an AHCA/NCAL username and password to register for the webinar.

How to Register for AHCA/NCAL webinar:

- Webinar participants will need to [login](#) using their existing ahcancaLED username and password first.
- Once you are logged in to the website you will be able to register for the webinar by clicking the green register button at the top of the page.
- If you have forgotten your password click [here](#).

How to Register for an AHCA/NCAL username and password:

- To avoid technical problems, use Google Chrome.
- If you are new to the site, you can create an account [here](#). After creating an account, you will be able to register for the webinar. If you need further assistance with creating an AHCA/NCAL account, please email educate@ahca.org

Keywords: Webinar

[Back to top](#)

MEDICAID OR CHIP COVERAGE RENEWAL REMINDER TO RESIDENTS

To Owners and Operators - As you may know, **states have been recertifying their Medicaid and Children's Health Insurance Program (CHIP) rolls for the first time since the start of the pandemic.** This means your state will use the information they have to decide if individuals and families still qualify for Medicaid or CHIP coverage. **Residents in Section 232 facilities may be Medicaid- or CHIP-eligible**, but because Medicaid and CHIP are state-run programs, **it is essential that families update their contact information and renew their eligibility this year to remain covered.**

The timeline for these verifications varies by state, so **please [check here](#) to learn more about the reverification process in your state, and let residents in your facilities know that this is coming!**

Get ready to renew now: Send the below to your residents

Here are some things you can do to prepare for the renewal process:

1. **Update your contact information** - Make sure your state has your current mailing address, phone number, email, or other contact information. This way, they'll be able to contact you about your Medicaid or CHIP coverage.
2. **Check your mail** - Your state will mail you a letter about your coverage. This letter will let you know if you need to complete a renewal form to see if you still qualify for Medicaid or CHIP.
3. **Complete your renewal form (if you get one)** - Fill out the form and return it to your state right away to help avoid a gap in your coverage.

If you no longer qualify for Medicaid or CHIP

You may be able to buy a health plan through the [Health Insurance Marketplace®](#) and get help paying for it. Marketplace plans are:

- 4 out of 5 enrollees can find plans that cost less than \$10 a month.
- Plans cover things like prescription drugs, doctor visits, urgent care, hospital visits, and more.

For More Help

- If you're eligible, you may be able to sign up for Medicare or change your current Medicare coverage. [Get started with Medicare](#).
- Contact your state Medicaid office for more information about Medicaid or CHIP renewal. You can find links to state contacts below.
- Call the Marketplace Call Center at [1-800-318-2596](tel:1-800-318-2596) to get details about Marketplace coverage. TTY users can call [1-855-889-4325](tel:1-855-889-4325).

Keywords: *Medicaid*

[Back to top](#)



June 28, 2023

In This Update

- Office of Residential Care Facilities (ORCF) Position Vacancy
- NSPIRE Final Rule
- Healthcare Portal – File Name Issue
- Lean Thinking Integrating into FHA Resource Center
- FROM THE CLOSING CORNER
 - Lender's Pre-Construction Conference Agenda (New Construction/Substantial Rehabilitation/241(a)) Updated to Include Requirements for the Green MIP Program

OFFICE OF RESIDENTIAL CARE FACILITIES (ORCF) POSITION VACANCY

ORCF is pleased to announce that it is hiring for the following positions:

Production Division – 2 positions

Account Executive – Underwriter (1 position)

Account Executive – Closer (1 position)

The vacancy announcements are posted on USAJOBS:

Internal (Current or former federal employees qualifying as Status Candidates):

Locations – Atlanta, GA; Denver, CO; Columbus, OH; Miami, FL; Portland, OR; Washington, DC – [USAJOBS - Job Announcement](#)

Locations – Ft. Worth, TX; Los Angeles, CA; Minneapolis, MN; Omaha, NE; Richmond, VA; Seattle, WA – [USAJOBS - Job Announcement](#)

Public:

Locations – Atlanta, GA; Denver, CO; Columbus, OH; Miami, FL; Portland, OR; Washington, DC – [USAJOBS - Job Announcement](#)

Locations – Ft. Worth, TX; Los Angeles, CA; Minneapolis, MN; Omaha, NE; Richmond, VA; Seattle, WA – [USAJOBS - Job Announcement](#)

Because the application window is short, **closing on July 11, 2023** we are asking you to help us spread the word.

Keyword: *Vacancy Announcement*

[Back to top](#)

NSPIRE FINAL RULE

HUD published the National Standards for the Physical Inspection of Real Estate (NSPIRE) Final Rule in the *Federal Register* on May 11, 2023. The Final Rule makes changes to inspections, including:

- **New Self-Inspection Requirement and Report.** Owners will be required to conduct self-inspections of all units at least annually and correct all identified deficiencies.
- **Timeline for Deficiency Correction.** HUD clarifies the timeline for the correction of health or safety deficiencies. For life-threatening and severe deficiencies, the Owner must correct the deficiency within 24 hours after the inspection report is received, and upload evidence of that correction within 72 hours to HUD.
- **Resident Involvement** HUD will allow residents to make recommendations regarding units to be inspected and to receive copies of inspection results.

The implementation date is October 1, 2023 for properties participating in the Section 232 program.

The REAC team is developing training for you. This will include a combination of PowerPoint presentations, infographics and [instructional videos](#) that will be posted on the [NSPIRE website](#). For more information about the changes under the Final Rule, read the [press release](#) or the [full rule](#).

Keywords: *Asset Management, Physical Inspections, REAC*

[Back to top](#)

HEALTHCARE PORTAL – FILE NAME ISSUE

ORCF has identified an issue with uploading documents into the Healthcare Portal when a Microsoft Office document (i.e. Word, Excel, PDF) file name contains a "long dash" (–). File names that contain a long dash may not successfully upload to the Portal. When a space is entered before and after a dash in the name of a Microsoft document or PDF, it changes the dash from a "short" dash (-) to a "long" dash (–). To successfully upload documents into the Portal, please **DO NOT USE SPACES BEFORE AND AFTER ANY DASHES** in the file name.

The document name below is an example of a "long" dash (located between "Receipt" and "FHA Application"):

1-1.A_PAYMENT RECEIPT – FHA APPLICATION FEE.PDF

If your file names have dashes like this, please verify if they are "short" dashes or "long" dashes, and change them to only be "short" dashes, without spaces between the dash and the words before and after, such as the file name below:

1-1.A_PAYMENT RECEIPT-FHA APPLICATION FEE.PDF

Making these changes should allow the user to upload the document without issue.

Keywords: *232 Healthcare Portal*

[Back to top](#)

LEAN THINKING INTEGRATING INTO FHA RESOURCE CENTER

Lean Thinking has long been a go-to source for general and nuanced questions regarding ORCF policies and requirements. ORCF seeks continuous improvement, and opportunities to improve Lean Thinking as a tool are certainly important. One such opportunity is by integrating Lean Thinking into the existing FHA Resource Center, which is being expanded as a customer service resource for multiple FHA programs. In the coming months, Lean Thinking will be working with the FHA Resource Center to provide the industry with a seamless, integrated process in timely responding to your inquiries. ORCF Policy staff and various ORCF subject matter experts will continue to be involved. Please be on the lookout in the near future for further details.

Keywords: *Lean Thinking*

[Back to top](#)

FROM THE CLOSING CORNER

Lender's Pre-Construction Conference Agenda (New Construction/Substantial Rehabilitation/241(a)) Updated to Include Requirements for the Green MIP Program

Mortgagee Letter 2022-13 "Green Mortgage Insurance Premium (MIP) Program Guidance for the Office of Health Care Facilities (ORCF)" was published on August 18, 2022. For all New Construction, Substantial Rehabilitation and 241(a) Projects where Borrowers intend to participate in the Green MIP Program, Lenders must present the requirements outlined in Pre-Construction Conference Agenda and Mortgagee Letter 2022-13 (ML 2022-13) at the Pre-Construction Conference. Lender's Pre-Construction Conference Agenda may be found under "HUD Tools for Firm Commitment Applications" for each of New Construction, Substantial Rehabilitation and 241(a) project types in HUD's Office of Residential Care Facilities Section 232 [Underwriting Guidance](#). For further details, please see the [ML 2022-13](#).

Keywords – *Pre-Construction Conference, Pre-Construction Conference Agenda, Green Mortgage Insurance Premium (MIP)*

[Back to top](#)



April 26, 2023

In This Update

- New Decision Circuit
- Proposed Rule: Floodplain Management and Protection of Wetlands – 24 CFR Part 55
- Cash Flow Stress Test No Longer Required

NEW DECISION CIRCUIT

The Office of Residential Care Facilities (ORCF) has been testing a new version of the Decision Circuit (DC), a tool used in appraisal review and underwriting. This version is essentially a data transfer device. The fundamental difference is that instead of entering the data in the various worksheets, all the data will be put into one of two worksheets, “Appraisal Inputs” and “Lender Inputs”. The skeleton of the inputs is protected so the form can’t change significantly and the location of entries can’t move. We’ve included the traditional charts and tables used in Lender Narratives.

To facilitate faster reviews, lenders typically fill the DC out for us as part of their application package. This is not a requirement as the DC is not a published form. Because data can easily be transferred, lenders can use it with any suite of worksheets desired. The new DC can be found online [here](#). ORCF welcomes comments.

Keywords: Decision Circuit, Appraisal Review

[Back to top](#)

PROPOSED RULE: FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS – 24 CFR PART 55

On March 24, 2023, HUD announced the publication of the Notice of Proposed Rulemaking (NPRM) for the proposed rule *Floodplain Management and Protection of*

Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard, and the associated opening of the public comment period through May 23, 2023. With this NPRM, HUD takes a major step in addressing future flood risk and ensuring the safety of HUD-assisted residents and federal investments.

The proposed rule implements the Federal Flood Risk Management Standard (FFRMS). The FFRMS addresses requirements of Executive Order (E.O.) 13690, *Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input*.

HUD's proposed rule affects projects receiving HUD assistance, financing, or mortgage insurance. The FFRMS floodplain expands the 1-percent-annual-chance (100-year) floodplain both vertically (based on projections of increased flood height) and horizontally (to reflect the vertical increase depending on the topography of a site). The proposed rule establishes that, when possible, a Climate Informed Science Approach (CISA) should be used to determine the FFRMS floodplain, utilizing the best-available, actionable hydrologic and hydraulic data. Where this data is unavailable, the rule provides for alternate approaches to determine the FFRMS floodplain based on the best available data/information. HUD also anticipates that over time, additional data will increase the capability of a CISA application nationwide.

The proposed rule requires that newly constructed or substantially improved structures within the FFRMS floodplain be elevated or, for certain non-critical actions, floodproofed to the FFRMS floodplain elevation. This proposed rule expands the applicability of the longstanding 8-step process to areas based on both current and anticipated future flood risk.

Interested parties are encouraged to submit any comments they have on the proposed rule. More information about the proposed rule, as well as answers to frequently asked questions, can be found on the proposed rules webpage found [here](#). Information on how and where to submit comments can be found in the Federal Register notice announcing the draft policy and comment period at this [link](#).

Additionally, HUD will be hosting live listening sessions where interested members of the public and stakeholder groups may provide comments on May 2nd and May 15th. Each session will be hosted from 3:00-4:30 PM EST. Registration information for the sessions can be found at the links below. All content presented across all sessions will remain the same; however, to maximize attendance we encourage your participation at the appropriate session. The purpose of the listening sessions is to seek individual opinions of the participants, and not a request for participants to come to a consensus.

- [**FFRMS Listening Session 2 – Federally Recognized Tribes, Native Hawaiian Organizations, and Alaskan Native Attendees- Registration Link \(May 2, 2023\)**](#)

- [FFRMS Listening Session 3 – Open Public Forum - Registration Link \(May 15, 2023\)](#)

Keywords: Floodplain, Flood, Wetlands, FFRMS

[Back to top](#)

CASH FLOW STRESS TEST NO LONGER REQUIRED

The Cash Flow Stress Test has been a very useful tool during the COVID Pandemic. However, in light of the fact that the Public Health Emergency is expiring in May and industry operations have become more stabilized, ORCF has determined that the stress test with monthly financial metrics need no longer be required. We do, however, continue to expect the lender to include the Lender Narrative Appendix, which requires the lender to address a number of COVID-related impacts, including potential staffing impacts.

Keywords: Cash Flow Stress Test

[Back to top](#)



February 22, 2023

In This Update

- Flood Preparedness Documentation for Excepted Projects
- ORCF New Protocol on Obtaining Section 232/242 Regulatory Agreement Releases Effective March 1, 2023

FLOOD PREPAREDNESS DOCUMENTATION FOR EXCEPTED PROJECTS

In accordance with Handbook 4232.1, Section II, Chapter 7.5.C.14, flood preparedness documentation is required for all Section 232 applications when the project is located in a 100-year or 500-year floodplain on an effective, preliminary or pending Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map. This requirement includes projects that propose to use the “incidental portion” exception at 24 CFR 55.12(c)(7), due to their location in a 100-year and/or 500-year floodplain.

As a reminder, projects proposing to use the “incidental portion” exception require a permanent covenant that will encumber the property in perpetuity and outlast the insured mortgage.

The following documentation must be included in the mortgage insurance application for any projects located in a 100-year or 500-year floodplain, including those invoking the “incidental portion” exception:

1. Evidence of participation in an early warning system

Indicate the specific method(s) used to monitor weather conditions and flooding alerts (e.g., National Oceanic and Atmospheric Administration weather radio continuously monitored by staff and an emergency alert agreement with the state or municipal emergency services agency.)

2. Emergency evacuation and relocation plan

Include names and addresses of like facilities (i.e., similar residential healthcare facilities) that have agreements or contracts with the project to serve as temporary relocation sites for the subject's residents. Provide the flood zone designations of relocation sites outside of the 500-year floodplain.

3. Identification of evacuation route(s) out of the 500-year floodplain

Include evacuation routes to temporary relocation sites identified in Paragraph 2.

Keywords: *Environmental, Flood, Evacuation*

[Back to top](#)

ORCF NEW PROTOCOL ON OBTAINING SECTION 232/242 REGULATORY AGREEMENT RELEASES EFFECTIVE MARCH 1, 2023

Office of Residential Care Facilities (ORCF) seeks to enhance efficiency in program operations and reduce costs while maintaining FHA's core program oversight functions. To better serve our industry partners, ORCF has implemented an electronic mailing system for releases of Section 232 and 242 FHA Regulatory Agreements.

All requests for releases of Regulatory Agreements for Nursing Homes, Board and Care Facilities, Assisted-Living Facilities (Section 232), and Hospitals (Section 242) must be sent to the 232RegReleases@hud.gov for processing.

ORCF will release the regulatory agreement once the mortgage insurance is terminated. Insurance termination occurs after the FHA-insured mortgage has been paid in full. The release request should be submitted only after: (A) the loan is paid in full and (B) FHA has terminated the mortgage insurance.

All inquiries, status updates, and additional submissions of information should be directed to 232RegReleases@hud.gov.

Documents Needed to Prepare the Release

For FHA Healthcare projects, each request for the release of an FHA-insured regulatory agreement must include:

- The FHA Project Name and Number in the Subject Line (XYZ Nursing Home FHA No. 000-12345). Only one project per email, please.
- A copy of the recorded regulatory agreement(s) (including any amendments). Please ensure that the recordation stamp(s), dates, and signatures are legible.

- Title report, policy, or commitment.
- Submitter's contact information to include email address and a mailing address for the hard copy releases to be sent.
- Written confirmation of FHA mortgage insurance termination. If submitting a form HUD-9807, Termination of Multifamily Insurance as evidence, the bottom "*For HUD Use Only*" section must reflect the cancellation of the FHA insurance endorsement and be signed by a designated FHA Official. Please note a form HUD-9807 without HUD's signature and the ORCF Prepayment Memorandum are not acceptable evidence of mortgage insurance termination. Please see [Sample Insurance Termination Cover Letter](#) and [Sample Evidence of MFIOB Termination Letter](#) on the [Section 232 Loan Servicing website](#).

Failure to follow these instructions will result in delays—resubmissions are treated as new requests. Please note processing typically takes up to eight (8) weeks following receipt of all necessary documents by FHA.

HUD-Held Mortgages/Deeds of Trust - All requests for the satisfaction of HUD-held mortgages/deeds of trust (including Mark-to-Market), UCC terminations, and releases of associated regulatory agreements must be sent to the Multifamily Notes Servicing Branch in HUD Headquarters at MultifamilyNotesServicingBranch@hud.gov.

Keywords: *Asset Management*

[Back to top](#)



February 3, 2023

In This Update

- Section 232 Healthcare Facility Documents Renewed (OMB 2502-0605 - *Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees and Contractors*) – Including Green Mortgage Insurance Premium (MIP) Documents
- Adoption of New Phase I Environmental Site Assessment Standard, ASTM E1527-21
- Extension of Authorization to Lenders and Their Representatives to Initiate Consultation with State Historic Preservation Offices (SHPOs)

SECTION 232 HEALTHCARE FACILITY DOCUMENTS RENEWED (OMB 2502-0605 - *COMPREHENSIVE LISTING OF TRANSACTIONAL DOCUMENTS FOR MORTGAGORS, MORTGAGEES AND CONTRACTORS*) – INCLUDING GREEN MORTGAGE INSURANCE PREMIUM (MIP) DOCUMENTS

The Section 232 Healthcare Facility documents (OMB 2502-0605 - *Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees and Contractors*) have been renewed. The documents have been published on [HUD's Client Information Policy Systems \(HUDCLIPS\)](#). Minor changes were made to OMB 2502-0605 as detailed in the [November 12, 2021 60-Day Notice of Proposed Information Collection](#). Documents with Green Mortgage Insurance (MIP) initiative related edits were detailed in the [August 26, 2022 30-Day Notice of Proposed Information Collection](#). The Office of Residential Care Facilities is allowing a transition period until May 1, 2023. During this transition time, old documents can still be used, however, please see the following details:

Production: All new Firm Commitment application documents will be required for Firm applications submitted on or after May 1. If an applicant chooses to use new Firm Commitment application documents before that date, then the applicant must also use

new closing documents, regardless of closing date. Additionally, all new closing documents must be used for any project that receives a Firm Commitment on or after May 1.

Asset Management: All Asset Management transactions must use new documents on or after May 1.

Green MIP: The following fifteen documents have edits related to the Section 232 Green Mortgage Insurance Premium (MIP) initiative. These documents must be used for all Green MIP transactions:

HUD-9001-ORCF - Lender Narrative - 223a7
HUD-9002-ORCF - Lender Narrative 223f
HUD-9003-ORCF - Lender Narrative 241a
HUD-9004-ORCF - Lender Narrative - New Construction - Single Stage
HUD-9005-ORCF - Lender Narrative - New Construction - 2 Stage - Initial Submittal
HUD-9005a-ORCF - Lender Narrative - New Construction - 2 Stage Final Submittal
HUD-9006-ORCF - Lender Narrative - Substantial Rehabilitation - Single Stage
HUD-9007-ORCF - Lender Narrative - Substantial Rehabilitation - 2 Stage Initial Submittal
HUD-9007a-ORCF - Lender Narrative - Substantial Rehabilitation - 2 Stage Final Submittal
HUD-90013-ORCF - Consolidated Certification – Borrower
HUD-91124-ORCF - Design Architect Certification
HUD-92464-ORCF - Request Approval Advance of Escrow Funds
HUD-92466-ORCF - Healthcare Regulatory Agreement – Borrower
HUD-92467-ORCF - Supplemental Healthcare Regulatory Agreement – Borrower
HUD-92476-ORCF - Escrow Agreement Noncritical Deferred Repairs

Keywords: Section 232 Documents, Green MIP

[Back to top](#)

ADOPTION OF NEW PHASE I ENVIRONMENTAL SITE ASSESSMENT STANDARD, ASTM E1527-21

ASTM, Inc., published a new standard for Phase I Environmental Site Assessments (ESAs) titled ASTM E1527-21 on November 2, 2021. On December 15, 2022, the Environmental Protection Agency (EPA) published a final rule to amend its All Appropriate Inquiries (AAI) rule at 40 CFR 312.11 to reference the new standard as sufficient to satisfy the requirements of the rule, with an effective date of February 13th, 2023. The EPA rule also established a sunset period through February 13, 2024, for the ASTM E 1527-13 standard.

Handbook 4232.1, Section II, Chapter 7.3.A.1.b requires use of the most recent edition of industry standards for compliance with environmental laws and regulations. For the ASTM E1527 standard, HUD requires the most recent standard that EPA has adopted and referenced in the AAI rule. Although the EPA has established an effective date of February 13th, 2023, the final rule states that EPA determined the ASTM E1527-21 standard to be compliant with the requirements of the All Appropriate Inquiries rule. Therefore, Section 232 applications submitted after the EPA final rule's publication on December 15, 2022 and prior to February 14, 2024 may use either ASTM 1527-21 or ASTM 1527-13.

Applications submitted prior to February 14, 2024 that included a Phase I ESA using E1527-13 and that met time frame requirements at Section 7.3.A.1.c. in Handbook 4232.1 Rev-1, Section II will not have to submit a new Phase I ESA to conform with the new standard.

For new applications after February 13, 2024, all Phase I ESAs must conform to ASTM E1527-21.

Keywords: *Phase I, Environmental, ASTM E1527*

[Back to top](#)

EXTENSION OF AUTHORIZATION TO LENDERS AND THEIR REPRESENTATIVES TO INITIATE CONSULTATION WITH STATE HISTORIC PRESERVATION OFFICES (SHPOS)

On March 18, 2021, HUD issued a formal authorization under 36 CFR 800.2(c)(4) for lenders and their authorized representatives using specific FHA Multifamily or Healthcare programs to initiate and carry out Section 106 consultation under certain conditions. This authorization was optional, and lenders could choose to follow the Memorandum or request HUD staff to continue to initiate consultation. HUD has tracked its use and found that a majority of FHA applications that require Section 106 SHPO consultation have used the authorization.

Based on its extensive use and positive feedback from users, HUD has decided to extend the authorization for 5 years with minor edits. Edits include the following:

- Extend authorization for 5 years and update HUD staff contacts.
- Synthesize the memo by removing confusing and unnecessary content that does not apply to the authorization.
- At the request of the Advisory Council on Historic Preservation, add direct reference to implementation language in the MAP Guide, Chapter 9 and the Section 232 Handbook, Section II, Chapter 7.
- Add and clarify specific details about how HUD staff consult with Tribes and consider tribal input.

- Clarify that this does not constitute a full delegation and that HUD staff complete the Section 106 review and make the final determination.

It is important to note that this authorization does not extend to consultation with Tribes. HUD staff will maintain the critical responsibility and relationship in consulting with Tribal Historic Preservation Officers (THPOs) and Tribes. Lenders should continue to submit early Tribal consultation requests to ORCF via LeanThinking@hud.gov when a project requires Tribal consultation, such as when ground disturbance is proposed. When the results of HUD's Section 106 Tribal consultation are needed prior to initiating SHPO consultation, lenders and their consultants should follow the process described in the June 29, 2022 Email Blast. If the lender and its consultant do not believe the receipt of Tribal responses is necessary prior to initiating SHPO consultation based on their research at the site, they may initiate consultation with the SHPO prior to receiving the Tribal responses, and HUD will ensure all Tribal comments are incorporated into the Section 106 process.

In addition, although HUD is authorizing lenders and their authorized representatives to initiate consultation with the SHPO and non-tribal consulting parties, the Section 106 review is not complete until HUD staff independently review and certify the sufficiency and appropriateness of the Section 106 processes performed and the documentation provided in HUD's Environmental Review Online System (HEROS).

Effective January 1, 2023, the Department extends the authorization to Multifamily Accelerated Processing (MAP)- and Office of Healthcare Program (OHP)-approved lenders and their authorized representatives to act on behalf of HUD to initiate the Section 106 review process with SHPOs and other consulting parties except for Tribes, to identify and evaluate historic properties, and to assess effects. The updated Memorandum is available on the [ORCF Environmental Resources website](#).

Lenders and their consultants must follow the Memorandum's requirements, including sending a copy of the Memorandum when corresponding with the SHPOs. Consultants must also research and follow specific SHPO protocols, which vary from state to state.

Keywords: *State Historic Preservation Office (SHPO), Environmental*

[Back to top](#)

January 31, 2023



January 31, 2023

OFFICE OF RESIDENTIAL CARE FACILITIES (ORCF) POSITION VACANCY

ORCF is pleased to announce that it is hiring for the following positions:

Production Division – 2 positions
Account Executive – Underwriter (1 position)
Account Executive – Closer (1 position)

The vacancy announcements are posted on USAJOBS:

Internal (Current or former federal employees qualifying as Status Candidates):

Locations – Columbia, SC; Denver, CO; Columbus, OH; Jacksonville, FL; Portland, OR
– [USAJOBS - Job Announcement](#)

Locations – Washington, DC; Chicago, IL; Jacksonville, FL – [USAJOBS - Job Announcement](#)

Public:

Locations – Columbia, SC; Denver, CO; Columbus, OH; Jacksonville, FL; Portland, OR
– [USAJOBS - Job Announcement](#)

Locations – Washington, DC; Chicago, IL; Jacksonville, FL – [USAJOBS - Job Announcement](#)

*Because the application window is short, closing on **February 13, 2023**, we are asking you to help us spread the word.*

Keyword: Vacancy Announcement



December 21, 2022

In This Update

- Reminder on Addressing Climate Impacts in Environmental Assessments
- Processing Asset Management Accounts Receivable (AR) Financing Transactions Involving Multiple FHA Projects

REMINDER ON ADDRESSING CLIMATE IMPACTS IN ENVIRONMENTAL ASSESSMENTS

Lenders are reminded that applications submitted after December 1, 2022, and which require an Environmental Assessment (EA) level review, must address current and reasonably foreseeable climate impacts along with Energy Efficiency and all other EA factors. Details were published in ORCF's [August 25, 2022 Email Blast](#).

The requirements do not apply to Section 232/223(f) projects or other Categorically Excluded projects. Please see Handbook 4232.1, Section II, Chapter 7 for a description of Categorical Exclusions.

Keywords: *Environmental Assessment, Climate*

[Back to top](#)

PROCESSING ASSET MANAGEMENT ACCOUNTS RECEIVABLE (AR) FINANCING TRANSACTIONS INVOLVING MULTIPLE FHA PROJECTS

ORCF recommends FHA Lenders contact a project's assigned ORCF Account Executive in advance of submitting Asset Management Accounts Receivable (AR) Financing transactions involving multiple FHA projects in the Section 232 Healthcare Portal. ORCF Asset Management staff will consolidate their review of new and modified AR Financing involving multiple projects to the extent practicable. This will facilitate streamlined reviews with one lead Account Executive reviewer requesting the assignment of one OGC Attorney reviewer in most cases. Additionally, ORCF strongly

December 21, 2022

encourages FHA Lenders to complete the optional [AR Financing Terms Memo Checklist Exhibit](#) to facilitate expeditious review of requests involving multiple FHA projects.

Keywords: *Accounts Receivable Financing, Asset Management*

[Back to top](#)



October 26, 2022

In This Update

- Medicaid Waivers State Risk
- A Quick User Guide For LEAN Thinking
- Emergency Preparedness Requirements for Skilled Nursing Facilities
- September 2022 ORCF Webinar Presentation on Recent 232 Asset Management Issues and How Operators Can Address Them
- Legal Instructions For Claims Completed PRA Renewal Process

MEDICAID WAIVERS STATE RISK

As a reminder, the Risk Factors section in the Underwriting Lender Narratives directs Lenders to address project risks associated with reliance on the use of Medicaid Waivers. The [Centers for Medicare and Medicaid Services \(CMS\) Home and Community Based Services \(HCBS\) Rule](#) requires States to ensure that settings (e.g. places or locations) receiving Medicaid Waivers achieve compliance with this rule by March 17, 2023. As a part of this rule, certain settings, as identified by States as potentially noncompliant, undergo an additional Heightened Scrutiny review by CMS (see [here](#)).

As the HCBS rule deadline approaches, most States have begun posting publicly available lists of sites needing Heightened Scrutiny. ORCF expects that, as part of the lender's review required in the Lender Narrative, the lender will fully vet projects identified as being under Heightened Scrutiny review and that rely on Medicaid Waiver Income. If a project is identified as being under Heightened Scrutiny review, the Lender should clearly demonstrate that the project can either withstand the loss of Medicaid Waiver income, has already received CMS post-review approval, or will conclusively receive full Medicaid Waiver approval before submitting an application.

Please see the [State Risk Summary Grid](#) for additional information.

Keywords: State Risk, Lender Narrative, Income Sources

[Back to top](#)

A QUICK USER GUIDE FOR LEAN THINKING

ORCF strives to address program-related questions or concerns as promptly, clearly and consistently as possible. A key means of doing this is the Lean Thinking email box (LeanThinking@hud.gov), through which ORCF receives and reviews messages daily. These messages are most often questions about policies or operations, but can also be comments and suggestions from program participants, all of which are welcome.

Many questions are well suited for submission to ORCF via the Lean Thinking email box. These include:

- Program questions resulting from your review of existing guidance.
- Pre-submission Production environmental matters (per Handbook 4232.1, Production, Chapter 1 & 7, 10/27/21 Email Blast).
- Other pre-submission mortgage insurance application questions.

Some questions, though, are less suitable for Lean Thinking. These include:

- Questions relating to a mortgage insurance application already under review
- Asset Management/Servicing questions related to a facility with a currently insured loan. (The lender can often answer owner/operator questions and can contact the ORCF Account Executive if needed.)

When submitting questions to the Lean Thinking email box, ORCF suggests:

- Being as specific as possible.
- Pointing to any difficulty interpreting/applying program guidance that you have reviewed.
- Promptly following up via the Lean Thinking email box, rather than ORCF individual staff, if the initial response received from the Lean Thinking email box:
 - reflects a misunderstanding of your question, or
 - indicates that additional information is needed for a more specific response.

Please remember that:

- If a Lean Thinking response relates to a forthcoming insurance application, Lenders should submit a complete record of the inquiry/response within the Communication folder of their applications. This helps avoid duplicative efforts.
- Although ORCF strives to provide Lean Thinking responses as specifically as possible, definitive resolution often cannot occur until ORCF considers the

lender's factual presentation and analysis during application review. Thus, a Lean Thinking response contains a limitation clause.

Keywords: *LEAN Thinking*

[Back to top](#)

EMERGENCY PREPAREDNESS REQUIREMENTS FOR SKILLED NURSING FACILITIES

Lenders and Third-Party Need Assessors are reminded that installing and maintaining generators is a requirement for all Skilled Nursing Facilities. On September 16, 2016, The Centers for Medicare & Medicaid Services (CMS) established a national preparedness Final Rule codified at [24 CFR 483.73](#) - Emergency Preparedness. Additionally, effective March 26, 2021, CMS updated guidance and combined excerpts from the regulation (24 CFR 483.73) with Interpretive Guidelines ([here](#)) for Long Term Care (LTC) facilities.

The interpretive guidance and regulation require:

24 CFR 483.73

(e) Emergency and standby power systems. The LTC facility must implement emergency and standby power systems based on the emergency plan set forth in paragraph (a) of this section.

- 1) Emergency generator location. The generator must be located in accordance with the location requirements found in the Health Care Facilities Code (NFPA 99 and Tentative Interim Amendments TIA 12-2, TIA 12-3, TIA 12-4, TIA 12-5, and TIA 12-6), Life Safety Code (NFPA 101 and Tentative Interim Amendments TIA 12-1, TIA 12-2, TIA 12-3, and TIA 12-4), and NFPA 110, when a new structure is built or when an existing structure or building is renovated.
- 2) Emergency generator inspection and testing. The LTC facility must implement the emergency power system inspection, testing, and maintenance requirements found in the Health Care Facilities Code, NFPA 110, and Life Safety Code.
- 3) Emergency generator fuel. LTC facilities that maintain an onsite fuel source to power emergency generators must have a plan for how it will keep emergency power systems operational during the emergency, unless it evacuates.

As required by the regulation at 24 CFR 483.73 and the interpretive guidance, all emergency standby power systems are to be sized to power the necessary emergency systems as described in 24 CFR 483.73 and interpretive guidance. Accordingly, the Needs Assessor must confirm that the project complies with all Federal, State, and local regulations/codes, including the applicable 2012 Life Safety Codes, the 2012 Health

Care Facilities Codes, and all essential Tentative Interim Amendments (TIA) regarding emergency and standby power systems. Please also reference ORCFs Project Capital Needs Assessment (PCNA) Statement of Work IV.B.4 ([here](#)).

Keywords: *Generator, Disaster Recovery*

[Back to top](#)

SEPTEMBER 2022 ORCF WEBINAR PRESENTATION ON RECENT 232 ASSET MANAGEMENT ISSUES AND HOW OPERATORS CAN ADDRESS THEM

On September 28, 2022, ORCF participated in a webinar hosted by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL) on Asset Management matters. The webinar provided a brief overview of the Section 232 program and addressed key asset management issues. The webinar is now available online ([here](#)). Membership to AHCA/NCAL is not required to access this webinar. Please use your AHCA login used when registering for the webinar (*If you have forgotten your password click [here](#)*).

If you did not register for the live webinar, you will need to create an account to access the recorded webinar.

How to Create Account:

- To avoid technical problems, use Google Chrome.
- If you are new to the AHCA site, you can create an account [here](#). After creating an account, you will be able to access the webinar.

For further assistance, please email educate@ahca.org.

Keywords: *Asset Management, Webinar*

[Back to top](#)

LEGAL INSTRUCTIONS FOR CLAIMS COMPLETED PRA RENEWAL PROCESS

The Legal Instructions Concerning Applications for Full Insurance Benefits-Assignment of Multifamily and Healthcare Mortgages to the Secretary (form HUD 2510) (the “Legal Instructions”) has completed the renewal process in accordance with the Paperwork Reduction Act of 1995. The Legal Instructions have been revised with clarifying changes and updates to reflect current HUD requirements and policies, including electronic submission for legal review, as well as current practices in real estate, title insurance, hazard insurance and mortgage financing transactions.

October 26, 2022

The Legal Instructions and associated exhibits are now available [here](#) and on [HUDCLIPS](#). Please share this information with your counsel.

Keywords: *Legal Instructions, Claims*

[Back to top](#)



September 20, 2022

ORCF WEBINAR PRESENTATION ON RECENT 232 ASSET MANAGEMENT ISSUES AND HOW OPERATORS CAN ADDRESS THEM – SEPTEMBER 28, 2022, 2:00 P.M. EASTERN TIME

In a webinar hosted by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL), HUD's Office of Residential Care Facilities (ORCF) will provide a brief overview of the Section 232 program and address some key asset management issues. The webinar will run from 2:00 p.m. to approximately 3:00 p.m. Eastern Time on September 28, 2022, and will be open to AHCA/NCAL members and non-members. The webinar will be recorded. There is no charge for participation.

Presentation topics will include:

- Understanding Financial Reporting Matters
- Understanding Changes in Facility Structure/Configuration and the Funding of Those Changes
- Update on ORCF Asset Management Upcoming Improvements
- Responses to your questions

Speakers:

- John Hartung, Director, Policy, Risk Analysis and Lender Relations Division, Office of Residential Care Facilities, HUD
- Philip Head, Director, Asset Management Division, Office of Residential Care Facilities, HUD

Event Date: September 28, 2022, 2:00 p.m - 3:00 p.m. (Eastern Time)

Registration Link: [Here](#)

Although membership to AHCA/NCAL is not required to participate in the webinar, you will still need to create an AHCA/NCAL username and password to register for the webinar.

How to Register for AHCA/NCAL webinar:

- Webinar participants will need to [login](#) using their existing ahcancaLED username and password first.

- Once you are logged in to the website you will be able to register for the webinar by clicking the green register button at the top of the page.
- If you have forgotten your password click [here](#).

How to Register for an AHCA/NCAL username and password:

- To avoid technical problems, use Google Chrome.
- If you are new to the site, you can create an account [here](#). After creating an account, you will be able to register for the webinar. If you need further assistance with creating an AHCA/NCAL account, please email educate@ahca.org

Keywords: *Asset Management, Webinar*

[Back to top](#)



August 25, 2022

In This Update

- In Case You Missed It - Mortgagee Letter 2022-13 “Green Mortgage Insurance Premium (MIP) Program Guidance for the Office of Health Care Facilities (ORCF)” Published
- Addressing Climate Impacts in Environmental Assessment (EA) Level Reviews
- Section 232 New Construction Lenders and Construction Management Teams Virtual Lender Roundtable
- Office of Residential Care Facilities (ORCF) Position Vacancy

IN CASE YOU MISSED IT - MORTGAGEE LETTER 2022-13 “GREEN MORTGAGE INSURANCE PREMIUM (MIP) PROGRAM GUIDANCE FOR THE OFFICE OF HEALTH CARE FACILITIES (ORCF)” PUBLISHED

Mortgagee Letter 2022-13 “Green Mortgage Insurance Premium (MIP) Program Guidance for the Office of Health Care Facilities (ORCF)” was published on August 18, 2022. This Mortgagee Letter (ML) provides program guidance and reporting requirements for mortgages on properties that meet ORCF’s “Green MIP” requirements. The ORCF Green MIP initiative was announced in ORCF’s Green MIP *Federal Register* Notice (FR-6302-N-01) on May 19, 2022, and an additional notice published on August 12, 2022, ([FR-6302-C-02](#)). For further details, please see the [ML 2022-13](#) and [HUD press release](#).

Keywords: *Mortgage Insurance Premium, Green MIP*

[Back to top](#)

ADDRESSING CLIMATE IMPACTS IN ENVIRONMENTAL ASSESSMENT (EA) LEVEL REVIEWS

HUD's Office of Environment and Energy recently issued an updated [Environmental Assessment eGuide](#) that includes new Environmental Assessment (EA) factors related to Climate Change and Energy Efficiency. An associated [webinar](#) and an [FAQ document](#) are also available.

The Environmental Assessment eGuide applies to all new construction projects and to rehabilitation projects that require an EA level review (Please see Handbook 4232.1 Section II, Chapter 7.1.A). The eGuide does not apply to refinance or rehabilitation actions that are Categorical Excluded from the National Environmental Policy Act (NEPA). Therefore, the requirements do not apply to Section 232/223(f) projects or other Categorical Excluded projects (Please see Handbook 4232.1, Section II, Chapter 7).

The eGuide is written generally for all HUD programs that trigger an EA level review. In this article we have highlighted key components that apply specifically to Section 232 projects, and the path for implementation, beginning December 1, 2022.

Applications already submitted do not have to be amended with updated environmental assessments to include the new EA factors. Applications requiring an EA level review that are submitted after December 1, 2022, must address current and reasonably foreseeable climate impacts, along with Energy Efficiency and all other EA factors.

Considering Climate Risk

Applicants may analyze likely current hazard risks by entering the property's address into FEMA's [National Risk Index](#) (NRI), identify which hazards are "relatively high" or "very high" for the project's census tract, and generate and submit the NRI report for the census track.

Applicants must also consider future climate risks over the term of the mortgage, and may use climate projection tools such as [Climate Explorer](#), [Risk Factor](#), [NOAA Sea Level Rise Viewer](#), and [Climate Central Coastal Risk Screening Tool](#) (by year and/or water level) for that purpose. HUD's EA Factor eGuide training recommends the Climate Explorer tool and ORCF would accept a summary of the top climate concerns from the site's "Take Action" tab. It may be necessary to supplement Climate Explorer with a source such as Risk Factor to capture projected flood or wildfire risks. HUD would also accept equivalent reports from other sources.

For both NRI and the climate projection reports, the application must include a narrative description detailing how the scope of work addresses and/or mitigates against any climate risks identified in the reports.

The [Climate Change Impacts](#) section of the Environmental Assessment eGuide provides information on climate change analysis techniques, mitigation measures, and includes links to a number of useful resources.

An update to the HUD Environmental Review Online System (HEROS) will provide a dedicated row for the Climate Change Factor on the environmental assessment (EA) Factors page of HEROS (page 4010). Prior to the update, Climate Change impacts and mitigation would be reported in the Other Factors row under the Natural Features EA category.

Energy Efficiency

The EA factors element also asks HUD to consider the project's contributions to climate change via building materials and energy use. This would also be a place to note if a project is participating in Green MIP, or offering amenities such as electric vehicle charging stations. At this time, ORCF does not have specific Greenhouse Gas Emissions benchmarks to meet as part of the environmental assessment.
Keywords: Environment, Climate, Energy, HEROS

Keywords: *Environmental Assessment, Green MIP, HEROS*

[Back to top](#)

SECTION 232 NEW CONSTRUCTION LENDERS AND CONSTRUCTION MANAGEMENT TEAMS VIRTUAL LENDER ROUNDTABLE

You are invited to join the ORCF Closing Team for a **“virtual” Lender Roundtable Session on Tuesday, September 20, 2022 to discuss the Section 232 Construction Management/Loan Administration process.** We will be covering Initial Closing and Construction Management through Final Endorsement and will be sharing “lessons learned” and other helpful tips to facilitate a seamless process to reach Final Endorsement.

This “virtual” Lender Roundtable Session will be taking place on **September 20, 2022 from 12:00 p.m. – 4:00 p.m. ET (11:00 a.m. - 3:00p.m. CT/ 9:00a.m. – 1:00 p.m. PT.)**

To register for this event, please see link ([here](#)).

Should you have any questions, please contact the ORCF Closing Team at: orcfcloser@hud.gov

Keywords: *Lender Dialog Meetings*

[Back to top](#)

OFFICE OF RESIDENTIAL CARE FACILITIES (ORCF) POSITION VACANCY

ORCF is pleased to announce that it is hiring for the following positions:

Production Division

Account Executive – Underwriter (2 positions)

The vacancy announcements are posted on USAJOBS:

Internal (Current or former federal employees qualifying as Status Candidates):

Locations – Santa Ana, CA; Chicago, IL; Indianapolis, IN; Minneapolis, MN; Oklahoma City, OK; Portland, OR; Fort Worth, TX ([USAJOBS - Job Announcement](#))

Locations – Washington, DC; Des Moines, IA; Saint Louis, MO; New York, NY; Greensboro, NC; Columbus, OH; Milwaukee, WI ([USAJOBS - Job Announcement](#))

Public:

Locations – Santa Ana, CA; Chicago, IL; Indianapolis, IN; Minneapolis, MN; Oklahoma City, OK; Portland, OR; Fort Worth, TX ([USAJOBS - Job Announcement](#))

Locations – Washington, DC; Des Moines, IA; Saint Louis, MO; New York, NY; Greensboro, NC; Columbus, OH; Milwaukee, WI ([USAJOBS - Job Announcement](#))

Because the application window is short, **closing on September 6, 2022**, we are asking you to help us spread the word.

Keyword: *Vacancy Announcement*

[Back to top](#)

August 18, 2022



August 18, 2022

MORTGAGEE LETTER 2022-13 “GREEN MORTGAGE INSURANCE PREMIUM (MIP) PROGRAM GUIDANCE FOR THE OFFICE OF HEALTH CARE FACILITIES (ORCF)” PUBLISHED

Mortgagee Letter 2022-13 “Green Mortgage Insurance Premium (MIP) Program Guidance for the Office of Health Care Facilities (ORCF)” was published on August 18, 2022. This Mortgagee Letter (ML) provides program guidance and reporting requirements for mortgages on properties that meet ORCF’s “Green MIP” requirements. The ORCF Green MIP initiative was announced in ORCF’s Green MIP *Federal Register* Notice (FR-6302-N-01) on May 19, 2022, and an additional notice published on August 12, 2022, ([FR-6302-C-02](#)). For further details, please see the [ML 2022-13](#) and [HUD press release](#).

Keywords: *Mortgage Insurance Premium, Green MIP*

July 12, 2022



July 12, 2022

OFFICE OF RESIDENTIAL CARE FACILITIES (ORCF) POSITION VACANCY

ORCF is pleased to announce that it is hiring for the following positions:

Production Division Senior Account Executive – Underwriter

The vacancy announcements are posted on USAJOBS:

Internal (Current or former federal employees qualifying as Status Candidates):

Locations – Santa Ana, CA; Washington, DC; Chicago, IL; Portland, OR ([USAJOBS - Job Announcement](#))

Public:

Locations – Santa Ana, CA; Washington, DC; Chicago, IL; Portland, OR ([USAJOBS - Job Announcement](#))

Because the application window is short, **closing on July 26, 2022 for the Senior AE position**, we are asking you to help us spread the word.

In addition, we will soon be posting the following position:

Production Division Account Executive – Underwriter

The vacancy announcements will be posted on USAJOBS in the near future:

Internal (Current or former federal employees qualifying as Status Candidates):

August 25, 2022

Locations – Santa Ana, CA; Washington, DC; Chicago, IL; Portland, OR (*TBD – watch USAJOBS for posting information*)

Public:

Locations – Santa Ana, CA; Washington, DC; Chicago, IL; Portland, OR (*TBD – watch USAJOBS for posting information*)

Keyword: *Vacancy Announcement*

[Back to top](#)



July 11, 2022

HOUSING NOTICE 2022-03 AND MORTGAGEE LETTER 2022-10 – “ADDITIONAL OPERATOR AND FHA LENDER NOTICE REQUIREMENT FOR ACCOUNT RECEIVABLES AVAILABILITY REDUCTION” PUBLISHED

Housing Notice 2022-03 and Mortgagee Letter 2022-10 - *Additional Operator and FHA Lender Notice Requirement for Account Receivables Availability Reduction* were published on July 11, 2022. The Mortgagee Letter and Housing Notice implement an additional notice requirement for FHA Lenders and Operators of Section 232 projects that receive accounts receivable financing from an Accounts Receivable (AR) Lender. The notice requirement will allow FHA Lenders and HUD to better monitor the financial health of such projects and position FHA Lenders and HUD to take timely action when necessary.

The notice requirement in both Housing Notice 2022-03 and Mortgagee Letter 2022-10 are the same.

For more details, please see the Housing Notice 2022-03 ([here](#)) and Mortgagee Letter 2022-10 ([here](#)).

Keywords: *Accounts Receivable Financing*

[Back to top](#)



July 1, 2022

HANDBOOK 4232.1 REV-2 DRAFT REVISIONS POSTED ON ORCF POLICY DRAFTING TABLE

Since the publication and implementation of Handbook 4232.1 REV-1 in January 2017, ORCF has been continually reviewing and considering areas that require further clarification or updates to reflect current program policy. As a result, ORCF has proposed draft revisions to the Handbook that are now posted on [ORCF's Policy Drafting Table](#). ORCF invites all industry partners to provide voluntary feedback by no later than August 15, 2022. Industry feedback has been a critical component to ORCF's administration of the Section 232 program to date. ORCF will assess all feedback received on the draft as it progresses to a final update. To submit voluntary feedback, please follow the instructions on ORCF's Policy Drafting Table.

Please note, the draft revisions posted on ORCF's Policy Drafting Table are not final. Proposed changes may or may not be included in the final update.

Keywords: *Handbook 4232.1 Draft Revisions*

[Back to top](#)



June 29, 2022

In This Update

- Section 106 Historic Preservation Delegation and Tribal Consultation Timing
- FHA Number Request Expirations in 232 Healthcare Portal
- Recent Legislation Changes in the State of New York
- New ORCF Staff
- Update for Planned Changes to Quarterly Operator Reporting
- Submitting Environmental Reviews to ORCF Asset Management in HEROS
- FROM THE CLOSING CORNER
 - Clarification on Pre-Existing Surveys for Non-223(a)(7) Closings
 - Information to Include When Submitting a Section 223(f) or Section 223(a)(7) Closing Package

SECTION 106 HISTORIC PRESERVATION DELEGATION AND TRIBAL CONSULTATION TIMING

ORCF's [March 24, 2021 Email Blast](#) announced the Delegation Memo authorizing FHA Lenders and their Authorized Representatives to initiate Section 106 consultation with State Historic Preservation Offices (SHPOs) on HUD's behalf. As stated in the Delegation Memo, Lenders and authorized representatives must consider timely comments HUD receives from Indian tribes before reaching final determinations of effect and submitting the final determination of effect to SHPO for concurrence. This may take longer than 30 days if an Indian tribe identifies concerns or effects of the project on historic properties. The Delegation Memo also includes the list of circumstances that will require HUD to resume responsibility for completing the Section 106 review. Lenders should be seeking information about historic properties from the SHPO while HUD is completing the initial consultation with Indian tribes. HUD must contact the Tribes directly. The process for notifying HUD that your project requires tribal consultation and obtaining results of that consultation is as follows:

- When preparing a mortgage insurance application for a project that requires tribal consultation (for example, a project that involves ground disturbance), and before contacting the SHPO, the Lender should notify LeanThinking@hud.gov that tribal consultation is required for the project. Include the project's name, FHA number and the exhibits listed under "Tribal Notification Information" in Section 2 of the ORCF Application Checklist with the Lean Thinking request.
- ORCF will initiate the Tribal consultation shortly after receiving the Lean Thinking request, and the Tribe(s) will be asked to respond within 30 days. The initial response period is expected to end approximately 35 days after HUD's receipt of your project's information. Please note that ORCF may contact you for additional information if needed prior to sending out the Tribal letter(s), which may slightly delay the start of the initial response period. After the response period has ended, please contact Terry Bessette (Terry.L.Bessette@hud.gov) to request the results of the initial Tribal consultation. If you know the name of the ORCF environmental reviewer handling the consultation, please include them on the email as well. If the initial results of HUD's Tribal consultation do not require additional consultation, ORCF will then send you the Tribal correspondence, to provide to the SHPO with the Delegation Memo.

Keywords: *Environmental, Section 106, SHPO*

[Back to top](#)

FHA NUMBER REQUEST EXPIRATIONS IN 232 HEALTHCARE PORTAL

FHA Numbers expire in the 232 Healthcare Portal 365 days after issuance of the number if no documents are uploaded to the associated Application task. An "FHA Number Expiration Reminder Email" function has been re-established in the Portal and an automatic expiration notification email should be sent to the Lender LAM, BAM and Submitter at 90, 60 and 30 days prior to expiration of an FHA Number. Lenders should contact LeanThinking@hud.gov if you believe you are not receiving these notifications.

Keywords: 232 Healthcare Portal, FHA Number Requests

[Back to top](#)

RECENT LEGISLATION CHANGES IN THE STATE OF NEW YORK

ORCF is aware of recent legislation changes in the State of New York ([here](#)) that impact Skilled Nursing Facilities. To assess the impacts of this legislation to projects in underwriting, Lenders should address the following in their applications:

- Legislation's requirements for the following:
 - 3.5 hours of care per resident per day

- 70% of a nursing home's revenue is to be spent on direct resident care and at least 40% spent on staffing
- Nursing home operators in the state are required to return all profits in excess of 5% to the state, regardless of the quality of care or whether the operator sustained losses in prior years
- Fines for noncompliance could be up to \$2,000 per day
- The Lender's staffing assessment in the [October 27, 2021 Email Blast](#) should incorporate additions to staff that may be required as part of this legislation.
- Any increased staffing expenses should also be addressed in the appraised and underwritten expense conclusions.
- Finally, the lender should make an overall risk assessment conclusion (for example: LOW IMPACT or HIGH IMPACT) on the project-specific impact of the legislation change.

Keywords: *Application, Underwriting*

[Back to top](#)

NEW ORCF STAFF

ORCF is pleased to welcome the following new staff to our team:

Production Division

- Underwriting
 - Joe Davis, Detroit, MI Field Office
- Appraiser
 - Jeff Lowman, Kansas City, KS Field Office

Keywords: *ORCF Staff*

[Back to top](#)

UPDATE FOR PLANNED CHANGES TO QUARTERLY OPERATOR REPORTING

As previously communicated in the [February 23, 2022 Email Blast](#), ORCF will be implementing several changes to the process of quarterly Operator financial reporting in the 232 Healthcare Portal. Technology development is ongoing. To ensure that HUD delivers solid functionality, implementation will not commence with the first quarter of Fiscal Year 2022 as previously stated.

ORCF intends to modify the Batch File Upload Spreadsheet to include columns for Accounts Payable and Accounts Receivable data. ORCF will continue to communicate with Lenders and will provide further procedural guidance regarding all planned portal

upload process adjustments, and a revised implementation date, in future communications.

Keywords: 232 Healthcare Portal, Operator Financial Reports, Asset Management

[Back to top](#)

SUBMITTING ENVIRONMENTAL REVIEWS TO ORCF ASSET MANAGEMENT IN HEROS

Per the [December 16, 2021 Email Blast](#), lenders may now use the HUD Environmental Review Online System (HEROS) to voluntarily submit Section 232 changes in collateral transactions to the Asset Management division of ORCF.

Effective June 1, 2022, submission of environmental reviews for Asset Management via HEROS should be submitted to ORCF by using the “Assign Review” feature and then selecting Marie Mazwi as the assignee. ***Please do not contact Marie Mazwi regarding HEROS; her name is only used to store the HEROS submissions until an environmental reviewer is assigned to the project.*** Questions regarding HEROS should be submitted to LeanThinking@hud.gov.

Keywords: Asset Management, Environmental, HEROS

[Back to top](#)

FROM THE CLOSING CORNER

Clarification on Pre-Existing Surveys for Non-223(a)(7) Closings

Clarification when using [Survey Instructions and Borrower's Certification \(Form HUD-91111-ORCF\)](#) and specifically Section II of HUD-91111-ORCF: ***For non-223(a)(7) closings, HUD will only accept pre-existing surveys that have been updated (date of the last site inspection/field work) within a year of closing.***

Should you have any questions, please contact your assigned ORCF Closing Coordinator.

Keywords: Non-223(a)(7) Closings, Pre-Existing Surveys, Form HUD-91111-ORCF

[Back to top](#)

Information to Include When Submitting a Section 223(f) or Section 223(a)(7) Closing Package

Effective immediately, when you are ready to submit a **complete** closing package, please email ORCFCloser@hud.gov, to request a Closer and OGC Attorney Assignment. Please include information related to any recent transactions with an OGC

Attorney (see data field below). Please provide ORCFCloser@hud.gov with the following information about the transaction:

Project Name	
FHA Number	
Program Type (223a7, 223f, etc.)	
Project City	
Project State	
Portfolio Size (small, medium, large or N/A)	
Master Lease or Master Lease Alternative Will there be a Master Lease or Master Lease Alternative?	
Accounts Receivable Financing Is there Accounts Receivable Financing? If so, is it a new line or will the project be added to a previously approved line?	
Has an OGC Attorney recently reviewed any related transactions such as a Change in Collateral, Change of Participant, 9807, AR Financing, Master Lease, or Closed other projects in a portfolio? If so, please identify the OGC Attorney and briefly explain the related transaction.	
Other Is there other relevant information that ORCF or OGC should be aware of?	

Please note: As shared in the [December 16, 2021 Email Blast](#), ORCF will request the assignment of the designated HUD OGC Attorney at the time a Section 223(f) or Section 223(a)(7) Closing Package is submitted to the ORCF Closing Coordinator. **This chart and information will be needed before a HUD OGC Attorney assignment request can be made.** Please contact ORCFCloser@hud.gov directly if you have any questions.

Keywords: HUD OGC Attorney, Closings - Package, Legal – Legal Package

[Back to top](#)

June 23, 2022



June 23, 2022

OFFICE OF RESIDENTIAL CARE FACILITIES (ORCF) POSITION VACANCY

ORCF is pleased to announce that it is hiring for the following positions:

Production Division

Account Executive - Underwriter

The vacancy announcements are posted on USAJOBS:

Internal (Current or former federal employees qualifying as Status Candidates):

Locations – Des Moines, IA; Saint Louis, MO; Columbus, OH; Milwaukee, WI ([here](#)),

Locations – Indianapolis, IN; Minneapolis, MN; Greensboro, NC; New York, NY ([here](#))

Locations – Washington, DC; Jacksonville, FL; Miami, FL; Chicago, IL ([USAJOBS - Job Announcement](#))

Public:

Locations – Des Moines, IA; Saint Louis, MO; Columbus, OH; Milwaukee, WI ([here](#)),

Locations – Indianapolis, IN; Minneapolis, MN; Greensboro, NC; New York, NY ([here](#)),

Locations – Washington, DC; Jacksonville, FL; Miami, FL; Chicago, IL ([USAJOBS - Job Announcement](#))

Because the application window is short, **closing on July 11, 2022**, we are asking you to help us spread the word.

Locations for the position are specified on the related vacancy announcements.

Asset Management Division

Account Executive

The vacancy announcements are posted on USAJOBS: ([here](#)) and ([here](#)).

Because the application window is short, **closing on July 6, 2022**, we are asking you to help us spread the word.

Locations for the position are specified on the related vacancy announcements.

Keyword: *Vacancy Announcement*

[Back to top](#)



May 19, 2022

CHANGES IN CERTAIN OFFICE OF HEALTHCARE PROGRAMS INSURANCE PREMIUMS (FR-6302-N-01) – SECTION 232 GREEN MIP

On May 19, 2022, the Federal Housing Administration (FHA) Office of Healthcare Programs/Office of Residential Care Facilities announced via *Federal Register* Notice ([FR-6302-N-01](#)) its intent to implement a reduction of mortgage insurance premiums (MIP) for mortgages insured under the Section 232 Mortgage Insurance for Residential Care Facilities program where the facilities meet certain industry-recognized green building certifications (Section 232 Green MIP). Please see [HUD's press release](#) for further details.

Keywords: *Mortgage Insurance Premium, Green MIP*

[Back to top](#)



May 9, 2022

In This Update

- Senior Lender Leadership Dialogue Sessions with ORCF
- Elimination of Hard Copies of Closing Documents Post-Endorsement
- Projects in the Queue
- Staffing Turnover and Quality of Care
- The Clean Air in Buildings Challenge Enactment
- Interest Rate Increases and Section 232 Transactions
- Updated State Risk Summary Grid
- Reminder Regarding Loan Servicing Communication
- FROM THE CLOSING CORNER
 - Updated: The HUD Refinance Closing Checklist for Section 223(f) and Section 223(a)(7) Programs

SENIOR LENDER LEADERSHIP DIALOGUE SESSIONS WITH ORCF

The Office of Residential Care Facilities (ORCF) has long recognized that the Section 232 Program's continuous improvement occurs only through engagement with industry stakeholders. We are thus pleased that, for the first time since the Pandemic's onset, we can host an in-person dialogue session with lenders' chief Section 232 underwriters and, separately but concurrently, with lenders' chief Section 232 servicers. The purpose of the dialogue sessions is to seek individual input of the participants, and not a request for participants to come to a consensus.

These sessions will be held from 9:15 a.m. to 11:30 a.m. on June 15, 2022 on the second floor of the Minneapolis Central Library (1300 Nicollet Mall) in Pohlad Hall (Production) and the S-275 RKMC Room (Asset Management). This date and location were selected because many potential participants may already be coming to Minneapolis that week for the Healthcare Mortgagee Advisory Council (HMAC) conference.

These two concurrent sessions will be interactive, as we engage with lenders' leadership on Production and Servicing topics important to both HUD and Section 232

lenders. Accordingly, each Section 232-approved lender is invited to send only one participant to each session. The designees should be the most senior Section 232 underwriting representative and most senior Section 232 servicing representative available.

To register as a lender's senior Production or Servicing representative, use this [Registration Form](#) by Friday, May 27, 2022. Also, since in these sessions we will engage in detailed discussions of key topics, please also submit suggested topics/questions to ORCF by Friday, June 3, 2022. Please use this linked form for [Production Topics](#), and this linked form for [Servicing Topics](#).

Keywords: *Lender Dialog Meetings*

[Back to top](#)

ELIMINATION OF HARD COPIES OF CLOSING DOCUMENTS POST-ENDORSEMENT

HUD has been closing Section 232 residential care loans electronically since March 2020, subject to lenders providing a hard copy of the closing documents when HUD resumed normal operations. ORCF has reconsidered this aspect of the March 2020 Contingency Plan and has determined that effective immediately, submission of hard copies of the documents will no longer be required provided that no changes were made to the document submission that was provided electronically to HUD. Guidance is available ([here](#)).

Keywords: *Closings*

[Back to top](#)

PROJECTS IN THE QUEUE

ORCF's expectation is that an application is ready for review by an underwriter when an application is submitted. If an application in the queue is not ready for assignment to an underwriter, the Lender should immediately notify ORCF so the project can be placed on temporary hold. When projects on temporary hold are ready to underwrite, they are placed back into the queue as of the original queue entry date. ORCF will not allow applications to remain in the queue if they are not ready to underwrite.

As a reminder, below are general criteria for when projects are ready to underwrite:

- The project has at least 1.45 DSCR on the T12 actual NOI including the underwritten reserve for replacement (see the [August 27, 2021 Email Blast](#))
- The project is operating at or trending toward the underwritten and appraised metrics, including occupancy, census mix and operating margin, as well as DSCR

- The project has least a 1.45 DSCR in the Stress Test for the most recent three (3) months and in the Test Scenario Average
- Any COVID-19 expense adjustments must be clearly identified and explained in the application. Per the [February 23, 2022 Email Blast](#), note that the industry has adapted to new ways of operating and ORCF therefore expects to see minimal adjustments to underwritten COVID-19 expenses as a result.
- The Lender has proposed mitigation for situations where the operations have been unstable or other risk situations including situations such as short-term turnarounds (situations where the operations have changed and there is less than a 3-year stabilized history) or COVID impacts

Please also note the following recent Email Blast guidance:

- November 15, 2021 Email Blast on Facility Staff Vaccinations (for SNFs)
- October 27, 2021 Email Blast on discussion of staffing shortages
- August 27, 2021 Email Blast addresses handling of recent Medicaid Rate increases in the financial tables
- February 23, 2022 and June 30, 2021 Email Blasts clarify Decision Circuit Financial Tables & NOI and provides Cashflow Stress Test instructions as well as lots of other relevant guidance
- March 24, 2021 Email Blast discusses Ward Beds

As a reminder, ORCF is also seeing a significant number of applications delayed due to environmental issues that should have been raised and/or resolved prior to application submission. Handbook 4232.1, Section II, Chapter 1.4.D.2 encourages Lenders to contact leanthinking@hud.gov during assembly of applications where there are environmental matters that merit early consultation. In addition, ORCF provides a [lender environmental checklist tool](#) to assist lenders in evaluating potential environmental issues.

Keywords: *Application Processing, Queues*

[Back to top](#)

STAFFING TURNOVER AND QUALITY OF CARE

As noted in the June 30, 2021 Email Blast ([here](#)), ORCF has long emphasized the importance of Lenders carefully assessing Operator qualifications for participating in the Section 232 Program. This matter is addressed in multiple locations in the Handbook 4232.1 (See Section II, Chapter 2.5.FF ([here](#)) and Chapter 8, Sections 8.1 and 8.4 ([here](#)) and is required in the applicable Lender Narrative. Additionally, numerous Email Blasts (e.g. 2/26/2020 [here](#), 12/19/2018 [here](#) and 2/29/16 [here](#)) have emphasized the importance of quality of care.

An established successful track record of and commitment to quality of care in operations of the proposed facility type continue to be critical for successful participation in the Section 232 program. On January 7, 2022, CMS [here](#) announced that they would

begin publishing data on SNF staffing turnover and weekend staffing levels, in advance of incorporation into the Star Ratings later this year. The data should prove helpful in Lender assessments of Operator performance. ORCF has long known that an Operator's ability to attract and retain quality staff is key factor in its ability to maintain Operations. This has been evident with the current industry staffing shortage and recent third-party research directly correlating staffing turnover with Star Ratings.

High staff turnover, particularly when coupled with other Quality of Care concerns could be an indication of an elevated risk to the project, requiring additional mitigation for underwriting. Therefore, when the Lender's due diligence uncovers both a staff turnover higher than the State average (per CMS Compare) and a Quality of Care concern (e.g., a star rating of two or below, or a most recent survey having G tags), the Lender Narrative should address the steps the project is taking to improve staff retention in the context of Operator performance.

Keywords: *Underwriting, Lender Narrative, Quality of Care, Operator and Management Analysis, Staffing*

[Back to top](#)

THE CLEAN AIR IN BUILDINGS CHALLENGE ENACTMENT

To improve ventilation and reduce the spread of COVID-19 in buildings, the Biden-Harris Administration launched the [Clean Air in Buildings Challenge](#). This Challenge "is a call to action for leaders and building owners and operators of all types to assess their indoor air quality and make ventilation and air filtration improvements to help keep occupants safe." As part of the Challenge, the Environmental Protection Agency published a [Best Practices Guide](#) (developed in collaboration with numerous other Federal agencies) for improving indoor air quality and reducing the risk of spreading dangerous airborne particles. Published with the Guide is a document providing basic [principles and general actions](#) recommended to reduce the risk of airborne spread of viruses and other contaminants.

To support this initiative, ORCF is encouraging Borrowers and/or Operators to use available resources, such as State and local government funding (which vary significantly by jurisdiction), refinancing within Program requirements, and/or Reserve for Replacement funds (for eligible items, per Handbook 4232.1, Section III, 3.2.2 [here](#)).

Keywords: *Clean Air*

[Back to top](#)

INTEREST RATE INCREASES AND SECTION 232 TRANSACTIONS

Section 232 underwriting issues may arise due to the recent, rapid rise in interest rates. Please see reminders below for 223(a)(7) and 223(f) transactions to address some of these issues.

Section 232/223(a)(7) Transaction Costs

As a reminder, Handbook Chapter 4232.1, Section II, Chapter 2.10.M requires that the payback period for transaction costs associated with 223(a)(7) loans be 10 years or less. With interest rates increasing, we are seeing increasing requests for waivers of this requirement. ORCF does not anticipate approving waivers of this provision unless the Section 223(a)(7) is an essential part of a workout strategy to avert an FHA claim. In these situations, ORCF would anticipate that the lender would contact Leanthinking@hud.gov ahead of application submission to have a preliminary discussion of the waiver request.

HUD has also been seeing Section 232/223(a)(7) applications where there is no change or there is an increase in interest rate from the current rate. If you are proposing such a scenario, you will need to justify why the transaction still inures to the benefit of HUD.

For projects in which the underwritten interest rate is no longer attainable, Rate Lock Amendments should be submitted to ORCFcloser@hud.gov and address the following:

1. Indicate that the rate lock is higher than the 223(a)(7) underwritten interest rate.
2. The amendment request should include an indication of financial analysis by the lender and confirm that the DSCR based on the underwritten NOI is greater than 1.11 and include the underwritten Reserve for Replacement deposit amount.
3. The amendment request should include an updated Executive Summary portion of the 223(a)(7) Lender Narrative.
4. The calculation of DSCR needs to be based on the August 27, 2021 email blast, including accounting for the underwritten Replacement Reserve deposit.
5. ORCF anticipates that one-time COVID expenses have significantly diminished given the pandemic has reached the two year mark. If any one-time expenses are removed from the financials, those should be detailed in the amendment request and justification as to why those expenses are truly one-time must be provided.

Section 232/223(f) Transactions

As a reminder, Handbook Chapter 4232.1, Section II, Chapter 3.2 requires that projects have a minimum debt service coverage ratio (DSCR) of 1.45 for 223(f) projects and does not anticipate allowing any deviation from this requirement.

Rate Lock Amendments should be submitted to ORCFcloser@hud.gov and address the following:

1. Indicate that the rate lock is higher than the 223(f) underwritten interest rate.
2. **Submit an updated Stress Test for a period ended within 90 days with the amendment request.** The amendment request should include an indication of

financial analysis by the lender and confirm that the DSCR for the most recent three months in the Stress Test is greater than 1.45.

3. **Submit updated T12 Decision Circuit financials for a period ended within 90 days of the amendment request (the same T12 period as the Stress Test ends).** The amendment request should include an indication of financial analysis by the lender and confirm that the DSCR for the most recent T12 period is greater than 1.45.
4. The calculation of DSCR needs to be based on the August 27, 2021 email blast, including accounting for the underwritten Replacement Reserve deposit.
5. ORCF anticipates that one-time COVID expenses have significantly diminished given the pandemic has reached the two year mark. If any one-time expenses are removed from the financials, those should be detailed in the amendment request and justification as to why those expenses are truly one-time must be provided.

For 223(f) applications that have been submitted into the queue prior to this Email Blast publication date, pre-screening will occur before applications are assigned to an underwriter. ORCF may request updated T12 financials as confirmation that programmatic DSCR of 1.45 is still being met by the project in the updated T12 period. Additionally, ORCF may seek confirmation from lenders that the most recent three months of performance have not declined and/or that those individual months would meet the threshold of demonstrating DSCR of 1.45, as will be required in a Stress Test submission once the project is processed and ready to proceed to Loan Committee.

Keywords: 223(a)(7), 223(f)

[Back to top](#)

UPDATED STATE RISK SUMMARY GRID

In the June 28, 2017 ([here](#)) and February 29, 2016 Email Blasts and ([here](#)), ORCF provided the industry with an Updated State Risk Summary Grid to provide suggestions on how to address and mitigate funding and regulatory risks.

On March 3, 2022, the Department of Justice notified the State of Colorado that it “is violating the ADA by administering its long-term care system in a way that unnecessarily segregates individuals with physical disabilities in nursing facilities and places others with physical disabilities at serious risk of unnecessary institutionalization” (see the DOJ’s website [here](#)).

As the State is enjoined to promptly transition eligible and interested SNF residents to community-based long-term care services, the industry may reasonably expect an impact on SNF occupancy.

In light of this development, ORCF has updated the State Risk Summary Grid (on the ORCF website [here](#)) to include Colorado in the list of examples of States that have Olmstead Settlement Agreements or pending related litigation.

Please note that the Risk Mitigation to Consider section of the State Risk Summary Grid is not intended to be all-inclusive. Lenders may propose alternative risk mitigation with supporting rationale for why it would address the potential risk to the same or greater extent as the Risk Mitigation included in this grid.

Additionally, this grid is not meant to limit the extent of the Lender's inquiries. As widely reported in industry media, many States have recently budgeted funds for reducing and/or eliminating Medicaid waiver wait lists even absent Olmstead litigation. ORCF expects Lenders to be conversant in the regulatory risks particular to the project's State and address as appropriate.

Keywords: *State Risk, State Risk Summary Grid*

[Back to top](#)

REMINDER REGARDING LOAN SERVICING COMMUNICATION

In Section 232 loan servicing, lenders are reminded to keep clear records regarding their communication with other parties, for the lender's use in communicating with HUD about risks arising from noncompliance with business agreements. This information is paramount for overall risk management. The information is also vital for ORCF's use of two particular tools, those being the Active Partners Participation System (APPS) and referrals to the Departmental Enforcement Center (DEC).

ORCF utilizes flags in APPS to assess risk associated with the participants in ORCF programs. Flags are placed when a violation or other circumstance warrants, as outlined in [Housing Notice 2016-15](#). These flags impact a party's future ability to participate in HUD programs. By contrast, DEC referrals are a key means of promptly taking administrative/enforcement action related to a party's current activity.

Keywords: *APPS*

[Back to top](#)

FROM THE CLOSING CORNER

Updated: The HUD Refinance Closing Checklist for Section 223(f) and Section 223(a)(7) Programs

In conjunction with the HUD Office of General Counsel (OGC), and in the spirit of "continuous improvement", ORCF is proud to release the updated HUD Refinance Closing Checklist for the Section 223(f) and Section 223(a)(7) Programs ([here](#)). This

May 9, 2022

one checklist will replace both the HUD Attorney and Closer Checklists for these programs **effective April 2022**. Please use this checklist when submitting draft closing packages to the HUD Attorney and the ORCF Closing Coordinator.

Should you have any questions, please contact your assigned ORCF Closing Coordinator.

Keywords – *Closer Checklist Section 223f, Closer Checklist 223(a)(7), Closing Checklist, Refinance Closing*

[Back to top](#)

April 12, 2022



April 12, 2022

Office of Residential Care Facilities (ORCF) Position Vacancy

ORCF is pleased to announce that it is hiring for the following position:

Production Division *Appraiser*

The vacancy announcements are posted on USAJOBS ([here](#)) and ([here](#)). Because the application window is short, closing on April 25, 2022, we are asking you to help us spread the word.

Locations for the position are specified on the related vacancy announcements.

Keyword: *Vacancy Announcement*



March 9, 2022

INDEX CHANGE IMPACTING ACCOUNTS RECEIVABLE LINES AND REQUESTING HUD APPROVAL

HUD is aware of the industry banking market interest rate index transition from the London Inter-Bank Offered Rate (LIBOR) to the Secured Overnight Financing Rate (SOFR) or another index. Based on the definition of Material Term in the Operator Regulatory Agreement, any amendment to the interest rate on the AR loan must be approved by HUD, including the change in interest rate indices from LIBOR to SOFR for adjustable rate AR loans even though the change is intended to result in a comparable interest rate. In order to expedite the request for approval process, HUD asks that the Operator (or its designee) do the following:

Send an email to the designated mailbox: 232ARFinancing@hud.gov. Note that multiple HUD-insured facilities on the same line can be on just one email as long as all facilities are identified.

Include the following information (suggested template):

FHA #(s)	
Project Name(s)	
A/R Lender Name	
Loan Commitment Amount	
Number of Facilities Included	
Loan Tenor	

	Current	Proposed
Index	<input type="checkbox"/> LIBOR <input type="checkbox"/> Other (Specify)	<input type="checkbox"/> SOFR <input type="checkbox"/> Other (Specify)
Plus Margin		

	Current	Proposed	Difference
Pricing (All-In Interest Rate)			

HUD expects the vast majority of requests to be an index change from LIBOR to SOFR and the all-in interest rate change to be within +/- 50bps. Any requests not reflecting these characteristics will likely require additional due diligence by HUD.

Keywords: *AR Financing*

[Back to top](#)



February 23, 2022

In This Update

- Clarifications on Decision Circuit Financial Tables – COVID Expenses
- Upcoming Changes to Quarterly Operator Reporting
- FROM THE CLOSING CORNER
 - Survey Instructions and Borrower's Certification (HUD-91111-ORCF)
Updated to Reflect February 2021 ALTA Survey Standards

CLARIFICATIONS ON DECISION CIRCUIT FINANCIAL TABLES – COVID EXPENSES

The June 30, 2021 Email Blast ([here](#)) contained guidance on how to handle COVID-19 expenses when reporting historical financials in applications. ORCF is providing the below additional clarifying guidance for lenders when submitting financial tables in applications.

COVID-19 has impacted facilities differently, and ORCF needs to understand the impact to the project's financial history, therefore lenders should not deduct COVID-19 expenses and thereby "normalize" the financial history.

While some normalization might be useful in understanding projections in comparison to a facility's history, any such adjustment needs to appear in separate tables or in the "Optional Reporting Periods" columns shaded in yellow in the Decision Circuit. Applications presenting normalization or adjustment information must include a detailed explanation as to why each expense (full or partial) has been excluded and why it would not be considered an ongoing expense. For example, additional agency staffing needed to cover an outbreak at a facility may be considered a non-recurring; however, use of agency staffing that continues over a longer term due to labor shortages would be considered an ongoing expense, unless there is evidence it is no longer being used.

Note also that the industry has adapted to new ways of operating and ORCF therefore expects to see minimal adjustments to underwritten COVID-19 expenses as a result.

- Historical Financials:
 - Include actual historical financials including any temporary COVID-19 rate, expense, or census changes. Do not include stimulus revenue (e.g., CARES Act, PPP loan proceeds, EIDL, etc.). Describe and analyze impact to the project's financial history and trends in the Lender Narrative.
 - Historical Financials prior to the Appraisal date should be presented in the blue columns to the left of the Appraisal Column.
 - Historical Financials after the Appraisal date should be presented in the yellow optional reporting period columns to the right of the Lender's UW column.
 - Any adjustments to the financial periods, such as removing non-recurring COVID-19 related expenses should be presented in the yellow optional reporting period columns to the right of the Lender's UW column. Lenders should clearly explain any adjustments being presented in these columns.
- Appraisal Column:
 - Take directly from the appraisal.
 - Assumes a typical market owner.
- Lender's DSC Column:
 - Assumes actual owner/operator.
 - Assumes No COVID-19 revenue or non-recurring expenses, but assumes actual taxes, Reserve for Replacement, etc.
 - Include increases in ongoing expenses that have resulted from COVID-19 (e.g., additional infection control expenses) and are anticipated to continue.
 - The Lender Underwriting column should be more reflective of historic operations that do not include temporary shifts in revenue and expenses.

Key Words: *Expenses, Financial Tables, Normalization*

[Back to top](#)

UPCOMING CHANGES TO QUARTERLY OPERATOR REPORTING

ORCF will be implementing several changes to the process of quarterly Operator financial reporting in the 232 Healthcare Portal. These changes are as follows:

- 24-hour Batch File Upload Processing window: Once this change is implemented, Lenders will receive a pop-up message indicating the Portal has initially accepted the Batch File Upload Spreadsheet submission. Within 24

hours, the Portal will send an email informing the Lender that the Portal has run its calculations and the Lender can log on to the Portal to review the data submitted.

- Fix to non-sequential Quarterly reporting: Once this change is implemented, the Portal will accept quarterly submissions out of sequential order and will re-calculate quarterly calculations. This will address inconsistencies observed between cumulative and quarterly calculations.
- Aged Accounts Receivable (A/R) and Accounts Payable (AP) reporting: The Batch File Upload Spreadsheet will be modified to include separate columns for Accounts Payable and Accounts Receivable data. Once implemented, Lenders will on a quarterly basis include the following information from Operators:
 - Trade Accounts Payable aged greater than 90 days, and
 - Patient Accounts Receivable aged greater than 90 days

ORCF anticipates implementing this enhancement for Fiscal Year 2022 for Operators whose Fiscal Years begin on or after January 1st. ORCF will communicate further procedural guidance regarding these portal upload process adjustments, along with a definitive implementation date, in the near future.

Keywords: 232 Healthcare Portal, Operator Financial Reports, Asset Management

[Back to top](#)

FROM THE CLOSING CORNER

Survey Instructions and Borrower's Certification (HUD-91111-ORCF) Updated to Reflect February 2021 ALTA Survey Standards

The Survey Instructions and Borrower's Certification (HUD-91111-ORCF) has been updated ([here](#)) to reflect the February 2021 ALTA Survey Standards. Please keep in mind:

- 1) For surveys contracted for or updated after February 23, 2021, the 2021 ALTA/NSPS survey requirements should be used. Changes to the February 2021 ALTA Survey Standards can be reflected on the HUD-91111-ORCF, Survey Instructions and Borrower's Certification, as referenced ([here](#)).

If you have a unique set of circumstances related to the timing of a particular survey, please contact Spencer Ash, Senior Healthcare Account Executive, to discuss the specifics of your transaction.

- 2) Consistent with HUD Office of Multifamily Housing, ORCF will not generally require Survey Table A, Item 11(a) and 11(b). Table A requirements are

generally outlined on the interim/attached HUD-91111-ORCF. Please note, however, that ORCF staff retains the discretion to request Option 11(a) and 11(b) in any specific case where knowledge and due diligence of underground utilities is necessary to underwriting and plan review, e.g., substantial rehabilitation of existing structures, particularly conversion of non-residential structures to residential use.

Keywords: *Survey, HUD-91111-ORCF - Survey Instructions and Borrower's Certification*

[Back to top](#)

February 15, 2022



February 15, 2022

OFFICE OF RESIDENTIAL CARE FACILITIES (ORCF) POSITION VACANCIES

ORCF is pleased to announce that it is hiring for the following positions:

Production Division

Account Executives – Underwriting (3)
Appraisal Reviewer (1)
Program Specialist – Environmental (1)

Asset Management Division

Senior Account Executives (2)
Account Executives (2)

The vacancy announcements will be posted on USAJOBS ([here](#)) in the near future. Because the application window is short, we are asking you to help us spread the word.

Locations for the positions will be specified on the related vacancy announcements.

Keyword: *Vacancy Announcement*

[Back to top](#)



December 16, 2021

In This Update

- Management Agent Role Clarification
- New Environmental Resources and Case Study Now Available On HUD Exchange
- Phase I Environmental Assessment Standard ASTM E1527
- Processing Escrow Draw Requests Pursuant to COVID-Related Supplemental Loans
- FROM THE CLOSING CORNER
 - Change in Timing of HUD OGC Attorney Assignment for Section 223(f) and 223(a)(7) Closings

MANAGEMENT AGENT ROLE CLARIFICATION

On February 28, 2018, ORCF issued an Email Blast article that clarified the role of the Management Agent. If an Asset Management transaction involving a party currently identified as a Management Agent is being submitted to ORCF, Lenders should first review the 2018 Email Blast ([here](#)) to ensure the Agent is functioning in a management agent role as clarified. If upon review it is determined that the party is not functioning in a management agent role, the Lender should inform the program participants and send a letter to HUD via the 232 Healthcare Portal (under “Management Agent Certification – 9839”) indicating the intent to terminate the existing Management Certification (HUD-9839-ORCF) and Management Agreement with the intended termination date. Following the termination date, the proposed oversight entity could serve as a contractor and be paid a reasonable rate from project funds, as noted in the last section of the February 2018 Email Blast. No further HUD ORCF approval is required under these circumstances. Once in receipt, the ORCF Account Executive will review and acknowledge the termination and ORCF internal databases will be updated.

Keywords: *Management Agent*

[Back to top](#)

NEW ENVIRONMENTAL RESOURCES AND CASE STUDY NOW AVAILABLE ON HUD EXCHANGE

New resources have been developed to help responsible entities, recipients, applicants, and partners prepare their environmental assessments. Learn more about these resources on the HUD Exchange website ([here](#)). These resources include a New Environmental Assessment eGuide, Resources and a Case Study. The new resources provide guidance on the factors that should be considered before a project begins and explain how to assess the environmental impact from and on the project.

Keywords: *Environmental, HUD Exchange*

[Back to top](#)

PHASE I ENVIRONMENTAL ASSESSMENT STANDARD ASTM E1527

ASTM recently approved an update to their E1527 standard, ASTM E1527-21. However, HUD will not adopt the new ASTM standard until EPA determines via rulemaking that it meets its All Appropriate Inquiries rule. Until EPA approves the new standard, applicants should continue to use the ASTM E1527-13 standard. HUD will formally announce when the ASTM E1527-21 standard is required for applications, including any grace periods and treatment of applications already submitted.

Keywords: *Environmental, ASTM E1527*

[Back to top](#)

PROCESSING ESCROW DRAW REQUESTS PURSUANT TO COVID-RELATED SUPPLEMENTAL LOANS

As outlined in Mortgagee Letter 21-01 ([here](#)), HUD implemented temporary statutory authority to insure operating loss loans under Section 223(d) of the National Housing Act to mitigate healthcare facilities' COVID-related temporary revenue reductions. Section 223(d) firm commitments issued on or before September 30, 2021 will be able to close on these loans, which can be used to cover temporary losses or additional expenses incurred during the 24-month timeframe of January 1, 2020 to December 31, 2021 as a result of the COVID-19 pandemic. The loan proceeds will be placed in a restricted Long-Term Debt Service Reserve Escrow account, memorialized with an executed Form HUD-92476C-ORCF and applicable addendums.

In administering the proceeds, HUD requires that other available funds will be used first. Moreover, the priority use for such funds will be making mortgage payments where net operating income is temporarily insufficient. In the event that the Borrower-

Operator relationship is that of lessor-lessee and the Borrower's mortgage delinquency is due to the Operator's lease delinquency, HUD will require repayment to the escrow of those funds when the Borrower eventually recoups the Operator's delinquent lease payments.

The method of disbursement from the operating loss loan escrow is as follows and is consistent with Handbook 4232.1, Section II, Chapter 2.11:

1. Monthly income and expense statements signed by a Principal of the Borrower entity and approved by the Lender. The owner's monthly statements must contain the following acknowledgement:

WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).

2. Quarterly and year-to-date financial statements submitted by the licensed operator and covering the project operations, including:
 - a. Profit and Loss Statement
 - b. Balance Sheet
 - c. Accounts Payable Aging
 - d. Accounts Receivable Aging
 - e. Census
 - f. Cash Flow Statement
3. The statements must be submitted within 30 days of the end of each quarter. The statements may, at the Operator's option, be Operator-certified rather than audited provided; however, if ORCF determines that a particular Operator's certified statements are inadequate, unreliable, or not presented in a manner that is as consistent as feasible with Generally Accepted Accounting Principles, then ORCF may, on a case-by-case basis, require more detailed and/or audited financial statements from the Operator. This requirement will continue until all losses have been substantiated as actual losses by an audited statement. This must be a condition of the Commitment. If the Borrower has not submitted the quarterly statement by the due date, ORCF will withhold approval of the disbursement until the statements are submitted. ORCF will review the certified annual statement against the uncertified statements submitted by the Borrower and make necessary adjustments in future disbursements.
4. Operating loss loan funds must be held in escrow and can only be used to offset current losses until it is evident the project is on sound footing.

At the ORCF Account Executive's discretion, or if already currently being required, Monthly Accounting Reports (MARs) from the Borrower may be an acceptable submission for #1 above.

As it relates to operator financial statements, the Account Executive may also require updated year-to-date financial statements covering project operations for each draw request from the Operating Loss Loan escrow, as, for example, when the previously approved draw was less than 90 days prior to the current draw request, at the Account Executive's request.

Consistent with the June 26, 2020 Email Blast article ([here](#)), "All Asset Management Transactions Must Be Submitted Through the Healthcare Portal Beginning September 1, 2020," the Borrower will submit the aforementioned documents to the Servicing Lender, who in turn must submit the documents, accompanied with a signed Request for Approval of Advance, Release of Escrow Funds (Form HUD-92464-ORCF), via the Section 232 Healthcare Portal as an "Other" Project Action.

If the facility's revenue is so low as to be insufficient even to meet operating expenses, HUD will evaluate the overall risk to the FHA insurance fund before approving the advance of escrowed loan proceeds for operating expenses. Moreover, the existence of a lessor-lessee relationship between Borrower and Operator will be relevant. Since the Borrower entity is the entity for which the loan proceeds are intended, it is the Borrower entity's obligations to which the released escrow funds must be put. This is true regardless of any identity-of-interest between the Borrower and lessee Operator and is a matter that HUD would expect to be addressed contractually between the Borrower and Operator.

If the borrower does not provide sufficient documentation demonstrating the need for funds to pay the mortgage, the withdrawal request may not be approved.

Keywords: COVID-19, Operating Loss Loans, Asset Management - Processing

[Back to top](#)

FROM THE CLOSING CORNER

Change in Timing of HUD OGC Attorney Assignment for Section 223(f) and 223(a)(7) Closings

Effective immediately, ORCF will request the assignment of the designated HUD OGC Attorney at the time a Section 223(f) or Section 223(a)(7) Closing Package is submitted to the ORCF Closing Coordinator. The ORCF Closing Coordinator will notify the Lender's Team once assignment is made and will provide specific contact information for the HUD OGC Attorney assigned to the transaction. Please wait to receive

December 16, 2021

notification of assignment from the ORCF Closing Coordinator before submitting legal closing packages to HUD.

Please contact the assigned ORCF Closing Coordinator directly if you have any questions.

Keywords: *HUD OGC Attorney, Closings - Package, Legal – Legal Package*

[Back to top](#)



November 15, 2021

DISCUSSION OF FACILITY STAFF VACCINATION

The October 27, 2021 Email Blast emphasized the need for Lender Narratives to address Pandemic-related staffing issues. This anticipated analysis is an application of existing requirements; it is part of the underwriting due diligence encompassed within the Lender Narrative Key Questions, as well as the “Circumstances that May Require Additional Information” section. When ORCF published the Email Blast, the Centers for Medicare and Medicaid Services (CMS) had not yet issued its Interim Final Rule regarding staff vaccines ([here](#)). That Rule was published on 11/5/21 and contains near-term compliance dates. Accordingly, ORCF expects that in addressing staffing issues, the lender narrative will speak to the facility’s plan to comply with the Interim Final Rule, to any anticipated adverse staffing impact, and to mitigants addressing the adverse impact. Additionally, the Lender’s later responses to the Lender Narrative Appendix questions regarding CMS protocols and vaccination status/plans address compliance with the Interim Final Rule.

Keywords: *Staffing, Appraisals, Lender Narrative*

[Back to top](#)



October 27, 2021

In This Update

- New ORCF Staff
- State Compliance with Keys Amendment for Board and Care Facility Applications
- Portfolio/Allocated Debt
- Discussion of Staffing Shortages in Lender Narrative and Appraisal
- Floodplain Management
- Section 106 Consultation with State Historic Preservation Offices
- Environmental Inquiries with ORCF Prior to Application
- Reminder on Requirement for Corporate Credit Reviews on Change of Participants Above the Small Portfolio Threshold
- Uploading Asset Management Transactions in 232 Healthcare Portal in Sequential Order
- Submitting Environmental Reviews to ORCF Asset Management in HEROS
- October 2021 ORCF Webinar Presentation Focusing Primarily on Asset Management Matters Available Online
- FROM THE CLOSING CORNER
 - Post Construction Radon Testing (New Construction / Building Addition / Substantial Rehabilitation)
 - Lender's Change Order Escrow Requirements

NEW ORCF STAFF

ORCF is pleased to welcome the following new staff to our team:

Production Division

- Underwriting:

- Tracy Barnes, Miami, FL Field Office
- Holly Beal, Washington, DC
- Todd Miller, Detroit, MI Field Office
- Closing:
 - Allie Rabin, Washington, DC
 - Miranda Schoenecker, Minneapolis, MN Field Office

Asset Management Division

- Account Executive
 - Leticia Wood, Ft. Worth, TX Field Office

Policy, Risk Analysis and Lender Relations Division

- Crystal Martinez, Washington, DC

Keywords: *ORCF Staff*

[Back to top](#)

STATE COMPLIANCE WITH KEYS AMENDMENT FOR BOARD AND CARE FACILITY APPLICATIONS

A key statutory requirement for Section 232 for Board and Care Facilities is compliance with Section 1616e of the Social Security Act (known as the “Keys Amendment”). The State’s compliance must be confirmed for the year in which the mortgage application is submitted, and that the particular facility type itself must be regulated by the state pursuant to Section 1616e (See October 25, 2017 Email Blast). States report compliance with 1616e annually. HUD receives the compliance notices via the Social Security Administration (SSA).

If you are intending to submit an application for mortgage insurance for a Board and Care Facility and you find that the state current certification is not on ORCF’s program website ([here](#)), which may be the result of delays in processing due to the COVID-19 pandemic, you can use an alternative means of confirming the state’s compliance. In particular, if you have verified with the state that they have submitted their 2021 Key’s Certification to SSA, please submit a copy of the state’s 2021 Certification Letter to LeanThinking@hud.gov. Lean Thinking will contact SSA to validate the letter. If validated, a copy will be placed on ORCF’s website and the application can be submitted through the Portal.

Keywords: *Keys Amendment, 1616e, Board and Care*

[Back to top](#)

PORTFOLIO/ALLOCATED DEBT

As a reminder, for portfolio or pooled debt transactions, ORCF expects the Lender to adequately demonstrate how debt is allocated, including any indicated partial release provisions, as well as specify if any debt is not related to the FHA-insured loans and provide a reasonable allocation of total debt between non-FHA insured and FHA insured debt (Handbook 4232.1, Section II, Chapter 3.13.G.2). Debt allocation should be based on ORCF-compliant appraisals for all the projects covered by the existing debt as the preferred allocation method. To calculate, add up the approved values for all the projects and divide the individual project value by the sum of the values. Multiply the individual project value percent allocation result by the total debt to determine the amount of existing indebtedness to be assigned to a project. For example:

Total Value	\$ 97,000,000		Total Debt	\$ 73,000,000
		Value Allocation	x Total Debt	Allocated Debt
Property 1 Value	\$ 35,000,000	36%		\$ 26,340,206
Property 2 Value	\$ 14,500,000	15%		\$ 10,912,371
Property 3 Value	\$ 19,500,000	20%		\$ 14,675,258
Property 4 Value	\$ 28,000,000	29%		\$ 21,072,165
	\$ 97,000,000	100%		\$ 73,000,000

Keywords: *Portfolios, Existing Indebtedness*

[Back to top](#)

DISCUSSION OF STAFFING SHORTAGES IN LENDER NARRATIVE AND APPRAISAL

Considering the staffing shortages that face much of the nation, ORCF expects an analysis of staffing in every application. The following items need to be discussed in both the lender narrative and in the appraisal.

- Report on subject's staffing status, including the current and expected impact on the project of any vaccine mandates on the subject's staff.
- Indicate if the project is using contract services to meet staffing needs and the financial impact of such.
- When projecting occupancies higher than are currently being achieved, analyze if there is staffing capacity for the higher levels.
- Analyze how expenses will be impacted by projected changes in occupancy and wage growth.
- Interview other participants in the market on their ability to fully staff up.

- Search local news reports, studies, government statistics/publications regarding staffing challenges. Report the findings.

It is generally not appropriate to appraise and/or underwrite staffing expense levels at pre-pandemic levels, or to adjust staffing expenses when adjusting for one-time COVID-19 expenses.

This anticipated analysis is not a new requirement but is an application of existing requirements to the pervasive staffing shortages currently being experienced in the residential care industry. The analysis is part of the normal underwriting due diligence encompassed within the Lender Narrative (particularly the Key Questions contained therein) and Handbook 4232.1, Section II, Chapter 5.3.R.4.

Keywords: *Staffing, Appraisals, Lender Narrative*

[Back to top](#)

FLOODPLAIN MANAGEMENT

In accordance with Handbook 4232.1, Section II, Chapter 7.5.C. and with 24 CFR 55.20(e), all critical actions in the 100-year or 500-year floodplain shall be designed and built at or above the 100-year floodplain in the case of new construction. Such elevation applies to all buildings as well as to driveways, walkways, parking areas and any exterior mechanical equipment and supportive services (e.g. generator pad, aboveground fuel storage tank, etc.).

For actions involving existing projects that are located in a floodplain, HUD will evaluate risks and mitigation measures in making its decision, but it discourages these actions if either the lowest floor, or the life support facilities, or egress and ingress of the existing building, are below the 100-year floodplain line. In addition, offsite floodways and other flood hazards will be evaluated in terms of separation distance, elevation differences, and the nature of the hazard in question when considering the safety of residents. Pre-submission guidance can be requested through LeanThinking@hud.gov.

To assist lenders and consultants with floodplain submissions, HUD presented a webinar on May 12, 2020 titled “24 CFR Part 55: Floodplain Management for Multifamily and Office of Residential Care FHA Programs”. The recorded webinar, the slides and the Q&A’s are available ([here](#)).

Keywords: *Floodplain, Environmental, Floodways, Webinar*

[Back to top](#)

SECTION 106 CONSULTATION WITH STATE HISTORIC PRESERVATION OFFICES

As noted in the March 24, 2021 Email Blast, “Delegation to FHA Lenders and their Authorized Representatives to initiate Section 106 Consultation with State Historic Preservation Offices,” lenders and their authorized representatives have been delegated the authority to contact the State Historic Preservation Offices (SHPO) on behalf of HUD. This delegation is intended to assist HUD with the completion of its environmental reviews. The delegation process can be employed by either the lender or its third-party environmental consultant. HUD’s Memorandum delegating this authority is available online ([here](#)). If a Lender chooses not to use the delegation, HUD must consult with the SHPO directly.

Please see the MAP Guide Chapter 9 (9.6.4), for guidance on the Delegation. Sections 9.6.4.E.1 through 3 provide the following detailed guidance which currently applies to ORCF projects as well as Multifamily projects:

1. The material provided to the SHPO should include a narrative explaining the proposal, a map identifying the site location and proposed Area of Potential Effect (APE), a list of potential interested consulting parties that have been or will be invited to consult, a description of identified historic properties (listed and eligible), digital photos of buildings and setting, a description of the proposed project activities, a description of direct or indirect effects on the historic properties, and a determination of No Historic Properties Affected, No Adverse Effect, or Adverse Effect. The information must be submitted to the SHPO following the procedures outlined by the individual SHPO office.
2. Lenders and their authorized representatives using the delegated process must include a copy of HUD’s delegation Memorandum (located in Appendix 9, Section A.9.2) with each submission to the SHPO. The submission must include the information discussed in Section 9.6.4.E.1 plus the HUD program followed by the section of the National Housing Act and an appropriate contact person at both the Lender’s organization and the authorized representative hired to coordinate the review. In addition, for Lenders and their authorized representatives using the delegation, if a project involves demolition of a building over 45 years old, new construction in or adjacent to a historic district, substantial ground disturbance, or exterior rehabilitation of a building more than 45 years old, Lenders must retain a Qualified Historic Preservation Professional⁴⁶ in the discipline relevant to the project activities to prepare submissions to SHPO and manage consultation with interested parties and the public, as well as coordinate with HUD on HUD’s consultation with Indian Tribes.
3. Lenders that do not use the delegated process must still provide HUD the information required in Section 9.6.4.E.1.

For additional guidance, HUD presented a webinar on the Delegation of Authority for lenders and consultants on 3/17/21. The webinar was recorded and is available ([here](#)).

Keywords: *Section 106, State Historic Preservation Offices (SHPO)*

[Back to top](#)

ENVIRONMENTAL INQUIRIES WITH ORCF PRIOR TO APPLICATION

For projects that have obtained an FHA Number, ORCF is available to answer questions on key environmental issues prior to application submission via its Lean Thinking email box at LeanThinking@HUD.gov. When seeking guidance from Lean Thinking, Lenders should provide the project's FHA Number, street address, type of project (e.g., Section 232 New Construction, 232/223(f), 241(a)) and a description of the project in its current condition and as proposed. Include a site plan/survey when available, and other pertinent documentation, such as a description of proposed construction, repairs, site work and alterations. All communication with Lean Thinking must be included as a clearly identified exhibit in the application submission to ORCF. When submitting the mortgage insurance application, please include the environmental communication that was sent to Lean Thinking and any Lean Thinking response

Keywords: *Environmental*

[Back to top](#)

REMINDER ON REQUIREMENT FOR CORPORATE CREDIT REVIEWS ON CHANGE OF PARTICIPANTS ABOVE THE SMALL PORTFOLIO THRESHOLD

ORCF is reminding Lenders that, according to Handbook Section 17.3, corporate credit reviews are required for midsize and large portfolios (as defined in Handbook Section 17.4) for a transfer of physical assets and/or a change of control of facility operators, now collectively known as a Change of Participants (CHOP).

Keywords: *Corporate Credit Review, Portfolios, Change of Participants*

[Back to top](#)

UPLOADING ASSET MANAGEMENT TRANSACTIONS IN 232 HEALTHCARE PORTAL IN SEQUENTIAL ORDER

As a reminder, when uploading an Asset Management transaction in the 232 Healthcare Portal, please upload checklist items in sequential order. This will ensure that the review is completed in the most efficient manner possible. Failure to upload in sequential order may result in significant delay in application processing.

Keywords: *Asset Management, 232 Healthcare Portal*

[Back to top](#)

SUBMITTING ENVIRONMENTAL REVIEWS TO ORCF ASSET MANAGEMENT IN HEROS

Environmental reviews that are prepared by third-party consultants in the HUD Environmental Review Online System (HEROS) may now be voluntarily submitted to the Asset Management division of ORCF for Section 232 change in collateral transactions. ORCF will use HEROS submissions for assistance with processing of its environmental reviews; however, ORCF remains responsible for independently evaluating the information supplied in HEROS, supplementing that information as needed, and making the required environmental findings.

The HEROS review should be assigned to ORCF at the time of, or shortly before, the application's submission to HUD. In addition, HEROS reviews that have been prepared for applications that are currently in the ORCF processing queue may be submitted at this time.

Upon approval by the Lender, the consultant should submit the HEROS review to ORCF by using the "Assign Review" feature and then selecting Rita Dockery as the assignee. ***Please do not contact Rita Dockery regarding HEROS; her name is only used to store the HEROS submissions until an environmental reviewer is assigned to the project.*** Questions regarding HEROS should be submitted to LeanThinking@hud.gov.

Consultants should enter the name of the facility and the FHA Project Number in the "Project Name" field on the Initial Screen (1105) in HEROS. For example, 111-22999-ABC Project. Providing the FHA number with the project's name allows ORCF to quickly identify the subject of the HEROS review.

A download of the HEROS environmental review record (ERR) should be included with the **Requests to Release or Modify Original Loan Collateral Checklist** exhibit. The HEROS exhibit should be named "Other-HEROS ERR" to identify its content. Please note that a HEROS submission does not replace or eliminate any application exhibits. All applicable environmental exhibits will continue to be submitted with the mortgage insurance application in accordance with the current practice.

Guidance for ORCF stakeholders using HEROS is available online at ORCF's Environmental Resource website ([here](#)).

Lenders and stakeholders are also encouraged to access the ORCF Lender's Environmental Checklist ([here](#)) for additional environmental guidance.

Keywords: Asset Management, Environmental, HEROS

[Back to top](#)

OCTOBER 2021 ORCF WEBINAR PRESENTATION FOCUSING PRIMARILY ON ASSET MANAGEMENT MATTERS AVAILABLE ONLINE

On October 21, 2021, ORCF participated in a webinar hosted by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL) on Asset Management matters. The webinar provided a brief overview of the Section 232 program and addressed asset management matters. The webinar is now available online ([here](#)). Membership to AHCA/NCAL is not required to access this webinar. Please use your AHCA login used when registering for the webinar (*If you have forgotten your password click [here](#)*).

If you did not register for the live webinar, you will need to create an account to access the recorded webinar.

How to Create Account:

- To avoid technical problems, use Google Chrome.
- If you are new to the AHCA site, you can create an account [here](#). After creating an account, you will be able to access the webinar.

For further assistance, please email educate@ahca.org.

Keywords: *Asset Management, Webinar*

[Back to top](#)

FROM THE CLOSING CORNER

Post Construction Radon Testing (New Construction / Building Addition / Substantial Rehabilitation)

Radon resistant construction and post construction testing is required in accordance with HUD Handbook 4232.1, Section II, Production, Chapter 7.8. To expedite Final Endorsement and to ensure no further work is required by the General Contractor post construction, radon testing shall be performed upon completion of construction in advance of Final Inspection. Radon testing must be performed by a Radon Professional pursuant to HUD Handbook 4232.1, Section II, Production, Chapter 7.8.B.2. All mitigation, including follow-up testing, must be complete and all reports submitted prior to HUD's Final Inspection. Radon test results shall be provided to the HUD Inspector at or prior to the Final Inspection. Prior to Final Endorsement, the facility will implement an Operations and Maintenance (O&M) plan for an active radon mitigation system. The property will be operated and maintained consistent with the radon mitigation system O&M plan for the duration of the insured mortgage.

Keywords – *Radon, Radon Testing, New Construction Final Closing, Building Addition, Substantial Rehabilitation*

[Back to top](#)

Lender's Change Order Escrow Requirements

Lenders are reminded that it is their responsibility to ensure that the total sum, identified on Item 3.a of the most recent Request for Construction Changes on Project Mortgages Section 232 (form HUD-92437-ORCF), is on escrow deposit with a Lender to cover net increase in cost resulting from all HUD approved construction changes. No further advances of the mortgage proceeds under the Building Loan Agreement (HUD-92441-ORCF) shall be approved unless the total sum shown on Item 3.a is on escrow deposit with the Lender.

Keywords – *Change Order Escrows, Construction Changes*

[Back to top](#)



September 24, 2021

In this Update

- Experience of Principals in Corporate Credit Reviews
- ORCF Webinar Presentation Focusing Primarily on Asset Management Matters - October 21, 2021, 2:00 p.m. Eastern Time

EXPERIENCE OF PRINCIPALS IN CORPORATE CREDIT REVIEWS

Handbook 4232.1, Section II, Chapter 17 describes the purpose of and requirements for corporate credit reviews. Corporate credit reviews are required when groups of individual FHA-insured loans above a certain threshold with common borrowers and related or non-related operators effectively concentrate a large amount of credit risk on a single parent entity (Chapter 17.1, 17.3, 17.4). The purpose of a corporate credit review is to identify and mitigate the potential adverse impact of this risk. A key requirement referenced in the chapter is operation and ownership experience (Chapter 17.7). ORCF has performed numerous corporate credit reviews. Below are some examples of the experience that has been demonstrated in corporate credit reviews that resulted in the issuance of a portfolio acceptance letter.

- Principal's experience owning and/or operating similar-type residential care facilities for a minimum of ten years
- Principal's demonstrated success in both acquisition and disposition of facilities
- Majority of the principal's portfolio consists of facilities strong financial performance sustained over a period of at least 5 years
- Majority of the principal's portfolio facilities show strong quality of care indicators sustained over a period of at least 5 years

These are examples of experience and are not new requirements. Lenders are strongly discouraged from building unrealistic client expectations regarding mid-size and large portfolios of recently acquired assets, and are encouraged to discuss the matter with ORCF before preparing a Corporate Credit Review package.

Keywords: *Portfolios, Corporate Credit Review*

[Back to top](#)

ORCF WEBINAR PRESENTATION FOCUSING PRIMARILY ON ASSET MANAGEMENT MATTERS - OCTOBER 21, 2021, 2:00 P.M. EASTERN TIME

In a webinar hosted by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL), ORCF will provide a brief overview of the Section 232 program and address some key asset management matters. The webinar will run from 2:00 p.m. to approximately 3:00 p.m. Eastern Time on October 21, 2021, and will be open to AHCA/NCAL members and non-members. There is no charge for participation.

Presentation topics will include:

- Understanding participants' roles and responsibilities
- Understanding how ORCF works with the Departmental Enforcement Center
- Understanding Operator financial statement requirements
- Understanding requirements for a change in Master Lease structure
- Understanding the requirements for a change in type or level of care
- Understanding the resumption of REAC inspections
- Understanding NSPIRE and how it benefits the Borrower/Operator
- Current event updates and responses to your questions

Speakers:

- John Hartung, Director, Policy, Risk Analysis and Lender Relations Division, Office of Residential Care Facilities, HUD
- Philip Head, Director, Asset Management Division, Office of Residential Care Facilities, HUD
- Rita Dockery, Deputy Director, Asset Management Division, Office of Residential Care Facilities, HUD
- Angela Collier Mills, Workload Manager, Asset Management Division, Office of Residential Care Facilities, HUD

Event Date: October 21, 2021, 2:00 p.m -3:00 p.m. (Eastern Time)

Registration Link: [Here](#)

Although membership to AHCA/NCAL is not required to participate in the webinar, you will still need to create an AHCA/NCAL username and password to register for the webinar.

How to Register for AHCA/NCAL webinar:

- Webinar participants will need to [login](#) using their existing ahcancaLED username and password first.
- Once you are logged in to the website you will be able to register for the webinar by clicking the green register button at the top of the page.
- If you have forgotten your password click [here](#).

How to Register for an AHCA/NCAL username and password:

- To avoid technical problems, use Google Chrome.
- If you are new to the site, you can create an account [here](#). After creating an account, you will be able to register for the webinar. If you need further assistance with creating an AHCA/NCAL account, please email educate@ahca.org

Keywords: *Asset Management, Webinar*

[Back to top](#)



August 27, 2021

In This Update

- Mortgagee Letter 2021-20 Published Extending Temporary Revisions to Underwriting Standard Processes for Third-Party and Lender Site Inspections
- Minimum Debt Service Coverage – 223(f)
- Recent Medicaid Rate Increases - Financial Tables and Net Operating Income
- FROM THE CLOSING CORNER
- Section 223(d)-COVID (Operating Loss Loan Program) – Documents Now Available on the Section 232 Program Website

MORTGAGEE LETTER 2021-20 PUBLISHED EXTENDING TEMPORARY REVISIONS TO UNDERWRITING STANDARD PROCESSES FOR THIRD-PARTY AND LENDER SITE INSPECTIONS

The Office of Residential Care Facilities (ORCF) published Mortgagee Letter 2021-20 ([here](#)) on August 27, 2021, extending from July 31 to December 31, 2021, the temporary revisions to underwriting standard processes for third-party and Lender site inspections as a result of the COVID-19 National Emergency previously detailed in ML 2020-15.

Keywords: COVID-19

MINIMUM DEBT SERVICE COVERAGE – 223(F)

As a reminder, the minimum debt service coverage ratio for the 223(f) program is 1.45, including the Mortgage Insurance Premium (MIP) (Handbook 4232.1 REV-1, Section II, Chapter 3.2), and Lender must meet that minimum for the underwritten Lender's Net Operating Income (NOI) and Trailing-12 periods (Handbook 4232.1 REV-1, Section II, Chapter 2.9.N). The Lender must use the project-specific expense for underwritten reserve for replacement, taxes and management fee in determining the NOI used in the calculation for these periods (Handbook 4232.1 REV-1, Section II, Chapter 2.9.N).

Transactions must meet at least this minimum in order to be presented to Loan Committee or come off Temporary Hold and be placed back into the underwriting queue.

Keywords: 223(f), Debt Service Coverage (DSCR), Net Operating Income (NOI), T-12

RECENT MEDICAID RATE INCREASES - FINANCIAL TABLES AND NET OPERATING INCOME

ORCF will consider additional analysis of recent Medicaid rate increases relative to underwritten NOI when it reflects a standard, ongoing rate increase. Lenders may present this additional analysis in the yellow UW Columns when submitting financial tables on applications by showing a Medicaid rate adjusted column applying the new Medicaid rate to the most recent T-12 period. Alternatively, lenders can provide an analysis that shows the calculation of the additional revenue the new Medicaid rate will contribute to the underwritten NOI. Note that the analysis should not apply the new Medicaid rate to the full historic three-year period. For example:

Key Data	FY 2018	FY 2019	FY 2020	T-12 ending 11/30/2020	Appraisal (Market)	Lender's DSC	T-12 Ending 3/31/2021	T-12 Ending 5/31/2021	T-12 Ending 5/31/2021 (Medicaid Rate Adj)
Effective Gross Income	\$16,487,772	\$17,006,567	\$16,239,592	\$15,896,725	\$17,542,174	\$17,542,174	\$15,218,366	\$15,562,895	\$15,872,204
Net Operating Income	\$1,543,074	\$1,174,834	\$1,217,264	\$1,548,939	\$2,614,718	\$2,576,270	\$2,014,382	\$2,425,557	\$2,734,865
Normalized Net Operating Income	\$2,064,821	\$1,527,212	\$1,561,519	\$1,898,806	\$2,614,718	\$2,576,270	\$2,374,531	\$2,800,695	\$3,094,538
Occupancy	92.8%	90.9%	86.0%	84.5%	90.0%	90.0%	79.2%	80.0%	80.0%
Potential # Res Days	57,305	57,305	57,462	57,462	57,305	57,305	57,305	57,305	57,305
Actual # Res Days	53,161	52,080	49,407	48,543	51,575	51,575	45,359	45,869	45,869

Or

Average # of Medicaid Days	29,000
Incremental Medicaid Rate Increase	\$ 20.00
Incremental EGI	\$ 580,000
Projected NOI with Medicaid Rate Increase	\$ 2,380,000

Keywords: Financial Tables, Net Operating Income (NOI)

[Back to top](#)

FROM THE CLOSING CORNER

Section 223(d)-COVID (Operating Loss Loan Program) – Documents Now Available on the Section 232 Program Website

The OGC Checklist for the Section 223(d)-COVID program has been finalized and is now available on the Section 232(d) loan website ([here](#)). For more information on this program, please check out the Section 232 Program website ([here](#))

August 27, 2021

Keywords: 223(d), Operating Loss Loan

[Back to top](#)



June 30, 2021

In This Update

- Operating Loss Loan 223(d) – COVID Firm Commitment Update
- Clarifications on Decision Circuit Financial Tables and Net Operating Income
- Cashflow Stress Test Instructions Reminder
- Quality of Care/Survey Issues
- Supplemental Income Sources
- Borrower/Operator Experience requirements
- Recent Purchases and Short-Term Turnaround Projects
- Limited Debt Seasoning Exception Projects
- Guidance for Lenders Reporting Quarterly Operator Financials in the 232 Healthcare Portal In Special Situations
- State Regulatory Changes
- ORCF-HMAC Asset Management Webinar Recordings Now Available
- FROM THE CLOSING CORNER
- Please Use ORCF Posted Documents to Complete Closing and Cost Certification Packages

OPERATING LOSS LOAN 223(D) – COVID FIRM COMMITMENT UPDATE

The Operating Loss Loan 223(d) – COVID Firm Commitment has been updated ([here](#)) to include language on escrows. Please see the updated Firm Commitment for more details.

Keywords: COVID, 223(d)

[Back to top](#)

CLARIFICATIONS ON DECISION CIRCUIT FINANCIAL TABLES AND NET OPERATING INCOME

ORCF recognizes that COVID-19 has impacted financial performance of healthcare facilities, and these financials will be included in applications going forward for the next several years. ORCF is providing the below guidance for lenders when submitting financial tables on applications.

- Historical Financials:
 - Include actual historical financials including any temporary COVID-19 rate, expense, or census changes. Describe and analyze impact to the project's financial history and trends in the Lender Narrative.
 - Do not include large capital expenditures.
 - Do not include stimulus funds.
 - The lender is free to show adjusted financials in the yellow highlighted optional reporting period columns.
- Appraisal Column:
 - Take directly from the appraisal.
 - Assumes a typical market owner.
- UW Column:
 - Assumes actual owner/operator.
 - Assumes No COVID-19 revenue or non-recurring expenses, but assumes actual taxes, Reserve for Replacement, etc.
 - Include increases in ongoing expenses that have resulted from COVID-19 (e.g., additional infection control expenses) and are anticipated to continue into the future.
 - The Lender Underwriting column should be more reflective of historic operations that do not include temporary shifts in revenue and expenses.

Keywords: *Financial Tables, Net Operating Income (NOI)*

[Back to top](#)

CASHFLOW STRESS TEST INSTRUCTIONS REMINDER

Lenders are reminded to review and follow the instructions on the Instructions tab of the Cashflow Stress Test when completing the workbook information:

Terms: Most of the inputs are self-explanatory and should represent the information submitted in the application.

- Forgivable Aid/Relief: List the remaining balances of any forgivable aid or relief the Operator has received to assist in meeting financial needs during the COVID-19 national emergency.

Analysis:

- Income Categories: The income labels in this section should mirror those identified in the decision circuit and/or lender narrative table.

Actual or Estimated Column Designations:

- If you have Actual Income supported by a financial statement, select Actual and input actual census and income detail.
- COVID Revenue sources should not be included, for example stimulus or business interruption insurance proceeds should not be included.
- Medicaid rate reimbursement increases for COVID should not be included. Only typical, long-term Medicaid rate increases may be included and considered.
- If you only have Actual Census Data, choose Estimated and input the actual census days. DO NOT ALTER THE EXPENSE FORMULAS.
- Current Month: If it is after the 15th of the current month, gather actual to-date monthly census data from the facility and extrapolate the data to estimate the full month census. DO NOT ALTER EXPENSE FORMULAS.

Appraisal Column: The income and census data for this column should reflect 1/12th (the average monthly) of the annual income, expenses (including reserves) and census from the appraisal.

Lender (for DSCR) Column: The income and census data for this column should reflect 1/12th (the average monthly) of the annual income, expenses (including reserves) and census used to determine the Net Operating Income (NOI) used for the Lender's Debt Service Coverage Ratio (DSCR) underwriting.

Expenses:

- Input the monthly operating expenses, including replacement reserves, for the reported period.
- For Actual months, the underwritten amount for replacement reserves should be included.
- For Estimated months, the template will default to the Lender's assumption for DSCR.
- One-time COVID expenses may be removed, but ongoing, recurring expenses must be included.

Keywords: *Cashflow Stress Test*

[Back to top](#)

QUALITY OF CARE/SURVEY ISSUES

A successful performance record includes a history of providing quality of care. Lenders are reminded that they must present evidence that owners and operators have the *demonstrated ability* to provide strong quality of care to the facility's residents. Quality of care is addressed in the Section 232 Handbook, Section II, Production, Chapter 8, Section 8.8 ([here](#)), in the underwriting Lender Narratives and in various Email Blasts including our February 26, 2020 ([here](#)) and December 18, 2019 ([here](#)) Blasts.

As outlined in the underwriting Lender Narratives, when data suggest either recent quality-of-care concerns or a pattern of such concerns, the Lender must provide a detailed explanation of the analysis supporting their quality-of-care recommendation. Examples of quality-of-care indicators that ORCF has found concerning include:

1. 1 Star or 2 Star CMS rating for overall or health inspections,
2. "G" or Higher survey tags in the past 2 years,
3. Instances of abuse or neglect in the past 2 years, or
4. Other care related issues.

When an application has presented such concerns, ORCF has looked to the lender's analysis of how the matters have been well addressed. Such analyses have included (and should at a minimum include) identifying:

1. Specific, remedial steps the operator has taken to improve the overall quality of care, addressing the specific survey tags and quality of care in general.
2. Evidence that these steps have led to improved care and survey results.
3. Explanation for survey and Star ratings issues at other owned or operated facilities, and Star Ratings including detailed information on any Denials of Payment or Civil Money Penalties

Additionally, it has become common practice for lenders to propose a one-time third-party on-site risk assessment when quality-of-care concerns such as those above exist. ORCF has found the practice useful. ORCF encourages Lenders to obtain such an assessment *pre-submission* when quality-of-care concerns exist; such assessment can inform the lender's analysis and position ORCF to reach a decision more promptly. A one-time risk assessment would be expected to include:

1. Review of both operational and clinical processes

2. Review of the environment for liability risk exposures
3. Identification of operational and clinical opportunities
4. Recommendations for improvement of operational and clinical processes
5. Development of a strategy to implement the recommendations

The recommendations in the one-time risk assessment should be used to strengthen the required risk management program described in the Lender Narrative. Additionally, in summarizing the assessment and its recommendations, the lender should explain which, if any, recommendations have not been followed and why.

Lenders have sometimes addressed quality-of-care concerns not only by establishing how processes have recently improved but also by using a “Quality-of-Care Escrow Agreement” (comprised of non-mortgageable funds). Such an escrow can be a helpful mitigant; it involves the borrower’s own funds and its release is tied in part to sustained favorable quality-of-care indicators.

Keywords: *Quality of Care, Underwriting, Operator and Management Analysis, Lender Narrative*

[Back to top](#)

SUPPLEMENTAL INCOME SOURCES

ORCF has previously communicated use of conservative underwriting and loan sizing with regard to supplemental income sources such as Upper Payment Limit (UPL), Intergovernmental Transfer (IGT), Quality and Accountability Supplemental Payment (QASP), Quality Incentive Payment Program (QIPP), or other similar income sources. (See, for example, the Blasts of [February 24, 2021](#), [June 24, 2015](#) [June 27, 2012](#)) In the current reimbursement environment, many of these programs appear to be at increased risk of continuing in the long term, and Lenders are reminded that additional underwriting scrutiny is applied as the percentage of NOI derived from supplemental income sources increases, and conservative underwriting represents having little to no inclusion of these revenue streams in value for loan sizing, given the long-term nature of Section 232 insured mortgages.

Keywords: *Underwriting, Supplemental Income*

[Back to top](#)

BORROWER/OPERATOR EXPERIENCE REQUIREMENTS

ORCF has long emphasized the importance of Lenders carefully assessing Borrower and Operator qualifications for participating in the Section 232 Program. This matter is addressed in multiple locations in the Section 232 Handbook (See Section II, Production, Chapter 2, Section 2.5.FF ([here](#)) and Chapter 8, Sections 8.1 and 8.4 ([here](#)) and is required in the applicable Lender Narrative. An established successful track

record of and commitment to ownership and, as applicable, development, marketing, lease-up, and operations of the proposed facility type, continue to be critical for successful participation in the Section 232 program.

Recently, ORCF has received numerous lender narratives that fail to establish the experience appropriate to the particular transaction. Examples of concerning issues are below. Lenders should consider these issues carefully before submission, as they can impact the acceptability of parties and of the transaction overall.

One such area of concern regarding experience relates to *recent acquisitions*. Given market, regulatory and funding variations, the facility *types* and facility *locations* relied on for experience are key. Thus, substantial experience with the subject facility itself is most directly relevant. Where that experience is limited (as with an acquisition in the past three years), ORCF looks for borrower/operator recent experience operating the same type of facility in the same state or market as the subject application.

Additionally, if the application is underwritten on an improvement in operations as a result of the new Borrower or Operator taking over the property, ORCF considers the evidence presented of operational improvements in borrower/operator's other similar properties in the same state. The operator must have a proven track record of successfully improving and then maintaining operations. ORCF considers not general assertions but specific evidence of such a track record. For example, ORCF looks for evidence in the Lender Narrative of other similar specifically identified projects, evidence such as operating metrics over the time period (3 or more years) including before, during and after transition to the new operator. Relevant metrics include, without limitation:

1. Revenue
2. Net Operating Income
3. Number of beds, units, or residents
4. Occupancy
5. Star rating (as applicable)

Another area of concern regarding experience relates to construction projects, which present additional risk to the FHA-insurance fund as the project moves through the construction, lease-up and operations stabilization phases. As a result of these riskier project phases, the Lender Narrative should thoroughly address the Borrower's depth of experience and ability to successfully complete the construction and lease up of the proposed project. For example, discussing how the proposed borrower principals (or in the case of a joint venture, the borrower team) will participate in the project, and providing evidence of having at least three years of experience successfully operating multiple projects of the same care type, in the same market. As a reminder, the experienced participants must have experience marketing, operating, developing, and leasing up the types of beds and units proposed (Please see Handbook 4232.1,

Section II, Chapter 2.5.FF). Experience of a Management Agent or Operator is not an acceptable mitigant to offset the Borrower's lack of experience.

Finally, some lenders have seen their transactions delayed and the participation of a particular party denied based on (i) the party's track record and (ii) HUD concerns related not only to ability, but to *reliability* of a particular party. A key concern in a participant's experience track record is evidence of unreliability. In that regard, proposed participants with prior convictions of fraud or other types of activities indicative of reputational risk, particularly related to healthcare facilities, may not be permitted to participate in the Section 232 Program. This is in addition to Previous Participation requirements in Housing Notice 16-15.

Keywords: *Underwriting*

[Back to top](#)

RECENT PURCHASES AND SHORT-TERM TURNAROUND PROJECTS

With increasing frequency, ORCF is receiving applications for facilities that the borrower acquired recently (within the past three years) either as a distressed asset with poor financial performance, or where the new borrower projects significant increases over the facility's historic financial performance.

As a reminder, Lenders must review the annual and trailing 12-month financial statements to assess the project's financial performance, and must base underwritten income and expenses on a consideration of historic and trailing twelve-month performance. Changes in recent performance relative to historic performance must be carefully reviewed to assure conservative underwriting (Please see Handbook 423.21, Section II, Chapter 2.9.N). For example, a project that was recently purchased but has not yet achieved or sustained operations at the underwritten NOI for value loan sizing may not represent conservative underwriting, and a reduced loan sizing may be appropriate to reflect the additional risk of the transaction.

Keywords: *Underwriting, Recent Purchase*

[Back to top](#)

LIMITED DEBT SEASONING EXCEPTION PROJECTS

HUD Handbook 4232.1, Section II, Chapter 3.13.D, states that "Consideration for less than two years seasoning requires value supported by a third-party appraisal and 3+ years of stabilized historical cash flow which supports the value." To clarify, stabilized cash flow refers to projects where there have been no ownership or operator changes and projects where there have been no changes in operational model or bed capacity in the last three years.

Keywords: *Underwriting, Debt Seasoning*

[Back to top](#)

GUIDANCE FOR LENDERS REPORTING QUARTERLY OPERATOR FINANCIALS IN THE 232 HEALTHCARE PORTAL IN SPECIAL SITUATIONS

Certain triggering events impact how quarterly Operator financials should be reported by the Lender:

- **New Loans:** Beginning with the first complete quarter AFTER Final Endorsement, the Operator Regulatory Agreement, Paragraph 20 (c), requires Operator to submit financial reports on a quarterly and year-to-date basis.
- **Refinances:** Beginning with the first complete quarter AFTER Final Endorsement of the new FHA loan, the Operator Regulatory Agreement, Paragraph 20 (c), requires Operator to submit financial reports on a quarterly and year-to-date basis. Due to the inability of the Portal to accept partial quarterly financial submissions, the last required quarter of financials for the old loan number is the previous full calendar year quarter. See the table below to visualize quarterly Operator submissions required for a refinance based on a Q3 Final Endorsement, both for the prior FHA loan and the new one.

Quarterly Operator Submission Required for Refinance?

Q1	Q2	Q3: Final Endorsement	Q4
Yes - Previous Loan	Yes - Previous Loan	No Submission	Yes – 1st Submission for New Loan

- **Change of Participants (CHOP):** For changes in either the Borrower or Operator, there generally should be no gap in reporting quarterly Operator submissions. In the case of a change of Operator, the Lender will need to combine financials of the old Operator and the new Operator for the quarter during which the change takes effect. If a Change of Operator closed on 12/1/2020, the Q4 2020 Operator financial submissions should consist of the old Operator's financials for 10/1/2020 through 11/30/2020 and the new Operator's financials for the period 12/1/2020 through 12/31/2020.
 - One notable exception to this procedure is the instance where a change of Operator results in a change in the Fiscal Year End Date (FYE) of the Operator. Lenders should communicate these changes to the assigned Account Executive.

As outlined in the Lender Risk Surveillance Dashboard (RSD) Q&As from November 2020, the Lender RSD will not report a T12 DSCR until 4 consecutive quarters of Operator financials are available in the Portal. When there are anticipated periods of time where the Portal cannot accommodate consistent, accurate Operator financial reporting, it will be incumbent upon the Lender to communicate with their Account Executive and keep them apprised of any potential concerns with an Operator's financial performance.

Keywords: *232 Healthcare Portal, Operator Financial Portal, Operator Financial Reports, Operator Financial Statements, Asset Management*

[Back to top](#)

STATE REGULATORY CHANGES

As an increasing number of states have enacted, or are considering enactment of, legislative changes to residential care facility licensing (e.g., Minnesota) and/or strengthening staffing or other facility requirements (e.g., New York), Lenders are advised to ensure that projects remain licensed or certified as necessary under HUD requirements.

As a reminder, the Borrower Regulatory Agreement, Form HUD 92466-ORCF, requires that the "Borrower shall at all times cause Operator, or any lessee or management agent, as applicable, to maintain in full force and effect, all appropriate certificates of need, bed authority, provider agreements, licenses, permits and approvals reasonably necessary to operate the Healthcare Facility or to fund the operation of the Project for the Approved Use (collectively, the "Permits and Approvals")." The Operator Regulatory Agreement, Form HUD-92466A-ORCF, states that the "Operator shall not alter or terminate, or suffer or permit the alteration, relinquishment or termination of any of the Permits and Approvals that are issued or held in the name of Operator without the prior written consent of HUD."

If a Mortgagee/Servicer determines that a project is, or will be, unable to maintain license approval in accordance with any State requirements, they are obligated to inform the ORCF Account Executive with the Servicer's Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy, Form HUD-93334-ORCF ([here](#)).

Keywords: *State Risk, Quality of Care, Asset Management*

[Back to top](#)

ORCF-HMAC ASSET MANAGEMENT WEBINAR RECORDINGS NOW AVAILABLE

ORCF's *Virtual Servicing & Asset Management Dialogue & Training Sessions* which were sponsored by the Healthcare Mortgagee Advisory Council (HMAC) in April and May were recorded and are now available. ORCF provided a general update on Asset

Management and more focused sessions on risk monitoring and regulatory obligations that we hope you found useful. ORCF truly appreciated the opportunity to discuss the Risk Surveillance Dashboard process and looks forward to continuing the dialogue with industry stakeholders going forward. If you were unable to join the webinars or if you would like to view them again, recordings of the full sessions are available on the Section 232 Program Training Presentations website ([here](#)). The sessions available are:

Session 1: *General HUD ORCF Update with Question and Answers*

Session 2: *Asset Management Lender's Only Dialogue with ORCF HUD Staff*

Session 3: *Regulatory Obligations & Risk Monitoring Wrap Up*

In addition, all Q&As resulting from the trainings can be found here ([here](#)).

Keywords: *Asset Management, Webinar*

[Back to top](#)

FROM THE CLOSING CORNER

Please Use ORCF Posted Documents to Complete Closing and Cost Certification Packages

Please use the most current ORCF Closing Documents to complete your closing and cost certification packages which includes ORCF Closing, Construction and Cost Certification documents. All ORCF Closing Documents are available on the Section 232 website ([here](#)). You can find Documents by Loan Type ([here](#)) or all Revised Section 232 Healthcare Documents ([here](#)). Any updates to ORCF documents will be posted on this website.

Please use posted documents to complete your closing and cost certification packages

If you have questions, please contact the assigned ORCF Closing Coordinator.

Keywords: *Closing Documents*

[Back to top](#)



April 28, 2021

In This Update

- Save the Date – Virtual Asset Management Webinar Focusing on Regulatory Obligations and Risk Monitoring
- Operating Loss Loan Section 232/223(d) – COVID – Applications Due by August 30, 2021
- Naming Documents in the Portal That Do Not Have a Standard File Name
- REMINDER - Portfolio Names and Numbers
- Flood Insurance Determinations and Life-of-Loan Monitoring Requirement
- Addressing Risks Identified in the Lender Risk Surveillance Dashboard (RSD)
- The Lender's Third-Party Project Capital Needs Assessment (PCNA).
- Master Lease Release and Termination Process
- REMINDER - Lender Responsibility for Professional Liability Insurance (PLI) Insurance Review
- Reminders Concerning Substantive Action Plans

SAVE THE DATE – VIRTUAL ASSET MANAGEMENT WEBINAR FOCUSING ON REGULATORY OBLIGATIONS AND RISK MONITORING

HUD's Office of Residential Care Facilities (ORCF) is pleased to announce an upcoming Virtual Asset Management Webinar, detailed below, that is being hosted by the Healthcare Mortgagee Advisory Council (HMAC) via GoToWebinar. This webinar is open to all Lenders, Borrowers, and Operators of HUD-insured (Section 232) healthcare facilities.

Focus on Regulatory Obligations and Risk Monitoring. Date: Wednesday, May 5, 2021, 2:00-3:00 p.m., EST. This session will focus on the important working relationship between the Borrower, Lender, and HUD, and will emphasize the roles and responsibilities of each. Register ([here](#)) for this session.

If you have questions you would like to submit for consideration, you may send them to LeanThinking@hud.gov. HMAAC lenders may also send their questions through their designated contacts.

Keywords: *Asset Management, Webinar*

OPERATING LOSS LOAN SECTION 232/223(D) – COVID – APPLICATIONS DUE BY AUGUST 30, 2021

On January 15, 2021, ORCF published Mortgagee Letter 2021-01 ([here](#)) which implemented temporary statutory authority to insure operating loss loans under Section 223(d) of the National Housing Act to mitigate healthcare facilities' COVID-related temporary revenue reductions.

As the Mortgagee Letter notes, **HUD's temporary statutory authority under this program ends on September 30, 2021**; HUD can issue no firm commitments for this program after that date. Also, **HUD must receive any applications by Monday, August 30, 2021**. Given the statutory time constraints for HUD action, HUD cannot waive the submission deadline.

If you are in the process of submitting a 223(d) COVID application, or if you intend to submit an application in the coming months, please let us know by sending an email to LeanThinking@hud.gov.

Keywords: *COVID-19, 223(d)*

[Back to top](#)

NAMING DOCUMENTS IN THE PORTAL THAT DO NOT HAVE A STANDARD FILE NAME

Documents uploaded to the 232 Healthcare Portal should be named according to the Application Checklist. If the document is not a checklist item and it is an "Other" item, please include an identifier in the name of the document such as "financial information". Please note that an underscore (_) must be used after "Other" and before the identifier, e.g. "Other_financial information".

Submitting documents with precise file names will reduce review times.

For more information, please see the 232 Healthcare Portal Training website ([here](#)).

Keywords: *Application Processing, 232 Healthcare Portal*

[Back to top](#)

REMINDER - PORTFOLIO NAMES AND NUMBERS

As previously outlined in the August 26, 2020 Email Blast, if a project is part of a portfolio, it requires a portfolio name. Lenders provide the portfolio name when an FHA Number Request is submitted.

Portfolio names are added to the name of the project for workload tracking in HUD systems so that the individual projects in the portfolio may be tracked together. Identifying a portfolio name allows for more efficient processing of Production applications, as portfolio groups can be readily identified and assigned to the same reviewer. In addition, a portfolio name assists Asset Management in their overall risk management of the ORCF portfolio by indicating the relationship of individual projects and more effectively assigning the projects to the same Account Executive for oversight.

A project is considered part of a portfolio where there are two or more borrower entities that are under common ownership and/or common control (Handbook 4232.1, Section II, Chapter 17.2). Even if a single application is submitted at a time, if it meets the definition of a portfolio outlined in the Handbook, a portfolio name should be referenced in the FHA Number Request.

If a project is part of an existing portfolio and the Lender does not know the portfolio name and/or portfolio number, this information can be requested through the FHA Number Request. Lenders should note the request and any related information in the comments box, or by submitting an email inquiry to Lean Thinking.

Keywords: *Portfolios*

[Back to top](#)

FLOOD INSURANCE DETERMINATIONS AND LIFE-OF-LOAN MONITORING REQUIREMENT

Lenders are reminded that a Flood Insurance Determination is required for every Mortgage Loan in the Section 232 Program. The Lender must determine whether any of the Property improvements are located in a Special Flood Hazard Area (SFHA) and must document each determination on a Standard Flood Hazard Determination Form (SFHDF) issued by FEMA (FEMA Form 086-0-32). The Lender must obtain flood-zone determinations from a qualified third-party flood-zone determination firm.

In addition to the initial flood-zone determination, which is used for underwriting, Lenders must also obtain from their flood-zone determination firm “life-of-loan” monitoring and coverage, which means that the monitoring company will notify the Lender if and when flood insurance is required for a monitored Property. This is required for every Mortgage Loan in the Section 232 Program, regardless of the initial determination, because conditions and the status of a zone may change over time. The Lender must ensure that the monitoring company it selects agrees to continue monitoring for all of the covered Properties in the event that the Lender sells or

otherwise transfers its servicing rights to another Mortgage Loan servicer. Typically, the monitoring company will indicate “life of loan” coverage on the SFHDF form.

The continuation of this “life-of-loan” monitoring and coverage also becomes a loan servicing requirement which continues during the entire life of the mortgage and survives a change in Loan Servicer. Should the flood-zone status change during the life of the Mortgage, Lenders are required to evaluate the flood insurance requirement as a result of the change and enforce the requirements for flood insurance, if applicable, due to the new information.

These requirements are covered under the Lender’s Certification for Insurance Coverage (Form HUD-92435-ORCF) ([here](#)). For more information, see [ORCF’s Handbook 4232.1](#), Section II, Chapter 14.7.H ([here](#)).

Keywords: *Floodplain, Insurance, Environmental*

[Back to top](#)

ADDRESSING RISKS IDENTIFIED IN THE LENDER RISK SURVEILLANCE DASHBOARD (RSD)

Since launching ORCF’s new Risk Monitoring Routine in September 2020, one recurring issue has been how to deal with risks that have been “resolved” once missing quarters of Operator financials have been submitted. ORCF stresses the need for ensuring project participants to honor their regulatory agreement obligations.

To streamline the process for addressing risk, ORCF Asset Management expects the Lender to take **one** of **three** of the following actions for every risk noted on the Lender RSD:

1. **Erroneous risk:** There may be instances where the Lender RSD identifies erroneous risk. For example, a backlog in uploading financials led to late submission of financials, which was due to the Lender’s inaction rather than an operational risk. Another instance might be that the Lender RSD data identifies the incorrect CMS Star rating. In these instances, Lenders should respond with an email to the Account Executive explaining that the RSD risk is an error (providing evidence of error when warranted) and confirm there is no risk.
2. **Valid risk that has been mitigated:** The Lender RSD may identify risks that have already been mitigated. For example, a project with a CMS 1-Star Rating has recently been upgraded to a 2-Star Rating, or missing financials that were late due to Operator non-compliance have now been submitted. In these instances, ORCF will require the completion of Form HUD-93334-ORCF to document that the risk was present. However, assuming that no other risks are present, an Action Plan would not be required since the risk has been mitigated. The Lender will submit the HUD-93334-ORCF through the Portal.

3. **Valid risk that remains:** When the Lender verifies the RSD risk remains, appropriate action is required and both a HUD-93334 or 93335-ORCF and an Action Plan are required. For example, if the project exhibits two or more consecutive quarters of DSCR below 1.0, an overall CMS 1-Star Rating or multiple missing quarters of operator financials and the Operator remains unresponsive, then the Lender should submit the 93334 to document the risk(s) and an Action Plan developed by the Borrower or Operator outlining steps needed to mitigate the risk.

Keywords: *Risk Notification, Action Plans, Risk Surveillance Dashboard*

[Back to top](#)

THE LENDER'S THIRD-PARTY PROJECT CAPITAL NEEDS ASSESSMENT (PCNA)

A PCNA report identifies and estimates the cost of critical and noncritical repairs and replacement needs over time of various building systems. The PCNA's Reserve for Replacement (R4R) schedule is an essential component of the PCNA that establishes positive capital reserves to cover major building components in years 1 through 15 and is used to estimate the initial and annual RFR deposits. ORCF Asset Management has noticed an increasing number of requests for modification and/or suspension of the R4R Account deposit, as well as requests for modification to the non-critical repair list, sometimes shortly after loan closing. Additionally, in recent PCNAs, accessibility compliance questions have arisen on currently insured projects (including those considering refinance), questions that were not addressed by a prior PCNA. Failure to correctly identify repairs and the replacement needs in a PCNA can cause later financial hardship. As such, Lenders are reminded of their responsibility to ensure compliance with ORCFs PCNA Statement of Work (SOW) (Please see Handbook 4232.1, Section II, Chapter 2.10).

Keywords: *PCNA SOW, Statement of Work (SOW), Reserve for Replacement, Non-Critical Repairs*

[Back to top](#)

MASTER LEASE RELEASE AND TERMINATION PROCESS

ORCF has posted an updated Prepayment and Requests for Insurance Termination Checklist ([here](#)) and a new Master Lease Termination Checklist ([here](#)). The request to release a project from a Master Lease generally occurs in conjunction with a prepayment request. The revised Prepayment and Requests for Insurance Termination Checklist now has two sections: Section I covers the documents associated with the prepayment and Section II covers the documents relating to a request to release a project from a master lease, due to prepayment. Section II presumes that some of the projects subject to the Master Lease will remain FHA insured. If all projects on the Master Lease are being prepaid, the new Master Lease Termination Checklist needs to

be submitted in lieu of the documents noted in Section II. Both ORCF Asset Management and HUD's Office of General Counsel field counsel will review all requests to release/terminate projects associated with a Master Lease. All requests should be submitted using the 232 Portal.

Keywords: *Master Lease Release*

[Back to top](#)

REMINDER - LENDER RESPONSIBILITY FOR PROFESSIONAL LIABILITY INSURANCE (PLI) INSURANCE REVIEW

ORCF would like to remind Lenders about the importance of annual reviews of Professional Liability Insurance (PLI) coverage for their properties. On an **annual basis**, the Mortgagee/Servicer must verify each Project has the required PLI coverage, as approved during the Project's underwriting (see *Handbook 4232.1, Section III, Chapter 3.10.7, Professional Liability Insurance*). The review must be consistent with the underwriting review standards set forth in the Handbook 4232.1, Section II, Appendix 14.1.VII.D.

ORCF has recently processed several PLI waiver requests for retroactive approval for an insurance policy already in place. This can be problematic as ORCF waiver approvals are not guaranteed and may cause the Owner and/or Operator to be in non-compliance.

Lenders need to be aware of current policy expiration dates to conduct timely annual reviews and ensure HUD-compliant insurance coverage **at the time of renewal**. Any waiver request to change minimum coverage requirements should be addressed prior to the expiration of the current policy to allow ORCF sufficient time for review.

Lenders are reminded that non-compliant insurance is a risk factor and will require a Form HUD-93334-ORCF notification.

Keywords: *Professional Liability Insurance, Waivers*

[Back to top](#)

REMINDERS CONCERNING SUBSTANTIVE ACTION PLANS

In the February 26, 2020 Email Blast ([here](#)), ORCF Asset Management provided guidance on the expected components of a corrective action plan for improving verified deficiencies. These include: a root cause analysis and an action plan with measurable goals, specific risk mitigation steps, a timeline for completion and a schedule for ensuring ongoing monitoring of an action plan, and a mechanism for revising a plan if the established plan is not proving effective. As the Risk Monitoring Routine evolves, we have observed that some Action Plans are insufficient. Many submitted plans do not include specific risk mitigation steps that, if taken and if proven effective, would mitigate

the identified Action Plan risk. ORCF expects that servicing Lenders will work with their clients to ensure that each identified risk mitigation step in the Action Plan is a specific step taken to mitigate risk. For example:

- Rather than stating “Increase census by 10%” as a risk mitigation step, ORCF would expect to see specific steps that would be implemented with the anticipated goal of increasing census. For example, the risk mitigation steps might include enhancing marketing efforts through upgrading a web site, improving search engine results, or hiring an additional marketing staff member.
- Rather than stating “Increase DSCR to 1.2” as a risk mitigation step, ORCF would expect to see specific steps such as enhancing hiring efforts to reduce reliance on agency staffing services or hiring more nurses in preparation of expanding Medicare referral sources to improve payor mix.
- Rather than stating “Increase overall CMS Star Rating to 3 Stars” as a risk mitigation step, ORCF would expect to see specific steps such as policies on infection control, enhancing employee training or conducting monthly, unannounced test inspections.

ORCF has taken the additional step of revising the ORCF Action Plan Tool – SAMPLE ([here](#)). This optional resource was introduced in the April 30, 2020 Email Blast ([here](#)), and can be found on ORCF’s Loan Servicing Guidance Home Page ([here](#)), under “Documents for Notifying ORCF of Action Plans”:

Keywords: *Action Plans, Risk Surveillance Dashboard*

[Back to top](#)

March 30, 2021



March 30, 2021

MORTGAGEE LETTER 2021-10 PUBLISHED EXTENDING TEMPORARY REVISIONS TO UNDERWRITING STANDARD PROCESSES FOR THIRD-PARTY AND LENDER SITE INSPECTIONS

The Office of Residential Care Facilities (ORCF) published Mortgagee Letter 2021-10 ([here](#)) on March 30, 2021, extending temporary revisions to underwriting standard processes for third-party and Lender site inspections as a result of the COVID-19 National Emergency previously detailed in ML 2020-15.

Keywords: COVID-19



March 24, 2021

In This Update

- Delegation to FHA Lenders and Their Authorized Representatives to Initiate Section 106 Consultation with State Historic Preservation Offices
- Ward Beds, Room Density and Functional Obsolescence

DELEGATION TO FHA LENDERS AND THEIR AUTHORIZED REPRESENTATIVES TO INITIATE SECTION 106 CONSULTATION WITH STATE HISTORIC PRESERVATION OFFICES

The introductory chapter of Handbook 4232.1, Section I, Chapter 1.4 states, “If a particular Section 232 program matter is not addressed in this Handbook, and appears in other guidance, questions regarding applicability may be raised with ORCF.” This language is particularly apt with respect to the recent delegation memo to FHA lenders and their authorized representatives to initiate consultation with State Historic Preservation Offices. The MAP Guide provides lenders procedural guidance for implementing that delegated authority, but the Section 232 Handbook currently does not, and ORCF has been contacted for guidance on this issue. Unless and until ORCF issues guidance different than what is provided in the MAP Guide (specially at 9.6.4 thereof) on this particular matter, Lenders on Section 232 transactions must follow the procedures set forth at MAP 9.6.4 as to SHPO communications.

The delegation does not extend to consultation with the Tribes. For projects that require Section 106 consultation with Tribes, ORCF staff must still initiate and conduct consultation with Indian Tribes and Native Hawaiian Organizations (NHOs). Lenders must coordinate with ORCF by notifying LeanThinking@hud.gov so that HUD may begin consultation with Tribes. Lenders must consider comments received from Tribes or NHOs within review timeframes before submitting a finding of effect to the SHPO for concurrence.

Keywords: *State Historic Preservation Office (SHPO)*

[Back to top](#)

WARD BEDS, ROOM DENSITY AND FUNCTIONAL OBSOLESCENCE

ORCF generally considers the presence of ward beds as a potential risk factor in underwriting 232 transactions. The National Emergency resulting from the COVID-19 virus adds even greater importance to the consideration of functional obsolescence associated with wards.

As a result, ORCF will consider the NOI's sensitivity to the loss of three- and four-bed wards and the facility's ability to meet the program's required minimum debt service coverage ratio (1.45) as a key risk factor. The lender should clearly demonstrate the facility's ability to adapt to the loss of ward usage in the application. For example, the Lender Narrative should provide additional analysis, such as a sensitivity analysis that assumes conversion of all three and four bed wards to at most semi-private rooms and shows that a DSCR of at least 1.45 can be attained in that scenario.

Consideration of functional obsolescence risk is vital to the underwriting of a residential care facility loan, and the requirement of this consideration is addressed in both Handbook 4232.1, Section II, Chapter 5.2.N and the Lender Narrative (p. 21). As stated in the Handbook, this consideration includes addressing the presence of wards. The Lender Narrative states specifically: "How the physical plant compares to an optimally configured project and how does that impact income potential? (Discuss for example, 3 and/or 4 bed wards, unusual design issues, etc.)"

Applications must demonstrate analysis of ward beds considering the changed—and continually changing—circumstances. An argument simply that past census suggests such beds "are accepted" in the market is not sufficient. As the industry is aware, some states have already imposed new limitations on the use of wards, and other states are publicly considering doing so. In addition, aside from restrictions or even complete prohibitions by regulators, the marketability of ward beds in the COVID and post-COVID environment may be greatly diminished.

Keywords: *Wards, Marketability, Obsolescence*

[Back to top](#)



February 24, 2021

In This Update

- Save the Date - Virtual Lender Dialogue - Production
- New – Operating Loss Loan Section 232/223(d) – COVID Documents Now Available For Use
- Best Practice – Third-Party Environmental Submissions in HEROS
- Lender Completion of the Maximum Insurable Mortgage Calculation (Form HUD 92264a-ORCF)
- Application Processing for 232/223(a)(7) Projects Involving Repairs
- Underground Fuel Storage Tanks
- Intergovernmental Transfer (IGT)/Upper Payment Limit (UPL) Revenues
- FROM THE CLOSING CORNER
 - Updated Construction Budgets and Progress Schedules of Work Required Prior to Initial Closing
 - Survey Review Requirements for Section 232(a)(7) Projects
 - “After Recording” – Reminder for all Regulatory Agreements
 - Signature Dates are Key at Closing

SAVE THE DATE - VIRTUAL LENDER DIALOGUE - PRODUCTION

ORCF is pleased to announce the upcoming Virtual Lender Dialogue:

Date: Wednesday, March 10, 2021
Time: 2:00-3:30 p.m., EST
Location: Virtual using GoToWebinar platform.
Attendance: This webinar is open to all lenders.

Please use registration link ([here](#)).

The purpose of this dialogue session is to engage in detailed discussions on Loan Production topics important to both HUD and Section 232 lenders. If you have questions or topics you would like to submit for consideration, you may send them to LeanThinking@hud.gov, or through either the HMAC or MBA organizations which are also consolidating topics for their members.

Please watch for registration instructions for the webinar to be sent at a later date.

Keywords: Webinar

[Back to top](#)

NEW – OPERATING LOSS LOAN SECTION 232/223(D) – COVID DOCUMENTS NOW AVAILABLE FOR USE

On January 15, 2021, ORCF published Mortgagee Letter 2021-01 ([here](#)) which implemented temporary statutory authority to insure operating loss loans under Section 223(d) of the National Housing Act to mitigate healthcare facilities' COVID-related temporary revenue reductions. Referenced in that Mortgagee Letter was the forthcoming Lender Narrative to be used in applications for such loans. That Lender Narrative – Operating Loss Loan Section 232/223(d) – COVID (Form HUD-90011t-ORCF), as well as the following documents for use with the Operating Loss Loan 232/223(D) – COVID program is now available for use:

- Lender Narrative – Operating Loss Loan Section 232/223(d) – COVID (Form HUD-90011t-ORCF), ([here](#)).
- Firm Application Checklist – Section 232/223(d) – COVID ([here](#)).
- Firm Commitment Template – Section 232/223(d) – COVID ([here](#)).

Keywords: COVID-19, 223(d)

[Back to top](#)

BEST PRACTICE – THIRD-PARTY ENVIRONMENTAL SUBMISSIONS IN HEROS

Beginning in February 2020, third-party environmental reviews are accepted through the HUD Environmental Review Online System (HEROS) for Section 232 mortgage insurance applications. HEROS submissions by third-party consultants, when completed thoroughly and accurately, and in accordance with [ORCF guidance](#), help to expedite the Section 232 environmental review process. While such submissions

remain voluntary at this time, ***lenders are encouraged to use HEROS submissions to facilitate completion of environmental reviews.***

The third-party consultants can assign the HEROS review to ORCF at the time of, or shortly before, the application's submission to HUD. Upon approval by the lender, the consultant should submit the HEROS review to ORCF by using the "Assign Review" feature and selecting Wayne Harris as the assignee. ***Please do not contact Wayne Harris regarding HEROS; his name is only used to store the HEROS submissions until an environmental reviewer is assigned to the project.*** Questions regarding HEROS should be submitted to LeanThinking@hud.gov.

Consultants should enter the name of the facility and the FHA Project Number in the "Project Name" field on the Initial Screen (1105) in HEROS. For example, 111-22999-ABC-Healthcare. Providing the FHA number with the project's name allows ORCF to quickly identify the subject of the HEROS review.

A download of the HEROS environmental review record (ERR) should be included in the mortgage insurance application in *Section 2: Third-Party Reports*. The HEROS exhibit should be named "Other-**HEROS ERR**" to identify its content. Please note that a HEROS submission does not replace or eliminate any application exhibits.

Keywords: *Environmental, HEROS*

[Back to top](#)

LENDER COMPLETION OF THE MAXIMUM INSURABLE MORTGAGE CALCULATION (FORM HUD 92264A-ORCF)

ORCF is seeing frequent data errors in the Maximum Insurable Mortgage Calculation form (form HUD-92264a-ORCF) submitted in the firm application. These data errors in the form are delaying ORCF's ability to process applications. Please review the below reminders. Should you have any questions *prior to application submission*, please contact Leanthinking@hud.gov.

- **Instructions:** Please carefully review the instructions page on Form [HUD 92264a-ORCF](#) and Handbook 4232.1, Section II, Chapter 3 prior to application submission.
- **Submission of the 92264a-ORCF Form:**
 - Please do not override the formulas contained within the form HUD 92264a-ORCF. *Changes to the formulas may result in corrections and additional review of the numbers, as well as potential impacts to loan sizing. In addition, the formulas constitute part of the OMB approval of the form, and changing the formulas results in a change to the form without HUD permission.*
 - *Submit an Excel version of the form as well as a pdf.*

- Include all applicable pages in one pdf. *Please review instructions #6, 11 & 12 on the Instructions tab of the workbook regarding what pages to include.*
- Include signature of Lender's Underwriter and date.
- Include the Project Name, Project Number and Program Type on *BOTH* the Sources & Uses page and on MILC Page 1. *Ensure these are correctly noted for the subject project.*
- **Loan to Value, Criterion D:** Use the Maximum Loan-to-Value (LTV) Ratio underwriting benchmark that applies to your project per HUD Handbook 4232.1, Section II, Chapter 3.2. If your project qualifies for the limited debt seasoning exception (See Handbook 4232.1, Section II, Chapter 3.13.D), use the LTV Ratio that applies to your project rather than the *maximum LTV limits*.
- **Amount Based on Debt Service, Criterion E:** The Net Operating Income (NOI) in line "e" should match the lender's underwritten NOI in the Lender's Narrative.
- **Amount Based on Cost to Refinance, Criterion H:** Line "a" should be the HUD Eligible Costs as listed on the Sources & Uses. Line "b" should list the amount of the existing reserve for replacement. Line "c" should be line "a" minus line "b."
- **Reserve for Replacement:**
 - *Note that there are two distinct lines on the Sources & Uses for reserve deposits. The distinction is made because they are treated differently with regard to loan sizing. Do not delete either line. If either line is not applicable to the transaction, simply indicate "\$0" for that cost.*
 - *Initial Deposit to the Reserve for Replacement:* Any reasonable and necessary loan proceeds used for the Initial Deposit to the Reserve for Replacement should be shown on the "Initial Deposit to the Reserve for Replacement" on the Sources & Uses. *As noted in the instruction comment, this amount should not include any existing reserves being transferred.*
 - *Existing Replacement Reserves to Transfer:* Any existing reserves for replacement should be shown in the Sources under "Existing Replacement Reserves to Transfer" and then as a HUD Eligible Use under "Existing Replacement Reserves to Transfer." Please note that on 223(a)(7) loans, Handbook 4232.1, Section II, Chapter 2.10.Q requires that existing reserves be rolled over to the new loan. *This line item may also apply to 223(f) loans refinancing existing FHA-insured projects.*

Keywords: *Maximum Insurable Mortgage Calculation (MILC)*

[Back to top](#)

APPLICATION PROCESSING FOR 232/223(A)(7) PROJECTS INVOLVING REPAIRS

Lenders are reminded to consider the environmental review requirements for 223(a)(7) applications involving projects with proposed repairs that exceed Routine Maintenance. Notice CPD-16-02 ([here](#)) provides “Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58”. Lenders are encouraged to consult this notice when repairs are proposed within a 223(a)(7) application. For applications where an existing HUD-insured project involves work that exceeds the level of routine maintenance (including, but not limited to, construction, demolition, building repairs, site clearing, tree removal, or ground disturbance), HUD must complete an Environmental Review before the work can commence.

Keywords: 223(a)(7), Environmental

UNDERGROUND FUEL STORAGE TANKS

In accordance with the provisions in Handbook 4232.1, Section II, Chapter 7.3, the following is guidance to assess the environmental risk presented by underground storage tanks (UST) and the potential for contamination. When an underground storage tank containing, or previously containing, hazardous waste or petroleum products exists on the project site, HUD will require information to evaluate the environmental risk that the UST presents. When an onsite UST is regulated by the State, please provide documentation that confirms compliance with the State’s regulations. When a UST is not subject to State oversight, including testing and inspection protocols, the UST and its service lines must pass an integrity test before HUD completes the environmental review. In addition, an Operations and Maintenance plan must be submitted that includes periodic testing of the tank and its service lines, as well as repair, maintenance, and emergency response procedures. These requirements do not apply to propane USTs.

If a UST was previously removed from the property or abandoned on the site, HUD will require information to evaluate the environmental impact that the former UST may have had on the site. The Phase I Environmental Site Assessment must determine if the former UST is considered to be a recognized environmental condition (REC), and if so, the REC must be satisfactorily addressed before the application is submitted. Information such as removal/closure documentation and Phase II study results should be submitted with the application.

When the removal of an underground storage tank is proposed, the removal and post-removal site testing must be completed prior to HUD’s completion of the environmental review. This is due to the potential for contamination to be encountered during, or following, the UST removal.

Keywords: Underground Storage Tanks

[Back to top](#)

INTERGOVERNMENTAL TRANSFER (IGT)/UPPER PAYMENT LIMIT (UPL) REVENUES

As a reminder, ORCF provided guidance in the June 27, 2012 and June 24, 2015 Email Blasts cautioning against relying on Medicaid IGT/UPL type supplemental payments when underwriting skilled nursing facility (SNF) transactions. The June 24, 2015 Email Blast noted that additional scrutiny will be applied as the percentage of NOI derived from UPL increases. We have recently been seeing applications where a significant portion of value is attributable to this supplemental income stream. Inclusion of these increased levels of IGT/UPL in the underwritten value for loan sizing does not adequately minimize the risk associated with this financing mechanism, and therefore presents an unacceptable underwriting risk to HUD. (Note – this guidance also applies to the Quality Incentive Payment Program (QIPP) or other similar supplemental revenue stream structures.)

Keywords: *Intergovernmental Transfer (IGT), Upper Payment Limit (UPL) Revenues*

[Back to top](#)

FROM THE CLOSING CORNER

Updated Construction Budgets and Progress Schedules of Work Required Prior to Initial Closing

Please Note: For all New Construction, Sub-Rehabilitation, and 241(a) loans, an updated construction budget (form HUD-92328-ORCF, Contractor's and/or Mortgagor's Cost Breakdown Schedule of Values Section 232) **dated within 30 days** of Initial Endorsement is required to be submitted for review and approval **at least 10 calendar days prior** to Initial Endorsement. In addition, **at least 10 calendar days prior** to Initial Endorsement, an Estimated Progress Schedule of Work (form HUD-5372) **dated within 30 days** of Initial Endorsement must be submitted by the general contractor for review and approval.

For further questions, please contact the assigned ORCF Closing Coordinator for the specific project.

Keywords: *Initial Closing, Form HUD-92328-ORCF, Estimated Progress Schedule of Work*

[Back to top](#)

Survey Review Requirements for Section 232(a)(7) Projects

As a reminder, for Section 223(a)(7) transactions, use the “Survey Instructions and Borrower’s Certification ([form HUD-91111-ORCF](#))” in lieu of a new survey, unless the following has changed:

- New easements;
- New encroachments;
- Changes in description; and/or
- Any unusual circumstances or items that require special attention or conditions.

As a general reference, please refer to Page 2, Section II of the [form HUD-91111-ORCF](#) for guidance on whether or not an updated survey will be needed. If it is still unclear, please contact an ORCF Title/Survey Reviewer for clarification.

Keywords: *Section 223(a)(7), Survey Instructions and Borrower’s Certification, form HUD-91111-ORCF*

[Back to top](#)

“After Recording” – Reminder for all Regulatory Agreements

Remember to include the assigned HUD Attorney (name and HUD office address) on all Regulatory Agreements on page 1 under “After Recording”.

For further questions, please contact the assigned ORCF Closing Coordinator for the specific project.

Keywords: *Regulatory Agreement*

[Back to top](#)

Signature Dates are Key at Closing

As a reminder, documents required to be signed by the Lender, Borrower, and General Contractor, (i.e. forms HUD-92403-ORCF, 92448-ORCF, 92023-ORCF, and 92464-ORCF) must include the signature date. **If the signature is not dated in the document, the form will be returned to the lender to be dated.** This additional step may cause a delay in closing.

For further questions, please contact the assigned ORCF Closing Coordinator for the specific project.

Keywords: *Closing, Closing Documents*

[Back to top](#)

January 19, 2021



January 19, 2021

MORTGAGEE LETTER 2021-01 PUBLISHED REGARDING SECTION 223(D) LOANS USED TO MITIGATE COVID-RELATED TEMPORARY REVENUE REDUCTIONS

The Office of Residential Care Facilities (ORCF) published Mortgagee Letter 2021-01 ([here](#)) on January 15, 2021. This Mortgagee Letter implements temporary statutory authority to insure operating loss loans under Section 223(d) of the National Housing Act to mitigate healthcare facilities' COVID-related temporary revenue reductions.

Keywords: COVID-19, 223(d)

January 4, 2021



January 4, 2021

MORTGAGEE LETTER 2020-50 PUBLISHED EXTENDING TEMPORARY REVISIONS TO UNDERWRITING STANDARD PROCESSES FOR THIRD-PARTY AND LENDER SITE INSPECTIONS

The Office of Residential Care Facilities (ORCF) published Mortgagee Letter 2020-50 ([here](#)) on December 28, 2020, extending temporary revisions to underwriting standard processes for third-party and Lender site inspections as a result of the COVID-19 National Emergency previously detailed in ML 2020-15.

Keywords: COVID-19

Past Lean 232 Updates are [available online](#).

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>.

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December 16, 2020

In This Update

- [New FHA Email Delivery System Beginning in 2021](#)
- [Mortgage Reserve Funds and Debt Service Reserve Escrows on 223\(a\)\(7\) Loans](#)
- [August 2020 ORCF Lender Risk Monitoring Training Posted Online](#)
- [November 2020 ORCF Webinar Presentation Focusing Primarily on Asset Management Matters Related to the Covid-19 Pandemic Available Online](#)
- [FROM THE CLOSING CORNER](#)
 - [Insurance Requirements Prior to Issuance of Permission to Occupy \(PTO\)](#)
 - [Section 223\(a\)\(7\) Firm Commitments – Review \[Bracket\] Language Before Submitting](#)
 - [Required Language When Requesting an Extension to the Firm Commitment](#)

NEW FHA EMAIL DELIVERY SYSTEM BEGINNING IN 2021

FHA has implemented a new email delivery system. ORCF will use this improved system for our Lean 232 email messages in early 2021. If you are currently receiving our emails, you will automatically be enrolled in the new system, however, we ask you to please login under your email address and fill out your profile questions ([here](#)). Please also forward this link to any colleagues who would like to subscribe to our Lean 232 emails in the future.

Keywords: *Email Blast*

[Back to top](#)

MORTGAGE RESERVE FUNDS AND DEBT SERVICE RESERVE ESCROWS ON 223(A)(7) LOANS

ORCF has received requests to reduce Mortgage Reserve Funds and Debt Service Reserve Escrows as part of a 223(a)(7) loan. It is ORCF's expectation that the entire existing amount of any mortgage reserve or debt service reserve escrow funds will be

rolled over to a new reserve escrow at closing. Because of this, no reductions in the new reserve escrow will be allowed. The release provisions from the original transaction should remain the same in the new escrow agreement at the 223(a)(7) closing. The lender should disclose any mortgage reserve fund or debt service reserve escrows in the application and should include existing escrows as a source and a non-eligible use on the Maximum Insurable Loan Calculation form (HUD-92264a-ORCF).

Keywords: *223(a)(7) Mortgage Reserve Funds, 223(a)(7) Debt Service Reserve Escrows*

[Back to top](#)

AUGUST 2020 ORCF LENDER RISK MONITORING TRAINING POSTED ONLINE

ORCF conducted a Lender Risk Monitoring Training on August 25, 2020 which provided an “A-Z Training” on Asset Management’s Risk Monitoring Routine. The training also includes question and answers which were recorded during the training. The training presentation has been posted on ORCF’s Training Presentations webpage ([here](#)).

Keywords: *Risk Monitoring, Training*

[Back to top](#)

NOVEMBER 2020 ORCF WEBINAR PRESENTATION FOCUSING PRIMARILY ON ASSET MANAGEMENT MATTERS RELATED TO THE COVID-19 PANDEMIC AVAILABLE ONLINE

On November 18, 2020, ORCF participated in a webinar hosted by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL) on Asset Management matters. The webinar provided a brief overview of the Section 232 program and addressed asset management matters related to the COVID-19 pandemic. The webinar is now available online ([here](#)). Membership to AHCA/NCAL is not required to access this webinar. Please use your AHCA login used when registering for the webinar (*If you have forgotten your password click [here](#)*).

If you did not register for the live webinar, you will need to create an account to access the recorded webinar.

How to Create Account:

- To avoid technical problems, use Google Chrome.
- If you are new to the AHCA site, you can create an account [here](#). After creating an account, you will be able to access the webinar.

For further assistance, please email educate@ahca.org.

Keywords: Webinar, COVID

[Back to top](#)

FROM THE CLOSING CORNER

Insurance Requirements Prior to Issuance of Permission to Occupy (PTO)

As a reminder, Firm Commitments for New Construction, Substantial Rehabilitation and 241(a) transactions require all insurance must be in place prior to issuance of the Permission to Occupy (PTO). Please ensure all Property, Liability and Fidelity Insurance coverage is in place and in conformance with current program requirements prior to submitting to the ORCF Construction Manager for final approval. This will avoid delays with issuance of the Permission to Occupy (PTO). Insurance certificates/ACORDS must be valid and include, at a minimum, the coverages and deductibles cited in Item 32 of the Firm Commitment and Special Conditions, as may be amended.

Please contact Rick Price, ORCF Construction Manager if you have any questions.

Keywords: Permission to Occupy (PTO), Insurance

[Back to top](#)

Section 223(a)(7) Firm Commitments – Review [Bracket] Language Before Submitting

Section 232/223(a)(7) loans apply to the refinancing of loans insured under Section 232 and loans originally insured under Section 232 pursuant to Section 223(f). The firm commitment has several places with language in **[brackets]**, which means a choice must be made and the inapplicable language deleted. For example, in the second paragraph of the firm commitment:

It is your intention to present the said Note and Security Instrument to the Federal Housing Commissioner acting herein on behalf of the Department of Housing and Urban Development ("HUD") for mortgage insurance under the provisions of Section 232 pursuant to [Section 223(a)(7) OR Section 223(f) pursuant to Section 223(a)(7)] of the National Housing Act (the "NHA"), and the Regulations thereunder now in effect (the "Regulations").

The correct type of loan must also be correctly stated in closing documents, including the Healthcare Regulatory Agreement -Borrower (HUD-92466-ORCF) and Regulatory Agreement – Operator (HUD-92466a-ORCF).

Please ensure that the draft firm commitment and closing documents include the correct type of loan when they are submitted to HUD for review.

Please contact your assigned ORCF Underwriter directly if you have any questions.

Keywords: *Section 223(a)(7), Firm Commitment, Closing Documents*

[Back to top](#)

Required Language When Requesting an Extension to the Firm Commitment

When submitting an Amendment Request to extend the term of the Firm Commitment, the request for extension must include the following statement (if true) from Handbook 4232.1, Section II, Chapter 9.3.B.1:

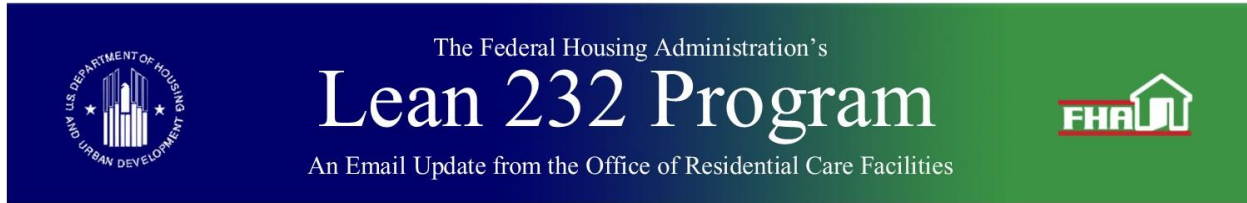
“The requested delay is not likely to change significantly the underwriting data on which the commitment was based or to undermine the feasibility of the project due to a change in the market, inflation, or other factors affecting cost.”

Extension requests that do not include such required language will be returned.

Please contact your assigned ORCF Closing Coordinator directly if you have any questions.

Keywords: *Firm Commitment Extensions*

[Back to top](#)



November 4, 2020

ORCF WEBINAR PRESENTATION – NOVEMBER 18, 2020, 3:00 P.M. EASTERN, FOCUSING PRIMARILY ON ASSET MANAGEMENT MATTERS RELATED TO THE COVID-19 PANDEMIC

In a webinar hosted by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL), ORCF will provide a brief overview of the Section 232 program and address asset management matters related to the COVID-19 pandemic. The webinar will run from 3:00 p.m. to approximately 4:00 p.m. EST on November 18, 2020, and will be open to AHCA/NCAL members and nonmembers. There is no charge for participation.

Presentation topics will include:

- Understanding the options for flexibility available in ORCF programs.
- Understanding the HUD notification requirements if your facility seeks resources made available under the recent Federal emergency legislation.
- Understanding the accounting requirements for Quarterly Financial Statements if relief has been received and any impact on the Surplus Cash Computation.
- Understanding the changes in inspection procedures for PCNAs, Appraisals and other physical inspections during the Pandemic.
- Understanding the roles, responsibilities and methods of Lenders, Borrowers and Operators in responding to ORCF of perceived risks.
- Understanding the newly enacted 232 Portal Requirements for Asset Management activities.
- Understanding where to find notifications of updates, revisions in Questions and Answers, Email Blasts, etc.

Speakers:

- John Hartung, Director, Policy, Risk Analysis and Lender Relations Division, Office of Residential Care Facilities, HUD
- Philip Head, Director, Asset Management Division, Office of Residential Care Facilities, HUD
- Rita Dockery, Deputy Director, Asset Management Division, Office of Residential Care Facilities, HUD

Event Date: November 18, 2019 – 3:00 p.m. – 4:00 p.m. (EST)

Registration Link: [Here](#)

Although membership to AHCA/NCAL is not required to participate in the webinar, you will still need to create an AHCA/NCAL username and password to register for the webinar.

How to Register for AHCA/NCAL webinar:

- Webinar participants will need to [login](#) using their existing ahcancaLED username and password first.
- Once you are logged in to the website you will be able to register for the webinar by clicking the green register button at the top of the page.
- If you have forgotten your password click [here](#).

How to Register for an AHCA/NCAL username and password:

- To avoid technical problems, use Google Chrome.
- If you are new to the site, you can create an account [here](#). After creating an account, you will be able to register for the webinar.

If you need further assistance with creating an AHCA/NCAL account, please email educate@ahca.org

Keywords: Webinar

[Back to top](#)



October 28, 2020

In This Update

- Section 106 Historic Preservation Reviews
- Reminder of Flood Level Marking Requirements
- Clarification of Expectations for Refinances of Recently Purchased Projects
- Important ORCF Appraisal Dates
- FROM THE CLOSING CORNER
- Section 232/223(a)(7) Refinance – Required Fees
- Section 232/223(f) Purchase/Refinance – Required Fees
- Wire Transfer Confirmation for Payoff after Closing

SECTION 106 HISTORIC PRESERVATION REVIEWS

Lenders and Third-Party environmental consultants are reminded of the importance of submitting complete information to the State Historic Preservation Officer (SHPO) for use in the Section 106 consultation. In particular, please ensure that you are specific about the *scope of work* that is being completed as part of the FHA-insured project. Please include a full list of proposed construction, site work and repairs, including Critical, Non-Critical and Borrower Proposed repairs, a map, photos, and project plans as applicable. Please pay special attention to work which exceeds the level of “routine maintenance”. Guidance on clarifying the difference between maintenance and repairs can be found ([here](#)). Please check SHPO’s website ([here](#)) prior to submitting a request for consultation because some states have their own process and submission requirements. While SHPOs have 30 days to review a submission, the submission must be complete and correct or the SHPO may require additional information, which can add to the review time.

Keywords: *Section 106*

[Back to top](#)

REMINDER OF FLOOD LEVEL MARKING REQUIREMENTS

Lenders and third-party consultants are reminded of the importance of submitting, as necessary, well-researched and documented ***Exhibit 2-4.D Identification marks of past or estimated flood levels*** in the Application. In particular, please be aware that the mark needs to be permanent, located in a public area to “enhance public awareness of and knowledge about flood hazards”, and it must identify the past and estimated flood level. A metal plaque which is permanently installed on the exterior of the building would be acceptable. The Exhibit should include the information/calculation used to determine the estimated flood level. The reason the mark is required is for compliance with Executive Order 11988, “Floodplain Management”, Section 3, where it states:

(c) If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible agency shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

HUD implements the EO’s requirement for the flood mark at 24 CFR 55.20(e)(3)(iv):

(3) Actions covered by [§ 55.12\(a\)](#) must be rejected if the proposed minimization is financially or physically unworkable. All [critical actions](#) in the 500-year floodplain shall be designed and built at or above the 100-year floodplain (in the case of new construction) and modified to include:

- (i) Preparation of and participation in an early warning system;
- (ii) An emergency evacuation and relocation plan;
- (iii) Identification of evacuation route(s) out of the 500-year floodplain; and
- (iv) Identification marks of past or estimated flood levels on all structures.

Keywords: *Floodplain, Application Processing*

[Back to top](#)

CLARIFICATION OF EXPECTATIONS FOR REFINANCES OF RECENTLY PURCHASED PROJECTS

ORCF has recently received a high number of applications with a recent purchase date, and therefore, a short operating history under the current owner and/or operator. In these cases, typically the underwritten net operating income is not consistent with historic operations, and market values exceed the purchase price despite the recent purchase. In addition, there have been cases where the participants have minimal industry experience. Lenders are expected to proactively address the risks associated with a transaction and to propose appropriate mitigation (for example: reduced loan sizing, debt service escrow, partnership equity remaining in the project, seasoning until a longer operating history can be established). In general, these risks warrant conservative underwriting.

There are two key risks that lenders should address:

- **Experience:** You are reminded that HUD Handbook 4232.1, Section II, Chapter 2.5 FF, *Experience of the Development Team*, notes that three years of experience is the minimum experience. In addition, experience in a market near the proposed market is more highly valued than experience in a different region of the country. Lenders should evaluate the experience of the development team in their transactions to assure that recent purchase projects and other projects with multiple risk factors have strong development team experience, well in excess of the minimum three-year requirement. Transactions where the participants do not meet the minimum experience requirements are not eligible.
- **Operations:** Lenders are also reminded that Handbook 4232.1, Section II, Chapter 3.13.F.2, requires a minimum of 12 months (under the new operator) demonstrated net operating income that supports the requested mortgage amount. For transactions that include a change of operations or turnarounds, the operator must have a proven track record of successful changes in operations or turnarounds and maintaining operations. In support of the operator's proven track record, the FHA lender must provide, in the Lender Narrative, documentation from other similar project operations. Please see the turnaround example template ([here](#)) that includes the minimum information that should be included in the application for turnaround projects.

Keywords: *Underwriting*

IMPORTANT ORCF APPRAISAL DATES

There are three important dates in ORCF appraisals:

1. The date of value – Historically this is the date of the inspection, but while the inspection requirement is being waived, the appraiser can choose another date such as the date the comparables were surveyed or the date of the most recent financial reports.
2. The date of the report – This is the date the report is finalized and transmitted to the lender.
3. The date of the most recent financials used in the appraisal.

ORCF is seeing a larger gap than normal between the date of the financials used in the appraisal and the date of the report. ORCF's expectation is that lenders will get appraisals with the freshest financials practicable. ORCF will be asking for new appraisal reports when it is clear newer data could have been used AND the operations have experienced a material change.

Key Words: *Appraisals, Financial Reports*

[Back to top](#)

FROM THE CLOSING CORNER

Section 232/223(a)(7) Refinance – Required Fees

ORCF looks to the Lender to ensure the correct fees are included on the Firm Commitment, the Maximum Insurable Loan Calculation ([HUD-92264a-ORCF](#)), and Request for Final Endorsement of Credit Instrument ([HUD-92455-ORCF](#)). Please note the correct fees for Section 232/223(a)(7) Refinance loans

1. HUD Application Fees:

An application for Firm Commitment must be accompanied by an application Commitment fee equal to \$1.5 per \$1,000 (15 basis point/0.15%) of the requested loan amount.

2. HUD MIP Fees (October 2020):

- Section 232/223(a)(7) Refinance **without** LIHTC: 0.50 basis points for *Upfront MIP Rate at Closing*
- Section 232/223(a)(7) Refinance **without** LIHTC: 0.55 basis points for *Annual MIP Rate (life of loan)*
- Section 232/223(a)(7) Refinance **with** LIHTC: 0.50 basis points for *Upfront MIP Rate at Closing*
- Section 232/223(a)(7) Refinance **with** LIHTC: 0.45 basis points for *Annual MIP Rate (life of loan)*

3. HUD Inspection Fees: Not Applicable

Should you have any questions, please contact the assigned Closing Coordinator for the project.

Keywords: 223(a)(7), Application Fees, Mortgage Insurance Premium (MIP), Inspection Fee Amount

[Back to top](#)

Section 232/223(f) Purchase/Refinance – Required Fees

ORCF looks to the Lender to ensure the correct fees are included on the Firm Commitment, the Maximum Insurable Loan Calculation ([HUD-92264a-ORCF](#)), and Request for Final Endorsement of Credit Instrument ([HUD-92455-ORCF](#)). Please note the correct fees for Section 232/223(f) Purchase/Refinance below:

1. HUD Application Fees:

An application for Firm Commitment must be accompanied by an application Commitment fee equal to \$3 per \$1,000 (30 basis point/0.30%) of the requested loan amount.

2. HUD MIP Fees (October 2020):

- Section 232/223(f) Refinance **without** LIHTC: 100 basis points (1%) for *Upfront MIP Rate at Closing*
- Section 232/223(f) Refinance **without** LIHTC: 65 basis points (0.65%) for *Annual MIP Rate (life of loan)*
- Section 232/223(f) Refinance **with** LIHTC: 100 basis points (1%) for *Upfront MIP Rate at Closing*
- Section 232/223(f) Refinance **with** LIHTC: 45 basis points (0.45%) for *Annual MIP Rate (life of loan)*

3. HUD Inspection Fees:

\$30 per underwritten bed if the total cost of the critical, non-critical and Borrower-proposed repairs is equal or less than \$3,000 per underwritten bed.
1% of the total cost of the critical, non-critical and Borrower-proposed repairs.

Should you have any questions, please contact the assigned Closing Coordinator for the project.

Keywords: 223(f), Application Fees, Mortgage Insurance Premium (MIP), Inspection Fee Amount

[Back to top](#)

Wire Transfer Confirmation for Payoff after Closing

The HUD Multifamily Insurance Operations Branch highly recommends wire transfer confirmation for payoff after closing in order to get timely processing of the refinances. For all Section 223(a)(7) loans, and those Section 223(f) that are paying off an FHA insured loan, please **submit the wire transfer confirmation for payoff within 24 hours after the Note is endorsed and distributed.** Please provide confirmation for payoff to the assigned ORCF Closing Coordinator and Mike Lawassani.

Please contact your assigned ORCF Closing Coordinator if you have any questions.

Keywords: Wire Transfers, 223(a)(7), 223(f)

[Back to top](#)



October 1, 2020



October 1, 2020

In This Update

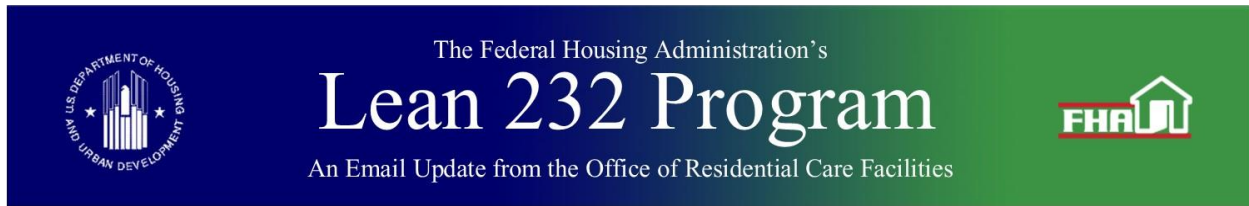
- Mortgagee Letter 2020-33 Published Extending Temporary Revisions to Underwriting Standard Processes for Third-Party and Lender Site Inspections

MORTGAGEE LETTER 2020-33 PUBLISHED EXTENDING TEMPORARY REVISIONS TO UNDERWRITING STANDARD PROCESSES FOR THIRD-PARTY AND LENDER SITE INSPECTIONS

The Office of Residential Care Facilities (ORCF) published Mortgagee Letter 2020-33 ([here](#)) on October 1, 2020, extending temporary revisions to underwriting standard processes for third-party and Lender site inspections as a result of the COVID-19 National Emergency previously detailed in ML 2020-15.

Keywords: COVID-19

[Back to top](#)



August 26, 2020

In This Update

- [Production Queue Assignments](#)
- [HUD Underwriting Queue Questions](#)
- [Portfolio Names and Numbers](#)
- [Updated Email Address on Lender Narrative for Requests to Release or Modify Original Loan Collateral \(form HUD-90030-ORCF\)](#)
- [FROM THE CLOSING CORNER](#)
 - [Correctly Identifying Section of the Act Code in Pay.gov](#)
 - [Closing Document Changes](#)

PRODUCTION QUEUE ASSIGNMENTS

As ORCF has presented in various industry meetings, below is the general order of assigning applications out of the Production Queues for underwriting review:

- Section 223(f) transactions below \$25M – **Assigned to either ORCF Underwriters (UW's) or Contract UW's, based on capacity:**
 1. Opportunity Zone applications, by application submission date
 2. Oldest application submission date
- Section 223(f) transactions over \$25M and all other loan types – **Assigned only to ORCF UW's; based on availability of UW capacity with specific loan type (i.e., \$25M+ transactions, construction transactions):**
 1. Section 223(a)7 applications, by application submission date
 2. Section 223(f) Opportunity Zone applications, by application submission date
 3. Oldest application submission date and available specialized UW capacity.

Exceptions:

- Applications that are part of a portfolio may be assigned as a group, based on Underwriter capacity. As a result, some applications may be assigned ahead of individual deals with earlier application submission dates.
- Applications that are taken off Temporary Hold are placed back in the queue based on the original application date, as agreed to with lenders, and may go ahead of other applications in the queue.
- ORCF reserves the right to assign applications in a different order as needed, based on circumstances such as specific application details or specific Underwriter capacity.

Keywords: *Application Processing*

[Back to top](#)

HUD UNDERWRITING QUEUE QUESTIONS

As a reminder, any questions regarding the HUD Underwriting Queues posted on Hud.gov should be directed to LeanThinking, rather than individual ORCF staff. LeanThinking will coordinate with the appropriate contacts within ORCF to provide responses.

Keywords: *Application Processing*

[Back to top](#)

PORTFOLIO NAMES AND NUMBERS

If a project is part of a portfolio, it requires a portfolio name. Lenders provide the portfolio name when an FHA Number Request is submitted*.

A portfolio number is also needed in order to complete FHA Number Requests.

If a project is part of an existing portfolio and the Lender does not know the portfolio name and/or portfolio number, this information can be requested through the FHA Number Request. Lenders should note the request and any related information in the comments box, or by submitting an email inquiry to LeanThinking.

Changes to portfolio names after an FHA Number has been issued require changes to multiple systems and may take a considerable amount of time to complete. ORCF requests that lenders identify their preferred portfolio name before an FHA Number is assigned to the portfolio.

* Portfolio names are added to the name of the project for workload tracking in HUD systems so that the individual projects in the portfolio may be tracked together. This naming convention does not impact the legal name of the project.

Keywords: *Portfolios*

[Back to top](#)

UPDATED EMAIL ADDRESS ON LENDER NARRATIVE FOR REQUESTS TO RELEASE OR MODIFY ORIGINAL LOAN COLLATERAL (FORM HUD-90030-ORCF)

ORCF is in the process of updating the email address in the Environmental section of the *Lender Narrative for Requests to Release or Modify Original Loan Collateral (form HUD-90030-ORCF)*. Please use OHPTribeNotice@hud.gov for submission of tribal notification documents. For further information, please see the associated Lender Checklist: *Requests to Release or Modify Original Loan Collateral Checklist* on the Loan Servicing website ([here](#)).

Keywords: *Change of Collateral*

[Back to top](#)

FROM THE CLOSING CORNER

Correctly Identifying Section of the Act Code in Pay.gov

As stated in the June 26, 2020, Email Blast, it is crucial to use the correct Section of the Act (SOA) Code at the beginning of the process. Please ensure that the correct Program Type is used (e.g. SNF vs. ALF vs. Board & Care; 223(a)(7) vs. 223(f) vs. New Construction, etc.). Below are key times during the application process to double check the SOA Code to ensure it is correct:

- ✓ Application/Exam Fee at Firm Application Submission – Check before sending the Application (Exam) Fee to Pay.gov
- ✓ MIP Fee at Closing – Check before sending the MIP Fee to Pay.gov for Closing
- ✓ Inspection Fee, if applicable, at Closing – Check before sending the Inspection Fee to Pay.gov for Closing

(Note: If you experience a problem with a Pay.gov payment, it can be canceled within 24 hours if you contact pay.gov directly. Contact the Pay.gov helpline via phone at (800) 624-1373).

For a complete list of **SOA Codes** under the Section 232 Program, please refer to the list below:

(Note: If the project is a mixed-use facility, the type of project will be determined by the highest number of underwritten bed type and the SOA Code to be used.)

Updated August 2020

232 Health Care SoA Matrix

Find the row & column that applies to the loan you are endorsing.

Use the SoA at that row & column intersection.

Purpose of Loan in Process	Nursing / ICF	Asst'd Living	Board & Care
232 New Const/Sub Rehab (NC/SR)	RNF	RNL	RNT
223f Refi/ Purchase	RNQ	RNA	RNB
223a7 Refi of now/ formerly coinsured 232	REO	REO	REO
223a7 Refi of 223f	RFP	RFQ	RFR
223a7 Refi of 232 NC/SR	REQ	REL	REM
223a7 Refi of a 241a on any facility type	REU	REU	REU
223a7 Refi of Operating Loss on any facility type	RFB	RFB	RFB
241(a) Improvement/Addition on any facility type	ZSQ	ZSA	ZSC
Note: If 241a is for additions, use column for type of units being added.			
For other mixed use projects, select column for the predominant use.			
223(d) 2yr Operating Loss on any facility type	XTQ	XTA	XTC
232(i) Fire Safety Equipment	RNS	RNS	RNS

Keywords: Section of the Act, Pay.gov

[Back to top](#)

Closing Document Changes

As a reminder, all changes to the closing documents must be approved by HUD and identified in the memo to form HUD Request for Endorsement, HUD-92023-ORCF. Section IC9 of the Request for Endorsement provides:

Lender certifies that all HUD form closing documents submitted to HUD in connection with this transaction (with the exception of the Opinion by Counsel to Borrower and the accompanying Certification by Borrower) conform to those documents Lender obtained from HUD and such documents have not been changed or modified in any manner except as suitably identified and approved by HUD as evidenced by the Closing Documents Memorandum attached as Exhibit (XX). It is understood that changes and modifications do not include filling in blanks, attaching exhibits or riders, deleting inapplicable provisions or making changes authorized by Program Obligations. Lender further certifies that all closing documents submitted to and accepted by HUD at closing in connection with this transaction are listed in the Closing Documents Memorandum attached as Exhibit (XX).

The requirement for the memo of approved changes to the Request for Endorsement is to maintain consistency in the approval of revisions made to the closing documents as well as to ensure that the approved changes are consistent within a portfolio, a subject matter, or the transactional history of a project where the original loan is refinanced with a new HUD-insured loan. The memo required by the Request for Endorsement is also essential where the revisions approved for one deal are cited as precedent for

approving proposed changes to another deal. The memo is intended to create a record that efficiently tracks the revisions approved in each deal in one document certified by the lender.

The memorandum to the Request for Endorsement should identify the changes by listing the document title and section containing the change(s) and language redlined against the HUD form that shows how the redlined language deviates from the HUD form language.

For example:

Borrower's Regulatory Agreement, Section 11, Property Operation/Encumbrances

(h) Borrower shall notify HUD of any litigation proceeding filed against Borrower or Principals, Operator relating to the Healthcare Facility, the Healthcare Facility, or the Project, or any litigation proceeding filed by Borrower, pursuant to Program Obligations.

Keywords: Closings

[Back to top](#)





August 13, 2020

In This Update

- Updated COVID-19 Questions and Answers for External Stakeholders
- Mortgagee Letter 2020-25 Published Extending Temporary Revisions to Underwriting Standard Processes for Third-Party and Lender Site Inspections

UPDATED COVID-19 QUESTIONS AND ANSWERS FOR EXTERNAL STAKEHOLDERS

The Office of Residential Care Facilities (ORCF) updated the *COVID-19 Questions and Answers (Q&A) for External Stakeholders* ([here](#)) on August 12, 2020. ORCF will continue to update this document as needed and asks stakeholders to check our website for updates. The Federal Housing Administration (FHA) encourages all stakeholders to provide input by submitting questions to LeanThinking@hud.gov.

Keywords: COVID-19

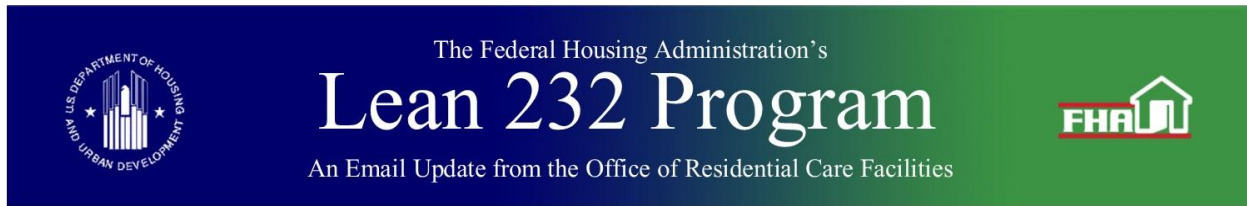
[Back to top](#)

MORTGAGEE LETTER 2020-25 PUBLISHED EXTENDING TEMPORARY REVISIONS TO UNDERWRITING STANDARD PROCESSES FOR THIRD-PARTY AND LENDER SITE INSPECTIONS

The Office of Residential Care Facilities (ORCF) published Mortgagee Letter 2020-25 ([here](#)) on July 31, 2020, extending temporary revisions to underwriting standard processes for third-party and Lender site inspections as a result of the COVID-19 National Emergency previously detailed in ML 2020-15.

Keywords: COVID-19

[Back to top](#)



June 26, 2020

In This Update

- [Federal Housing Administration \(FHA\): Section 232 Healthcare Facility Insurance Program – Updating Section 232 Program Regulations for Memory Care Residents \(FR 6022-F-02\) Final Rule Published June 26, 2020](#)
- [Reminder to Carefully Review Pay.gov Submission Data](#)
- [Clarification on Professional Liability Insurance Reviews](#)
- [All Asset Management Transactions Must Be Submitted Through the Healthcare Portal Beginning September 1, 2020](#)
- [FROM THE CLOSING CORNER](#)
 - [Key Items When Submitting a Closing Package to ORCF](#)
 - [Reminders for Scheduling a Closing Date](#)

FEDERAL HOUSING ADMINISTRATION (FHA): SECTION 232 HEALTHCARE FACILITY INSURANCE PROGRAM – UPDATING SECTION 232 PROGRAM REGULATIONS FOR MEMORY CARE RESIDENTS (FR 6022-F-02) FINAL RULE PUBLISHED JUNE 26, 2020

A Final Rule, “Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program – Updating Section 232 Program Regulations for Memory Care Residents,” was published on June 26, 2020 (FR 6022-F-02). This Final Rule updates the requirements for the location of bathrooms in existing board and care homes and assisted living facilities providing memory care. The Final Rule is applicable to projects financed under Section 232 pursuant to Section 223(f) or 223(a)(7) of the National Housing Act. This Final Rule follows publication of a September 13, 2019 Proposed Rule and takes into consideration the public comments received on the Proposed Rule. These regulatory updates will improve the Section 232 Program’s availability for insuring certain existing facilities whose bathroom configuration meets the needs of their memory care residents but which have to date not comported with the applicable regulatory provision. This Final Rule is effective July 27, 2020. Please see the final rule ([here](#)) for more details.

Keywords: 24 CFR 232.7, Bathroom Waivers

[Back to top](#)

REMINDER TO CAREFULLY REVIEW PAY.GOV SUBMISSION DATA

Since the April 30, 2020, Email Blast regarding reviewing Pay.gov submission data, HUD recorded a 25% increase in errors in the information provided with the Pay.gov fee/receipt submissions. Please be sure to carefully review your Pay.gov submissions before hitting “submit.” Examples from the April 30, 2020 Email Blast are included again here as a reminder:

If the “Section of the Act” is entered as new construction when it is actually a 223(f) refinance, or if a skilled nursing facility is listed as an assisted living facility, it will create an error in the system that requires a back-end correction. We are asking that careful attention be paid to each piece of data provided, including the following:

- FHA #
- Project Name
- Correct Selection of Program (e.g., paid to the Office of Healthcare Programs rather than Multifamily)
- Correct Fee Type (e.g., application vs. inspection vs. MIP vs. TPA, etc.)
- Correct Program Type (e.g., SNF vs. ALF vs. Board & Care; 223(a)(7) vs. 223(f) vs. New Construction, etc.)

Keywords: Pay.gov

[Back to top](#)

CLARIFICATION ON PROFESSIONAL LIABILITY INSURANCE REVIEWS

Handbook 4232.1, Section II, Appendix 14.1.A provides ORCF’s requirements for Professional Liability Insurance (PLI) Reviews. ORCF has developed sample tools to assist lenders with submissions related to this topic.

- **HUD-2 ORCF Waiver Requests:** ORCF has developed a sample tool to assist lenders with completing PLI waiver requests ([here](#)).
- **50+ PLI Reviews:** ORCF has developed a sample lender narrative discussion template ([here](#)) for projects requiring a 50+ PLI review.

Lenders are reminded that if the Professional Liability and General Liability Insurance policies are combined, a waiver of Handbook 4232.1, Section II, Chapter 14.6.C may also be required.

Keywords: Professional Liability Insurance

[Back to top](#)

ALL ASSET MANAGEMENT TRANSACTIONS MUST BE SUBMITTED THROUGH THE HEALTHCARE PORTAL BEGINNING SEPTEMBER 1, 2020

ORCF announced the roll-out of the 232 Healthcare Portal in the September 13, 2018 Email Blast ([here](#)) that required Production applications to be submitted through the Healthcare Portal by December 1, 2018. Currently, the majority of Asset Management transactions are submitted through the Portal. Effective September 1, 2020, ORCF will no longer accept non-Portal submissions for Asset Management transactions.

Keywords: *Asset Management, Portal*

[Back to top](#)

FROM THE CLOSING CORNER

Key Items When Submitting a Closing Package to ORCF

Please be reminded of the following when submitting a closing package to ORCF:

1. As stated in the August 28, 2019 and December 18, 2019 Email Blasts, all Firm Commitments that were underwritten in the Portal must be closed using the Portal. If there are issues, please contact the assigned Closing Coordinator.
2. After the assigned HUD Attorney has received a complete draft closing package, a complete draft closer package should be submitted through the Portal. The current Section 232/223(f) Closer Checklist can be found ([here](#)), and the current 232/223(a)(7) Closer Checklist can be found ([here](#)). After this has been done, a request for the assignment of an ORCF Closer should be sent to the Closer Mailbox at ORCFCloser@hud.gov.
3. To facilitate timely processing, the request should include any known circumstances that influence the closing date. Please also include the name of the HUD attorney that received the package and the date it was submitted. The Lender will be notified by email when an ORCF Closer has been assigned.
4. If the draft closer package is incomplete or substantially incorrect, the assigned Closer's review may be postponed until a complete/acceptable package has been submitted to the Portal.

Please note that a complete package includes:

- Critical repair documentation and the Borrower's signed and dated Critical Repair Certification (HUD-91118-ORCF);

- Signed and dated Lender's Certification of Insurance (HUD-92435-ORCF); and
 - Documents required to satisfy **all** special conditions.
5. If any non-critical repairs are completed prior to closing documentation, the Borrower's signed and dated HUD-92117-ORCF must be submitted as early as possible.
 6. For Section 223(f) projects, the final draft Cost Certification (HUD-2205A-ORCF) is due immediately after a closing date is agreed to by ORCF Closer, HUD Attorney and Lender, and must be provided **no less than five (5) business days prior to closing.**
 7. The individual signing closing documents must be authorized to sign on behalf of the entity; the HUD attorney will confirm that organizational documents include an acceptable resolution authorizing each individual signatory.

Keywords: *ORCF Closer Packages, Signing Closing Documents; Closer Assignment*

[Back to top](#)

Reminders for Scheduling a Closing Date

A **tentative** closing will be scheduled by the ORCF closer and HUD Attorney taking into consideration:

1. The acceptability of required exhibits;
2. The need to allow three (3) business days for HUD to sign and return documents after authorization has been provided; and
3. The number of days needed for pre-recording.

The Closing date will not be confirmed (set/finalized) until all ORCF and HUD Attorney comments have been satisfied.

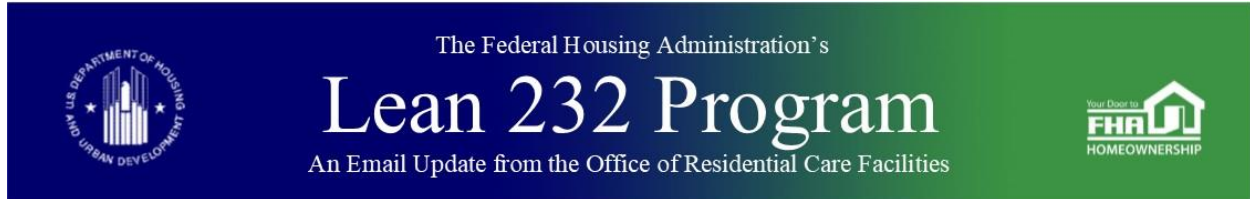
Please keep in mind that the closing will be postponed if the complete and acceptable closing package is not delivered to the HUD Attorney by the established deadline.

Keywords: *Closings*

[Back to top](#)



June 1, 2020



June 1, 2020

MORTGAGEE LETTER 2020-15 PUBLISHED EXTENDING TEMPORARY REVISIONS TO UNDERWRITING STANDARD PROCESSES FOR THIRD-PARTY AND LENDER SITE INSPECTIONS.

The Office of Residential Care Facilities (ORCF) published Mortgagee Letter 2020-15 ([here](#)) dated May 28, 2020, extending temporary revisions to underwriting standard processes for third-party and Lender site inspections as a result of the COVID-19 National Emergency previously detailed in ML 2020-10.

Keywords: COVID-19

[Back to top](#)



April 30, 2020

In This Update

- The Office of Residential Care Facilities (ORCF) and the COVID-19 Pandemic
- Revised Production Application Checklists
- Revised Loan Modification Checklist
- Request for Review of Pay.gov Submission Data
- Consideration of Business Income Coverage Provisions of Property Insurance Policies in light of COVID-19
- ORCF Asset Management Reminder about Email Blasts
- ORCF Asset Management Risk Monitoring Routine Launch
- Reminding Section 232 Lenders/Service Providers of Their Obligations
- ORCF Asset Management Update on Operator Financial Submissions
- Enhanced Resources for Notifying ORCF of Action Plans

THE OFFICE OF RESIDENTIAL CARE FACILITIES (ORCF) AND THE COVID-19 PANDEMIC

The Office of Residential Care Facilities (ORCF) has worked closely with our external stakeholders to address Section 232 program challenges brought on by the COVID-19 pandemic. Over the past month, ORCF has addressed several policy and operational issues and published them in the *COVID-19 Questions and Answers (Q&A) for External Stakeholders* ([here](#)). ORCF has also published Mortgagee Letter 2020-10 ([here](#)) regarding temporary revisions to underwriting standard processes for third-party and lender site inspections. We encourage you to continue to check back to our Section 232 Program website ([here](#)) for the latest information.

Keywords: COVID-19

[Back to top](#)

REVISED PRODUCTION APPLICATION CHECKLISTS

ORCF has revised the Production Application Checklists to reflect the recently approved Paperwork Reduction Act (PRA) documents. New checklists can be found ([here](#)). Lenders should use the new checklists for new application submissions.

Keywords: *Checklists*

[Back to top](#)

REVISED LOAN MODIFICATION CHECKLIST

ORCF has revised the Loan Modification Checklist to reflect the recently approved Paperwork Reduction Act (PRA) documents. The new checklist can be found ([here](#)). Borrowers should use the new checklist for new loan modification applications.

Keywords: *Checklists*

[Back to top](#)

REQUEST FOR REVIEW OF PAY.GOV SUBMISSION DATA

HUD has been experiencing a high rate of errors in the information provided with the Pay.gov fee/receipt submissions. For example, if the “Section of the Act” is entered as new construction when it is actually a 223(f) refinance, or if a skilled nursing facility is listed as an assisted living facility, it will create an error in the system that requires a back-end correction. We are asking that careful attention be paid to each piece of data provided, including the following:

- FHA #
- Project Name
- Correct selection of Program (e.g. paid to the Office of Healthcare Programs rather than Multifamily)
- Correct fee type (e.g. application vs. inspection vs. MIP vs. TPA, etc.)
- Correct program type (e.g. SNF vs. ALF vs. Board & Care; 223(a)(7) vs. 223(f) vs. New Construction, etc.)

Keywords: *Pay.gov*

[Back to top](#)

CONSIDERATION OF BUSINESS INCOME COVERAGE PROVISIONS OF PROPERTY INSURANCE POLICIES IN LIGHT OF COVID-19

Questions have arisen regarding whether business interruption insurance or related coverage may cover certain losses arising from the COVID-19 national emergency. Relevant language among property insurance policies can vary

significantly in this respect. However, with respect to projects experiencing a COVID-19-related substantial reduction in NOI, the lender servicer should carefully consider this matter and should engage the insured in investigating whether the particular applicable policy, in light of pertinent exclusions and/or endorsements, does provide relevant coverage. If some coverage is potentially available, then pursuing the coverage, though a business decision, could be an important component of an action plan encompassed in HUD-93334-ORCF, Servicer's Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy, Section 232 ([here](#)), and/or HUD-Form 93335-ORCF, Operator's Notification to HUD of Threats to Permits and Approvals ([here](#)). Information regarding Section 232 property and liability insurance coverages is set forth in ORCF's Handbook 4232.1, Section II, Chapter 14 ([here](#)).

Keywords: *Insurance*

[Back to top](#)

ORCF ASSET MANAGEMENT REMINDER ABOUT EMAIL BLASTS

This is a reminder to our external stakeholders that you can sign-up to receive future Lean/232 Email Blasts online ([here](#)). We encourage all 232 Lean Lenders to ensure their servicing and asset management staff sign up for these updates. With the roll-out of the ORCF Asset Management Risk Monitoring Routine, we will be communicating with our servicing lender partners more frequently through this channel.

Keywords: *Email Blasts*

[Back to top](#)

ORCF ASSET MANAGEMENT RISK MONITORING ROUTINE LAUNCH

As referenced in the February 26, 2020 Email Blast, ORCF Asset Management is rolling out its new Risk Monitoring Routine. In the coming weeks, ORCF will be sending a list of those projects with potential risk indicators in each servicing lender's portfolio to contacts at each lender. This communication will be sent from the shared mailbox, 232RiskMonitoring@hud.gov, and will include all assigned ORCF Account Executives (and supervising Workload Managers).

Servicing Lenders will be asked to provide a response to the assigned ORCF Account Executive within **10 business days**, unless existing guidance prescribes a faster timeframe. The lender's response should either: 1) validate the risks cited with the submission of a complete Servicer's Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy (Form HUD-93334-ORCF), or 2) inform the AE that the risk is unsubstantiated, and provide justification and documentation explaining why the risk indicated is invalid.

For those risks that are verified, Servicers/Lenders will be expected to work with their Borrowers and Operators to develop an Action Plan, which the Servicers/Lenders will

provide to HUD with the Form HUD-93334-ORCF (as an addendum thereto should the project participants need additional time). Such addendums should be submitted no later than **30 business days** after the date of the Risk Monitoring Routine email.

Keywords: *Asset Management, Risk Monitoring*

[Back to top](#)

REMINDING SECTION 232 LENDERS/SERVICERS OF THEIR OBLIGATIONS

The Office of Residential Care Facilities (ORCF) is responsible for asset and risk management of all Section 232 insured projects. Lenders/Servicers also provide routine reviews of these projects that include analyses of quarterly and annual financial performance and reporting when a project's performance is at risk to the assigned ORCF Account Executive (AE).

All Operators are required by 24 CFR Section 232.1015 to provide prompt notification to HUD and the Lender/Servicer of circumstances placing the value of security at risk, as fully delineated in that CFR provision ([link](#)). Although that provision applies to Operators of any Section 232 facility, the requirement is further set forth in Paragraph 25(d) of the Borrower Regulatory Agreement (92466-ORCF).

In addition to their routine reviews, Servicers/Lenders must also ensure that HUD has been made aware of any and all circumstances that place the value of security at risk. The required form for this notification is the Servicer's Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy (Form HUD-93334-ORCF).

Keywords: *Asset Management, Servicing Lender Obligations*

[Back to top](#)

ORCF ASSET MANAGEMENT UPDATE ON OPERATOR FINANCIAL SUBMISSIONS

As ORCF Asset Management introduces its risk monitoring routine, it would like to take this opportunity to remind servicing lenders of their obligations in reporting quarterly operator financial data via the 232 Healthcare Portal.

ORCF acknowledges the varied state of Operator-prepared quarterly financial statements. Here are some suggestions and best practices for lenders to consider when making adjustments for each property's financial calculations prior to submitting through the 232 Healthcare Portal, based on ORCF Asset Management's review of lender portal submissions:

- **Actual vs. Normalized:** To ensure accurate portal calculations, Lenders should report actual figures for a given reporting period (3, 6, 9 or 12 months), rather than normalizing a given reporting period's figures
- **Identity-of-Interest Management Fees:** Management fees are included in the Total Operating Expenses calculation lenders submit to the 232 Healthcare Portal. Handbook 4232.1 Section II, Chapter 8.7 A 5 notes that these fees "must be clearly designated in the management agreement, must be computed and paid in accordance with HUD Program Obligation, and must be approved by ORCF." As such, we suggest that Identity-of-Interest Management Fees are included in the Total Operating Expenses to ensure an accurate picture of an operator's cash flow is reflected in the 232 Healthcare Portal.
- **Debt Service Coverage Ratios (DSCR):** DSCRs calculated in the 232 Healthcare Portal are cumulative for a given fiscal year, meaning that the reported DSCR covers the number of months in the given reporting period (3, 6, 9 or 12 months). Lenders should take note that ORCF's internal DSCR calculations focus on the trailing 12 month (T12) average DSCR, regardless of the point in time it is calculated.

The following bullets reiterate and clarify the information that can be found in the "Definitions and Data Format" tab of the "Batch File Upload Spreadsheet" found on ORCF's 232 Healthcare Portal (here):

- **Total Operating Revenues:** This is the income derived from sources related to a facility's everyday business operations and other income that is related to the services provided to the residents.
 - **What this includes:** Common operating incomes sources include private pay, private insurance, Medicare, Medicaid, VA, etc. Other income includes extra services provided to the residents (e.g. barbering/beautician services, extra meals, etc.)
 - **What this excludes:** Interest income, one-time gains, such as grants, revenue derived from selling assets, etc.
- **Total Operating Expenses:** These are the expenditures that are incurred as a result of performing normal operations directly related to the facility.
 - **What this includes:** For residential healthcare facilities, cash operating expenses typically consist of: General & Administrative, Payroll Taxes & Benefits, Resident Care, Food Service, Activities, Housekeeping/Laundry, Plant Operations, Utilities, Marketing/Promotions and Insurance (property & liability). This also includes: Bad Debt Expense, Real Estate Taxes, Management Fees and the required Reserve for Replacement (R4R) deposit
 - **What this excludes:** Non-cash operating expenses, such as depreciation and amortization, rent or lease expenses and capital expenditures are **excluded** from operating expenses.

- **FHA Insured Principal + Interest Payment:** The total amount paid in a given financial reporting period should be reported cumulatively (e.g. for an operator with a 12/31 FY end date, the quarter ending 3/31 would include 3 months of payments, the quarter ending 6/30 would include 6 months of payments, and so on).
- **FHA Mortgage Insurance Premium (MIP):** Although MIP is paid in advance for one year, the lender should report MIP cumulatively (e.g. $\frac{1}{4}$ of the annual payment should be reported for 3 months of reporting, $\frac{1}{2}$ of the annual payment should be reported for 6 months of reporting, and so on).
- **Actual Number of Resident Days:** 1 resident day = one day that one person resided in the facility and/or paid the daily rate for rent and services.

Keywords: *Risk Notification, Operator Financial Reporting*

[Back to top](#)

ENHANCED RESOURCES FOR NOTIFYING ORCF OF ACTION PLANS

In the February 26, 2020 Email Blast, ORCF Asset Management provided some additional guidance to its stakeholders on the expected components of a corrective action plan for improving verified deficiencies. These include: a root cause analysis and an action plan with measurable goals, a timeline for completion and a schedule for ensuring ongoing monitoring of an action plan, and a mechanism for revising a plan if the established plan is not proving effective.

In order to assist lenders and servicers in their efforts to work with borrowers and operators to establish effective corrective action plans, ORCF Asset Management collaborated with members of an HMAC Working Group and the MBA Servicers' Subcommittee to develop some resources for Lenders.

Please find on ORCF's Loan Servicing Guidance Home Page ([here](#)), under "Documents for Notifying ORCF of Action Plans" the following optional resources:

- Sample ORCF Root Cause & Action Plan ([here](#))
- Sample ORCF Action Plan ([here](#))

ORCF commits to continuing to refine these sources, based on the feedback servicing lenders provide.

Keywords: *Risk Notification, Operator Financial Reporting*

[Back to top](#)

April 30, 2020



April 10, 2020



April 10, 2020

**MORTGAGEE LETTER 2020-10 PUBLISHED REGARDING
TEMPORARY REVISIONS TO UNDERWRITING STANDARD
PROCESSES FOR THIRD-PARTY AND LENDER SITE INSPECTIONS.**

The Office of Residential Care Facilities (ORCF) today published Mortgagee Letter 2020-10 ([here](#)) which provides details for temporary revisions to underwriting standard processes for third-party and Lender site inspections as a result of the COVID-19 National Emergency.

Keywords: COVID-19

April 6, 2020



April 6, 2020

UPDATED COVID-19 QUESTIONS AND ANSWERS FOR EXTERNAL STAKEHOLDERS

The Office of Residential Care Facilities (ORCF) has updated the *COVID-19 Questions and Answers (Q&A) for External Stakeholders* ([here](#)). ORCF will continue to update this document as needed and ask stakeholders to check our website for updates. The Federal Housing Administration (FHA) encourages all stakeholders to provide input by submitting questions to LeanThinking@hud.gov.

Keywords: COVID-19

March 23, 2020



March 23, 2020

GLOBAL 30-DAY EXTENSION FOR FILING BORROWER ENTITY SUBMISSIONS WITH A DUE DATE OF 3/31/20 AND 4/30/20, THROUGH HUD'S FINANCIAL ASSESSMENT SUBSYSTEM

Due to possible lender business disruptions as a result of COVID-19, HUD has issued approval for a 30-day extension of all borrower entity submissions having due dates of 3/31/20 and 4/30/20, through HUD's Financial Assessment Subsystem (FASSUB). Such financial statements with a due date of 3/31/20 will now be due on 4/30/20, and those with a due date of 4/30/20 will now be due on 5/30/20. This applies to **all** borrower entity FAAS submissions with those due dates, both audited and unaudited.

This has been added to the Office of Healthcare Programs COVID-19 Questions and Answers for External Stakeholders ([here](#)).

Keywords: *Financial Assessment Subsystem, FAASUB*

March 13, 2020



March 13, 2020

Dear Office of Healthcare Program Stakeholders:

To assist Section 232 and Section 242 program participants regarding property management and oversight as they relate to the Coronavirus (COVID-19), today we published a “Questions and Answers” document that addresses various issues, including answers to questions we have received. The Q&A is now available on our Office of Healthcare Programs [web page \[link\]](#). We will continue to update this document as needed and ask stakeholders to check our website for updates.

Thank you,

Roger Lukoff
Deputy Assistant Secretary
Office of Healthcare Programs

Keywords: COVID-19



March 3, 2020

OFFICE OF HEALTHCARE PROGRAMS

Earlier this week, HUD Secretary Dr. Ben Carson was added to the White House Coronavirus Task Force. All federal agencies are working aggressively on a multi-layered, cross-agency public health response to this evolving situation.

While the risk of infections for Americans remains low, we are encouraging Section 232 and Section 242 lenders to make the information below available to those residential care facilities and hospitals that you are doing business with, and your employees:

- [What you need to know about Coronavirus Disease 2019 \(COVID-19\)](#)
- [Stop the Spread of Germs](#)
- [Symptoms of Coronavirus Disease 2019](#)
- [What to do if you are sick with coronavirus disease 2019 \(COVID-19\)](#)

Stakeholders are reminded to ensure that their responses remain faithful to obligations under the Constitution, Fair Housing Act and related regulations. Exigencies associated with important and timely response to issues surrounding COVID-19 are not the basis for unlawful discrimination based on race, color, religion, national origin, sex, disability or familial status.

Keywords: COVID-19

[Back to top](#)



February 26, 2020

In This Update

- Addressing Quality of Care Issues in Application
- Guidance on Operating Lease Escalators
- Appraisal Reminders
- Section 106 Historic Preservation Reviews
- New Environmental Rule Conforming the Acceptable Separation Distance (ASD) Standards for Propane Tanks to Industry Standards
- Submitting Environmental Reviews to ORCF in HEROS
- LEAN Thinking Communication With Loan Applications
- FHA Number Requests
- Reminder - CMS Provider Number
- ORCF Asset Management Risk Monitoring Routine
- Revised Asset Management Checklists Pursuant to Healthcare Portal Updates
- FROM THE CLOSING CORNER
 - Last Minute Issues Prior to Closing – Procedures for Newly Discovered Litigation
 - Reminder for Section 232 New Construction Contracts

ADDRESSING QUALITY OF CARE ISSUES IN APPLICATION

As noted in the December 18, 2019 Email Blast ([here](#)), failure to analyze and address ongoing survey/quality of care issues was one of the areas in FY 2019 in which additional lender due diligence was needed on some transactions. Quality of care should be thoroughly addressed in the Lender Narrative, a key component of which is the Risk Management Program section.

An analysis of a facility's implementation of recently effective CMS requirements is highly relevant to addressing quality of care issues. In particular, the Quality Assurance

and Performance Improvement (QAPI) plan requirement section of the *CMS Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities* 10/4/2016 final rule ([here](#)) became effective on November 29, 2019. This rule requires all Medicare and Medicaid funded LTC facilities to develop, implement, and maintain an effective comprehensive, data-driven QAPI program that focuses on systems and outcomes. The final rule also includes requirements for Training, Compliance and Ethics, and Infection Control.

As noted in Handbook 4232.1, Section II, Chapter 8.8 ([here](#)), “The Lender is responsible for reviewing the qualifications of the proposed Operator and/or Management Agent to assess their ability to operate the project effectively and in compliance with ORCF requirements.” QAPI plans may impact staffing and staffing levels can heavily impact overall star ratings. When evaluating the operator’s capacity, Lenders should thus consider whether staffing levels, experience and roles are commensurate with the QAPI requirements and any needs identified in the QAPI plans.

(Quality of Care was also the subject of Email Blasts on 12/19/2018 [here](#) and 2/29/16 [here](#).)

Keywords: *Quality of Care, Risk Management Programs*

[Back to top](#)

GUIDANCE ON OPERATING LEASE ESCALATORS

Lease payment escalators included in the operating leases with third-party operators are an important operational risk factor. As such, Lenders should analyze this risk as part of the Lease Payment Analysis for the applicable underwriting Lender Narrative. In that regard, Handbook 4232.1, Section II, Chapter 8.6 ([here](#)) and excerpted below, outlines the basic ORCF Operating Lease Requirements, (as further detailed in forms HUD 91116-ORCF and 91116-ORCF). As the handbook emphasizes, the lease payments must be sufficient to “(1) *enable the Borrower to meet debt service and impound requirements and* (2) enable the Operator to properly maintain the project and cover operating expenses.”

When a facility’s performance is placing the facility at financial or other operational risk, notification and action plan requirements apply. Form HUD 93334-ORCF, Servicer’s Risk Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy ([here](#)) and form HUD 93335-ORCF, Operator’s Notification to HUD of Threats to Permits and Approvals ([here](#)) outline requirements for addressing situations where the financial viability of the facility is at substantial and imminent risk. Any consideration of bankruptcy or of efforts to renegotiate substantive lease terms trigger the formal notification and action plan requirements, and the servicing Lender in such instances should be timely in engaging the assigned Account Executive.

Keywords: *Operating Leases, Operator and Management Agent Analysis, Asset Management, Financial Operations, State Risk*

[Back to top](#)

APPRAISAL REMINDERS

ORCF Appraisers would like to remind Lenders of the following when submitting appraisals with their applications:

- Sales Comparables - every attempt should be made to find the most recent and similar sales comparables, typically within the same state. ORCF Appraisal Guidelines require that the sales selected for the Sales Comparison Approach should be those that provide the most relevant and meaningful insight into the property's value. When the sales comparables are old, require substantial adjustments, or are not relevant to the appraisal analysis, additional data or explanations may be required and slow down the review process.
- Sales History – please fully analyze the subject's sales history. Failing to do this is a common deficiency. While not a requirement, ORCF considers it a best practice to include the Subject's sale as a comparable within the Sales Comparison Approach.
- Initial Operating Deficit Escrow Calculation Template - please remember to use the most recent version of the Initial Operating Deficit Escrow Calculation Template (HUD-91128-ORCF), found ([here](#)). Please do not convert the file into pdf, but submit it in its original Excel format as provided.
- Demand analyses for new construction applications of assisted living, memory care, and independent living - the monthly rents used in the target income calculations should be based on average monthly rents, not minimum rents. In addition, the anticipated care fees should be included in the monthly rent determinations for the target income calculations.
- Decision Circuit - when filling in the Revenue tab, and Historical Expense tab, the columns to the left of the appraisal's projections (shaded blue) should be filled out with the same time periods that were used in the appraisal. Additional periods not included in the appraisal, such as updated financial periods, should be entered in the "Optional Reporting Periods" columns to the right of the Lender's Debt Service Coverage projections (shaded yellow).
- Certified Financials - the application needs to include certified financials that match those supplied to the appraiser. Without them, the review appraiser cannot reconcile the history shown in the appraisal to the certified financials. This does not mean that certified financials will not also be required for updated financials that occur after the appraisal.

Keywords: *Appraisals*

[Back to top](#)

SECTION 106 HISTORIC PRESERVATION REVIEWS

Lenders and third-party consultants are reminded of the importance of submitting complete information to the State Historic Preservation Officer (SHPO) for use in the Section 106 consultation. In particular, please ensure that you are specific about the scope of work that is being completed as part of the FHA-insured project, and include a map, photos, and project plans as applicable (Please see Handbook 4232.1, Section II, Chapter 7.E.5). Please check the SHPO's website prior to submitting a request for consultation as some states have their own process and submission requirements. While SHPOs have 30 days to review a submission, the submission must be complete and correct or the SHPO may require additional information which can add to the review time.

Keywords: *Section 106, Historic Preservation, SHPO, Application Processing*

[Back to top](#)

NEW ENVIRONMENTAL RULE CONFORMING THE ACCEPTABLE SEPARATION DISTANCE (ASD) STANDARDS FOR PROPANE TANKS TO INDUSTRY STANDARDS

On January 24th, 2020, HUD published a final rule revising 24 CFR Part 51 Subpart C to exempt liquefied petroleum gas or propane (LPG/propane) containers up to 1,000 gallons that comply with industry standard, National Fire Protection Association (NFPA) Code 58 (Liquefied Petroleum Gas Code) (2017). This final rule is effective on February 24th, 2020 and is available ([here](#)). ORCF environmental reviews will incorporate the new standards in the evaluation process for propane aboveground storage tanks (ASTs).

Mortgage insurance applications for projects involving propane ASTs that qualify for the exemption should include evidence of compliance with NFPA 58 in *Section 2: Third-Party Reports*. Documentation of compliance with NFPA 58, including the NFPA separation distance requirements noted below, will satisfy the Handbook requirements for fire safety conformance letters and ASD calculations.

Copied below is the revision in 24 CFR Part 51.201 which removes propane ASTs from the ASD requirements if they comply with NFPA Code 58 and do not exceed 1,000 gallons water capacity.

“§ 51.201 Definitions.

* * * * *

Hazard—means any stationary container which stores, handles, or processes hazardous substances of an explosive or fire prone nature. The term “hazard” does not include:

(5) Containers used to hold liquefied petroleum gas with a volumetric capacity not to exceed 1,000 gallons water capacity, if they comply with National Fire Protection Association (NFPA) 58.”

As stated in the rule’s Supplementary Information, “this rule does not remove all safe distance requirements for LPG containers sited near HUD assisted projects. All tanks exempted from HUD’s ASD requirements under this rule must be fully compliant with NFPA (2017) standards, including NFPA separation distance requirements. Tanks locations must meet a separation distance between the container and important buildings ... or line of adjoining property that can be built upon, in accordance with the NFPA 58. Tanks between 125 and 500 gallons must be at least 10 feet apart from important buildings or property lines of adjoining property that can be built upon, while tanks between 501 and 1,000 gallons must be at least 25 feet apart. Under NFPA 58 and this rule’s revision of 24 CFR part 51, tanks under 125 gallons would not require a separation distance”.

HUD’s Office of Environment and Energy has issued Fact Sheet #H1, *Hazardous Operations – FR-6054-F-02 Conforming the Acceptable Separation Distance (ASD) Standards for Residential Propane Tanks to Industry Standards*, which is available on HUD Exchange ([here](#)).

Keywords: *Environmental, Propane, NFPA, ASD*

[Back to top](#)

SUBMITTING ENVIRONMENTAL REVIEWS TO ORCF IN HEROS

Environmental reviews that are prepared by third-party consultants in the HUD Environmental Review Online System (HEROS) may now be voluntarily submitted to ORCF for Section 232 mortgage insurance applications. ORCF will use HEROS submissions for assistance with processing of its environmental reviews; however, ORCF remains responsible for independently evaluating the information supplied in HEROS, supplementing that information as needed, and making the required environmental findings.

The HEROS review should be assigned to ORCF at the time of, or shortly before, the application’s submission to HUD. In addition, HEROS reviews that have been prepared for applications that are currently in the ORCF processing queue may be submitted at this time.

Upon approval by the Lender, the consultant should submit the HEROS review to ORCF by using the “Assign Review” feature and then selecting Wayne Harris as the assignee. ***Please do not contact Wayne Harris regarding HEROS; his name is only used to store the HEROS submissions until an environmental reviewer is assigned to the project.*** Questions regarding HEROS should be submitted to LeanThinking@hud.gov.

Consultants should enter the name of the facility and the FHA Project Number in the “Project Name” field on the Initial Screen (1105) in HEROS. For example, 111-22999-ABC Project. Providing the FHA number with the project’s name allows ORCF to quickly identify the subject of the HEROS review.

A download of the HEROS environmental review record (ERR) should be included in the mortgage insurance application in *Section 2: Third-Party Reports*. The HEROS exhibit should be named “Other-**HEROS ERR**” to identify its content. Please note that a HEROS submission does not replace or eliminate any application exhibits. All applicable environmental exhibits will continue to be submitted with the mortgage insurance application in accordance with the current practice.

Guidance for ORCF stakeholders using HEROS is available online at ORCF’s Environmental Resource website ([here](#)).

Lenders and stakeholders are also encouraged to access the ORCF Lender's Environmental Checklist ([here](#)) for additional environmental guidance.

Keywords: *Environmental, HEROS*

[Back to top](#)

LEAN THINKING COMMUNICATION WITH LOAN APPLICATIONS

Lenders are encouraged to include any Lean Thinking responses within their applications for FHA Mortgage Insurance. The LeanThinking@hud.gov mail box is available for pre-submission questions that are specific to a project, and/or general questions which have may have applicability to a project that is being contemplated for submission. In the event that a LeanThinking inquiry results in guidance under one of these scenarios, Lenders are asked to submit a complete record of the inquiry/response within the Communication folder of their applications. This includes any request(s) for early Environmental Consultation. Inclusion of this information within the application will help ORCF streamline processing and may save considerable time by avoiding duplicative efforts.

Although Lenders should include the Lean Thinking email exchange for ready reference, we do note that, as stated at the bottom of each Lean Thinking response:

A Lean Thinking response is based on the limited and preliminary information submitted by the inquirer specific to a particular matter. The response is thus limited to that particular matter and/or transaction and *is itself preliminary*. A Lean Thinking response shall not be construed as an approval of a submission; all submissions must meet ORCF underwriting criteria, and approval of the topic discussed above is only a portion of the overall review process that must be approved. Lean Thinking cannot be used in lieu of prescribed waiver or exception procedures, and any firm application accompanied by a Lean Thinking response will always be subject to underwriting and final approval.

Keywords: *Lean Thinking, Environmental, Application Processing*

[Back to top](#)

FHA NUMBER REQUESTS

Please note that the 232FHARquest@hud.gov email box is no longer being monitored and emails submitted to this mailbox will not receive a response. All FHA Number Requests should be submitted through the HUD 232 Healthcare Portal ([here](#)) for processing.

If you are having issues submitting your FHA Number Request or Application, please submit a Help Desk Ticket ([here](#)) for assistance.

If you are following up on the status of an FHA Number Request, please contact LeanThinking rather than reaching out to individual ORCF staff. LeanThinking will route the inquiries to the appropriate ORCF staff members and coordinate the response. Please note that Lenders are encouraged to request FHA Numbers early in the application preparation process to accommodate application submission timing deadlines, as periods of high volume or processing of Help Desk Tickets can require additional time for processing.

Keywords: *Application Processing*

[Back to top](#)

REMINDER - CMS PROVIDER NUMBER

Please ensure that the CMS Provider Number is entered correctly on the contact sheet in the application (e.g. Exhibit 1-6 for a 223F application). ORCF has seen a number of submissions with the incorrect number entered. Please note, the CMS Provider Number is always six digits and that some begin with a zero (if you have a five-digit number, the zero may be missing). Providing the correct CMS Provider Number will avoid delays in processing your application.

Keywords: *Application Processing*

[Back to top](#)

ORCF ASSET MANAGEMENT RISK MONITORING ROUTINE

As part of our continuous effort to enhance and standardize the notification and mitigation of circumstances that could impair the value of the FHA-insured security in Section 232 facilities, ORCF Asset Management will be implementing a standard risk monitoring routine in the coming months, consistent with existing Borrower/Operator requirements and Lender servicing requirements.

As a reminder, all Operators are required by 24 CFR Section 232.1015 to provide to HUD and the Lender/Servicer prompt notification of circumstances placing the value of the FHA-insured security at risk. Although this provision applies to Operators of any Section 232 facility (regardless of the version of the Regulatory Agreement the Operator has executed), the requirement is further set forth in the Borrower Regulatory Agreement (92466-ORCF). Handbook 4232.1, Section III, Asset Management, Chapter 3.10 further prescribes that a Project is required to notify both HUD and the Lender when there are threats to the Project's permits and approvals.

Effective October 3, 2019, Lender/Servicers, Borrowers, and Operators are required to use the Operator's and/or Borrower's Notification to HUD of Threats to Permits and Approval (HUD-93335-ORCF), ([here](#)), and The Servicer's Notification to HUD of Risks to Healthcare Projects and Action Plan for Remedy (HUD-93334-ORCF) ([here](#)) when notifying relevant parties of risks to the FHA-insured security and for communicating action plans for remedy. Consistent with these publications, issues requiring action plans include, but are not limited to:

- Delinquent or defaulted mortgage payments
- A debt service coverage ratio below 1.0
- Special Focus Facility (SFF) designation
- Licensed Nursing Facility survey findings higher than a "G" level citation
- REAC inspections (single score below 30 or consecutive scores below 60)
- Missing Financial Reports

The information required by ORCF when risks to the FHA-insured security are present can be found in Handbook 4232.1, Section III, Chapter 3.10 and Chapter 4.4, and the information is further delineated in HUD-93334-ORCF ([here](#)). As detailed therein, ORCF requires the establishment of a corrective action plan for improving deficiencies and remedying the identified risk condition(s). Consistent with HUD-93334-ORCF, ORCF expects that servicing Lenders will work with their clients to ensure the following are addressed:

- A description of the risk and discussion of its effect on the Project.
- An analysis of the root cause of the financial risk factor(s) (i.e., is a low DSCR due to low census, labor market, staff turnover, and/or unexpected expenses, etc.?).
- A description of the action plan to be implemented (e.g., marketing plan, expense management plan, risk management plan, etc.) and the identified goals and areas in need of improvement. The Lender should be sure that the plan and the goals align with the root cause analysis. For example:

- An action plan implementing cost saving measures would be included for a Project with increasing operating expenses.
- An action plan implementing a marketing plan to expand Medicare referral sources would be expected for a Project with declining revenues, declining resident days, and declining average daily rate (ADR).
- Each identified goal/step of the action plan is measurable (e.g., increase census by 10%).
- Each goal has a timeline (target completion date).
- The action plan includes a set time when the Borrower or Operator will follow-up with the Lender and provide a status report.
- Monitor and inform HUD on a recurring basis (monthly, quarterly, as determined by the timelines/target completion dates) whether the plan is on schedule or not, and if not, have the Operator/Borrower reevaluate and provide amended action steps, target completion dates, as appropriate.

In the coming months, ORCF Asset Management will communicate with stakeholders about improved processes to better position Lenders and their clients to timely meet the expectations summarized above.

Keywords: *Risk Notification, Documents*

[Back to top](#)

REVISED ASSET MANAGEMENT CHECKLISTS PURSUANT TO HEALTHCARE PORTAL UPDATES

As a follow up to the Asset Management Healthcare Portal Training sessions held during the week of February 10, 2020, all checklists for Asset Management transactions have been revised to reflect the naming conventions to be utilized for submissions to the Healthcare Portal. Each of the revised checklists contains instructional information regarding use of the numerical code identifiers (**highlighted in green**) for each of the exhibits in the checklist. These highlighted numbers are important codes that “guide” the Portal system to recognize the type of transaction submitted, section number of the checklist, and the identity of the document. **Failure to use the updated Asset Management checklists and their corresponding naming conventions will cause the Healthcare Portal to reject the submitted transactional document and may subsequently result in a rejection of the entire transaction submission.**

Keywords: *Asset Management Checklist, 232 Healthcare Portal*

[Back to top](#)

FROM THE CLOSING CORNER

Last Minute Issues Prior to Closing – Procedures for Newly Discovered Litigation

As a reminder, as stated in the August 28, 2013, February 27, 2014, and December 21, 2016 Email Blasts, to help to avoid delays in closing Section 232 projects, ORCF is restating procedures for newly discovered litigation.

ORCF no longer collects litigation searches (except where required by the Attorney's Opinion as an Exhibit). Please note that the Attorney's Opinion form requires the attorney signing it to opine that, to such attorney's knowledge, based on the Docket Searches and the Attorney's Opinion Certification, there is no litigation or other claim pending before any court or administrative or other governmental body against the Borrower or General Partner/Managing Member, Operator or the Project except as has been disclosed in Exhibit F to the Opinion.

Please keep in mind the following timeframes:

- 1. Searches:** Searches should be run and analyzed by the Lender ***no earlier than 30 days before closing and no later than 10 business days before closing.***

- 2. Newly Discovered Litigation? No later than 5 business days prior to the scheduled closing,** Lenders must disclose to HUD any newly discovered litigation ("newly" meaning not previously disclosed to ORCF in the application process), the Lender must also address the following:
 - a. Name and discussion of each newly discovered lawsuit, including estimated potential liability;
 - b. Whether each newly discovered lawsuit is of the type covered by insurance or whether the lawsuit is for a claim not covered by insurance;
 - c. The amount of liability insurance available to cover each newly discovered lawsuit and other pending claims and judgments and the estimated potential liability for such other lawsuits/judgments; and
 - d. Identify who bears the cost of defense of each newly discovered lawsuit and whether the insurance company is participating in the defense.
 - e. **An opinion from the Lender's Underwriter that the litigation is mitigated (e.g. covered by insurance) and will have no material impact on the project or underwriting.**

Any issues will need to be cleared by ORCF and HUD's Office of General Counsel prior to closing. Prompt disclosure to HUD of newly discovered litigation will minimize the risks of delays in closing.

Keywords: *Litigation/Docket Searches, Closings*

[Back to top](#)

Reminder for Section 232 New Construction Contracts

Please remember that ORCF's policy for Retainage Reduction Riders attached to executed HUD Construction Contracts must be in accordance with Healthcare's policy found in Handbook 4232.1, Section II, Chapter 10.15.D. This section, which reads, in part:

*"...the existing standard of 10% retainage will be required only until **90%** completion. After 90% completion, the requirement will be 5% retainage until **100%** completion and 2.5% retainage until the loan reaches Final Closing."*

Please note that this is different than current HUD Office of Multifamily Housing Programs policy. Multifamily Housing Riders will not be accepted.

Keywords: *Retainage Reduction Rider*

[Back to top](#)

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of December 18, 2019

December 18, 2019 Contents

[Additions to ORCF Leadership](#)

[Real Estate Assessment Center's \(REAC\) National Standards for the Physical Inspection of Real Estate \(NSPIRE\) Demonstration](#)

[Fiscal Year 2019 Lender Performance](#)

[FROM THE CLOSING CORNER](#)

[Reminder When Submitting a Closing Package to ORCF](#)

[Update - Lender Attorney Portal Access](#)

[Document Links Included In This Blast](#)

ADDITIONS TO ORCF LEADERSHIP

Effective November 24, 2019, ORCF has promoted the following individuals to leadership positions:

- Asset Management Deputy Division Director – Rita Dockery
- Production Deputy Division Director – Susan Gosselin
- Operations Manager – Nicole Johnson

Keyword: *ORCF Management Update*

[Back to top](#)

REAL ESTATE ASSESSMENT CENTER'S (REAC) NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE) DEMONSTRATION

In 2017, Secretary Carson directed a "wholesale reexamination" of HUD's physical inspection processes. Subsequently, HUD began to analyze the way inspections were conducted and to better understand areas in which its standards and processes needed to evolve. As a result of this analysis, HUD's Real Estate Assessment Center (REAC) began to lay the foundation of

a new inspection model based on National Standards for the Physical Inspection of Real Estate (NSPIRE). For the purpose of identifying potential adjustments to standards, protocols, and processes prior to nationwide implementation, REAC has begun a two-year, voluntary Demonstration. The Demonstration will involve a diverse, representative group of stakeholders, including REAC, other HUD offices, Public Housing Authorities, and Property Owners and Agents.

The NSPIRE Demonstration is now in the implementation phase and REAC is seeking properties to participate in the Demonstration. For residential care facilities, this would include interested owners whose facilities are currently subject to routine recurring REAC inspections.

To learn more about NSPIRE and how to volunteer for the Demonstration, please visit the NSPIRE website ([here](#)).

Keywords: REAC

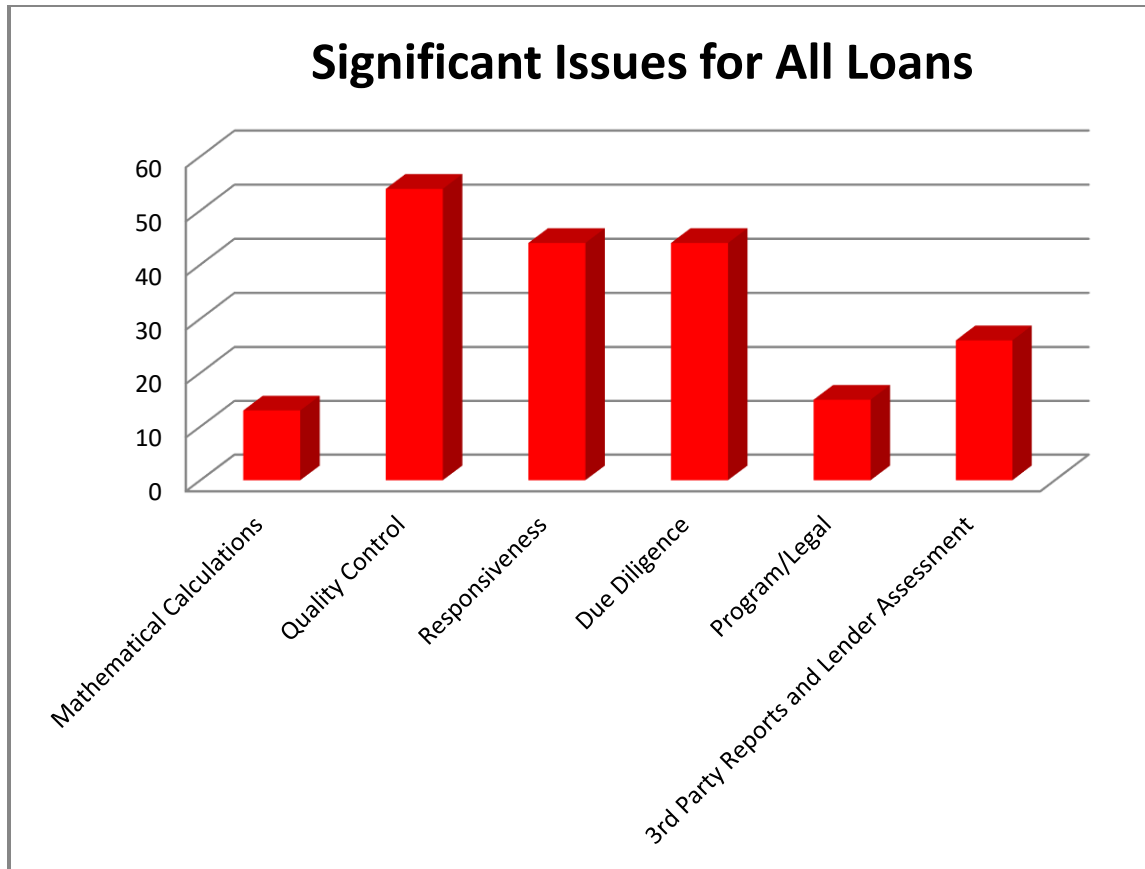
[Back to top](#)

FISCAL YEAR 2019 LENDER PERFORMANCE

ORCF values the expertise of Lean lenders and the extensive effort invested in Section 232 submissions, and ORCF continuously strives to improve its thorough and timely processing of such transactions.

One of the many ways ORCF seeks continuous improvement is by providing feedback to lenders on matters that may have created delays. In that regard and consistent with longstanding practice, ORCF recently emailed each active Lean lender feedback on transactions that went to Loan Committee and/or closed during the past fiscal year.

Lenders have recently inquired about how ORCF's observations about their own submissions compare to observations regarding recent submissions overall. We would note that lender issues creating significant delays were observed in 38% of the transactions that went to Loan Committee and/or closed in FY19. Also, of the categories that ORCF considers, certain topics were more frequently problematic than others, as illustrated below.



Quality Control, Due Diligence and Responsiveness were the most frequently recurring concerns. Below is a brief description of these three categories as a reminder, followed by some examples of comments included in lender feedback in the FY19 emails.

Quality Control of Package

Considers the completeness, internal consistency and general accuracy of information within the application or closing package, conforming to Lean processing. Examples of errors include:

- Wrong information on project (e.g. wrong beds/units, other data)
- Multiple typographical errors – (e.g. transposed numbers)
- Obsolete, incorrect, incomplete or missing exhibits/other forms
- Lack of up-to-date financials and other data
- Failure to timely address environmental matters

Due Diligence of Facility's Performance

Considers issues with the lender's familiarity with and analysis of the full scope of the facility in the lender's underwriting review. This includes failure to provide a needed explanation in the application with supporting documentation. Examples of errors include:

- Failure to address ongoing survey/quality of care issues
- Failure to address negative trends in performance or occupancy
- Failure to address ongoing HUD enforcement/compliance issues
- Failure to address pattern of high claims, pending litigation
- Failure to address other pending action impacting risk assessment

Responsiveness

Considers the completeness and timeliness of response by lender to requests from OHP for correction of deficiencies or additional information to complete underwriting review or closing processing.

Examples of Comments in FY19 Lender Feedback

A few examples of concerns raised in recent lender feedback include:

- The application did not provide adequate discussion on eligible debt.
- There were numerous issues not properly addressed in the application, including AR Financing and G&A Expenses.
- There were delays in several requests for information, specifically relating to waiver requests.
- Environmental issues should have been addressed prior to submission of the application, to ensure compliance with the handbook/regulations.
- The Lender adjusted historical expenses and NOI without adequate justification.

ORCF is happy to discuss any matters raised with a lender, and we also welcome constructive feedback about how ORCF processes can continue to be improved.

For more information on specific lender volumes for FY 2019, please see the "Queues, Reports, and Statistics" section on the Section 232 Program Website ([here](#)).

Keywords: *Lender Performance*

[Back to top](#)

FROM THE CLOSING CORNER

Reminder When Submitting a Closing Package to ORCF

As a follow-up to the August 28, 2019 LEAN 232 Email Blasts, ORCF is reminding Lenders that **after the assigned HUD Attorney has received a "complete" draft closing package, a "complete draft closing package" should be uploaded to the portal.** After this has been done, a request for the assignment of an ORCF Closer should be sent to the Closer Mailbox at ORCFCloser@hud.gov. To assist ORCF's workload management, the request should include any known circumstances that influence the closing date. The Lender will be notified by email when an ORCF Closer has been assigned.

Keywords – *Closings, Closing Package, 232 Healthcare Portal*

Update - Lender Attorney Portal Access

The 232 Healthcare Portal now offers a new role that allows for a **Lender Attorney to be assigned to projects within multiple Lenders' portfolios**. This role within the portal technology, will allow a Lender Attorney who works with multiple Lenders to be assigned to a single, multiple, or the entire portfolio of multiple lenders, using a single Username. This role is assigned by the Lender Account Managers and Backup Account Managers of a Lender's portfolio and can be given to any Lender Attorney with Portal access.

Instructions are attached, which show Lender Account Managers and Backup Account Managers how to assign the Special Option User role and it explains how Special Option Users can access their newly assigned projects.

If you should have any questions or require additional information regarding this e-mail, please submit a Help Desk Ticket through the 232 Healthcare Portal and title it "SOU".

Keywords – *Closings, Lender Attorney, 232 Healthcare Portal, Portfolios, Multiple Lenders*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

1. [National Standards for the Physical Inspection of Real Estate \(NSPIRE\) webpage](#)
2. [ORCF Queues, Reports, and Statistics](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of November 1, 2019

November 1, 2019 Contents

[Guidance on HCBS State Risk Mitigation for Existing Portfolio and New Underwriting](#)

[Reminder on Consolidated Certification Review Due Diligence](#)

[ORCF Guidance on Temporary Underwriting Holds
FROM THE CLOSING CORNER](#)

[Updated Closer Checklists are HERE!](#)

[Final Closing Attorney Checklist is HERE!](#)

[Acceptable Evidence of Title for Final Closing](#)

[Reminder – Allow for Three \(3\) Days to Get Closing Documents Signed!](#)

[Tips to Avoid Closing Delays When Submitting a Waiver Request](#)

[Lender's Responsibility PRIOR to Submitting NC/241a/Sub-Rehab Cost
Certification Packages](#)

[Document Links Included In This Blast](#)

**GUIDANCE ON HCBS STATE RISK MITIGATION FOR
EXISTING PORTFOLIO AND NEW UNDERWRITING**

As a reminder, Handbook 4232.1, Section II, Chapter 5 ([here](#)) details that appraisal analyses submitted with ORCF applications need to include a discussion of external or economic obsolescence.

Chapter 5 specifically identifies Medicaid reimbursement issues as a factor which can impact the economic life of a project. For facilities reliant upon Medicaid waiver revenue, this includes addressing the facility's continuing eligibility with the Home and Community Based Service (HCBS) Rule ([here](#)). Of particular concern is a facility in a setting type presumed to have the qualities of an institution and therefore at risk of losing all Medicaid waiver revenue as follows:

- Settings that are located in a building that is also a publicly or privately-operated facility that provides inpatient institutional treatment;

- Settings that are in a building located on the grounds of, or immediately adjacent to, a public institution; and
- Any other settings that have the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

Per CMS guidance, any setting presumed to have institutional qualities will not sustain Medicaid waiver funding unless CMS determines through “heightened scrutiny” that the state has overcome the rebuttable presumption that the setting has institutional qualities. See CMS additional guidance on “heightened scrutiny” dated March 22, 2019 ([here](#)). Therefore, if CMS has not yet initially approved the state’s HCBS transition plan or if the State’s *approved* plan calls for the facility to undergo heightened scrutiny, then assuring continued facility specific eligibility may be problematic and should be discussed in the application.

As an additional reminder, Handbook 4232.1, Section III, Chapter 3.10.5 ([here](#)) requires Operators to notify HUD of threats to licensure or provider payments. Therefore, projects placed under “heightened scrutiny” or otherwise identified by the State as ineligible under HCBS need to work with the Lender and Account Executive to address any steps needed to assure compliance with the HCBS Final Rule.

The HCBS Final Rule ([here](#)), established requirements for home and community based settings in Medicaid programs operated under sections 1915(c), 1915(i) and 1915(k) of the Act, which includes Medicaid Waiver programs used by a number of ALFs, SLFs and B & C projects. The rule provided an initial transition period for compliance, which has since been extended to March 17, 2022. For additional information, see the State Risk Summary Grid in the June 28, 2017 Email Blast ([here](#)).

Keywords: *Valuation, State Risk, Asset Management*

[Back to top](#)

REMINDER ON CONSOLIDATED CERTIFICATION REVIEW DUE DILIGENCE

Pursuant to the August 29, 2018 Email Blast ([here](#)), Lenders were reminded to review the Consolidated Certifications for all participants as part of underwriting due diligence. Please note that receiving approval of an APPS submission is ***not*** approval of the overall transaction, and when using a paper submission, it must be on the ORCF Consolidated Certification form (HUD-90013-ORCF through HUD-90017-ORCF) available

([here](#)). Applications submitted using the Multifamily Form HUD-2530 will be returned. See *Housing Notice 2016-15* ([here](#)) for further guidance on processing Previous Participation Reviews of Healthcare Programs' Participants.

Key Words: *Consolidated Certification, APPS*

[Back to top](#)

ORCF GUIDANCE ON TEMPORARY UNDERWRITING HOLDS

Handbook 4232.1, Section II, Chapter 1.4.C provides details for an application received which contains defects or deficiencies. The following guidance is related to applications that are placed on temporary holds:

- A project(s) will be placed on temporary hold status if 60 calendar days have passed since the ORCF review comments were issued and the lender's response did not adequately address the deficiencies to the point that the project is ready to go to Loan Committee – as determined by the ORCF Workload Manager. This also applies to situations where the lender is making material updates or changes to an application. Projects with delays unrelated to an application deficiency or significant update or change are exempt from this 60-day timeframe. HUD will communicate with lenders via email when a project goes on long-term hold.
- Lenders may request an application's placement on temporary hold at any point if they determine the underwritten application is not supported as presented, and that a temporary hold would be prudent based on their ongoing assessment of the transaction.
- A project(s) will be placed in temporary hold status for a maximum of 90 calendar days. If the project(s) is not ready to be underwritten and placed back in the queue for review within 90 days, the project(s) will be rejected by HUD. For projects that are currently in underwriting or on long-term hold, HUD will review the project's situation and communicate with the lender on a case-by-case basis.
- When a project(s) exits temporary hold status, the following applies:

- The Phase I Environmental Site Assessment does not need to be updated. If the environmental review is already completed, it does not need to be updated unless there is a change in the application that affects an environmental review item.
- All underwriting documents that need to be updated must be updated prior to ORCF moving the application off temporary hold and placing it back in the queue for review. HUD will require updated project financials. If there are concerning material changes in the updated financials, HUD will expect a new appraisal, and an updated appraisal review will be completed by HUD. Updated documents are to be submitted to the Healthcare Portal.
- The project will go to the top of the Firm Application queue for assignment when ORCF removes the application from temporary hold.

Keywords: *Application Processing*

[Back to top](#)

FROM THE CLOSING CORNER

Updated Closer Checklists are HERE!

ORCF has updated the Closer's Checklist for Section 223(f) ([here](#)) and Section 223(a)(7) Closer ([here](#)) to include all new forms effective October 3, 2019. Links to new forms are also included in the checklist for convenience.

Keywords: *Closer Checklist Section 223f; Closer Checklist Section 223(a)(7)*

[Back to top](#)

Final Closing Attorney Checklist is HERE!

The New Construction (NC)/241a/Sub-Rehab Attorney Checklist for Final Closing ([here](#)) has been updated! This Final Closing Checklist includes all new forms effective October 3, 2019. Links to the new forms are also included in the checklist for convenience.

Keywords: *Attorney Final Closing Checklist*

[Back to top](#)

Acceptable Evidence of Title for Final Closing

Please note that any of the following are acceptable evidence of title at final closing:

1. A new title policy, or
2. A date down endorsement in compliance with the requirements in Handbook 4232.1, Section II, Chapter 9.11.B, or
3. Other evidence of title allowed and/or required by state law and approved by a HUD Office of General Counsel attorney.

Keywords: *Title Review, Final Closing*

[Back to top](#)

Reminder – Allow for Three (3) Days to Get Closing Documents Signed!

As noted in the December 19, 2018 Email Blast ([here](#)), a minimum of three days should be anticipated for the closing documents to be signed and returned to the appropriate parties. *Please plan accordingly.*

Keywords: *Signing Closing Documents*

[Back to top](#)

Tips to Avoid Closing Delays When Submitting a Waiver Request

- ❖ To avoid delays at closing, **all project waivers should be requested and processed during underwriting review.** If the need for a waiver arises after issuance of a firm commitment, it is the Lender's responsibility to identify the need early on and submit waiver requests with draft closing documents. **Waiver processing must be complete prior to scheduling a closing date.**
- ❖ Any waiver justification based on financial hardship needs to be backed by written quotes.
- ❖ Instructions for completing Form HUD-2-ORCF – Waiver Request are included in Handbook 4232.1, Section I, Chapter 1.5 ([here](#)) and in the

Email Blast dated June 24, 2015 ([here](#)). Form HUD-2-ORCF can be find ([here](#)).

Keywords: *Waiver, Closings*

[Back to top](#)

Lender's Responsibility PRIOR to Submitting NC/241a/Sub-Rehab Cost Certification Packages

Handbook 4232.1, Section II, Chapter 11.10 sets forth the required forms and documentation for purposes of cost certification. Further clarification was provided in the December 21, 2016 Email Blast. Under the ORCF Section 232 Program, it is the Lender's responsibility to review the NC/241a/Sub-Rehab Cost Certification packages **prior to** submitting the package to HUD. It is the Lender's responsibility to make review comments and affirm that what has been reported by the auditor is applicable. The Lender is also responsible for ensuring that any findings have been addressed and that corrective actions have been taken.

It is crucial the Lender has followed up on any issues commented on by the auditor, including how any recommendation(s) noted by the CPA have been implemented and what evidence will be provided at Final Closing to demonstrate resolution of this issue. For example, a material finding reported by the CPA, should be discussed by the Lender with separate comments attached to the Lender Certification, form HUD-91129. All review comments, modifications, or actions taken should be attached to the Lender Certification, form HUD-91129.

Keywords: *Cost Certification; Lender Certification, Form HUD-91129*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

3. [Home and Community Based Services Final Rule](#)
4. [State Risk Summary Grid](#)
5. [Section 232 Documents Webpage](#)
6. [Housing Notice 2016-15](#)
7. [HUD Closer Checklist Section 232/223\(f\)](#)

8. [HUD Closer Checklist Section 232/223\(a\)\(7\)](#)
9. [HUD Attorney Final Closing Checklist Section 232 – New Construction, Substantial Rehab, 241a or Blended Rate](#)
10. [Form HUD-2-ORCF](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of September 27, 2019

September 27, 2019 Contents

[Office of Healthcare Programs Incentives for FHA Mortgage Insurance for Properties Located in Opportunity Zones](#)
[Document Links Included In This Blast](#)

OFFICE OF HEALTHCARE PROGRAMS INCENTIVES FOR FHA MORTGAGE INSURANCE FOR PROPERTIES LOCATED IN OPPORTUNITY ZONES

On September 27, 2019, the Office of Healthcare Programs published Housing Notice 2019-10 ([here](#)) which will offer several incentives to encourage greater development of nursing homes, assisted living facilities, board and care facilities, and hospitals located in Opportunity Zones.

Effective immediately, the Federal Housing Administration (FHA) is giving priority to Section 232 applications it receives for facilities located in qualified Opportunity Zones. Most notably, FHA will provide expedited underwriting for Section 232 applications. FHA is also reducing application/exam fees for all Section 242 and Section 232 transactions for facilities in Opportunity Zones. For more details, please see Housing Notice 2019-10 ([here](#)).

Keywords: *Opportunity Zones*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

11. [Housing Notice 2019-10](#)

[Back to top](#)

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of September 12, 2019

September 12, 2019 Contents

[Patient Driven Payment Model \(PDPM\)](#)
[Appraisal Reviews](#)
[Reminder on Valuation, State Risk, Rebalancing](#)
[Document Links Included In This Blast](#)

PATIENT DRIVEN PAYMENT MODEL (PDPM)

The Section 223(f) Lender Narrative ([here](#)) requires that lenders carefully identify and analyze risk factors and explain how they are mitigated. A change effective October 1, 2019 to the payment model used by the Centers for Medicare and Medicaid Services (CMS) presents a significant risk in some skilled nursing facilities. Accordingly, consistent with the Lender Narrative requirements, ORCF expects that the Mortgagee's Lender Narrative submission will show cognizance of this risk where it exists, speak to the magnitude of the risk in the specific transaction, and identify sufficient and appropriate mitigants.

Specifically, in July 2018, CMS finalized the Patient Driven Payment Model (PDPM) that will become effective on October 1, 2019. PDPM is the new case-mix classification system for classifying skilled nursing facility patients in a Medicare Part A covered stay into payment groups under the SNF Prospective Payment System. The new reimbursement model will replace the current case-mix classification system, the Resource Utilization Group, Version IV (RUG-IV).

We understand that many providers are already preparing for the upcoming transition to PDPM. ORCF is analyzing the impact of PDPM on its portfolio as skilled nursing facilities account for approximately 75% of the insured portfolio of residential care facilities. Recognizing that the new reimbursement model may result in a negative financial impact on skilled nursing facilities, we want to ensure that the risks are adequately mitigated by the owners/operators of FHA insured facilities. Therefore, we would expect that lenders include a thorough discussion in the lender narrative of

the impact of PDPM on the financial condition and operations of the skilled nursing facilities coming in for FHA financing. We also would anticipate that the Lender Narratives will include a detailed discussion of the plan that the operator has in place to mitigate any potential negative results from the new reimbursement model. These discussions should be facility- or operator-specific and reflect the lender's own risk analysis, rather than being simply a recitation of or a commentary on the CMS-publicized projections. On projects that have already been submitted, the contract/ORCF underwriter will reach out to lenders to address this issue as necessary.

The introduction of the PDPM is also highly relevant to operators and loan servicers, given its potential impact on net operating income. Owners and operators should anticipate that the lenders, or ORCF directly, may inquire of them regarding any effect the shift to the PDPM is having or is expected to have on their revenue stream, and how they are planning to address the matter. Moreover, even without receiving such a specific inquiry, Owners/operators may wish to proactively contact their lender regarding the PDPM's impact. ORCF would recommend doing so.

Keywords: *Patient Driven Payment Model (PDPM), Lender Narrative*

[Back to top](#)

APPRAISAL REVIEWS

ORCF has received several inquiries about the status of the appraisal review queue. The backlog in the queue peaked in April but has since been reduced significantly. There are a few things lenders can do to help the appraisal reviews move along quickly, including the following:

- 1) As mentioned in the Email Blast dated 2/28/19 ([here](#)), please clearly address which line items (by name) in the historical income and expense statements have been eliminated from the historic Net Operating Income (e.g. depreciation, facility rent, large capital expenditures). This will make the reconciliation portion of the appraisal review go quicker.
- 2) Be cautious about moving individual line item expenses into the management fee category. The concern is that we don't want legitimate expenses to be erased when we normalize the management fee to a market rate. Not only does there need to be a clear explanation of why the expenses are best categorized as management fees, but the expense comparables must also support the conclusions. The sales comparables used to establish a capitalization rate need to

get the same treatment as the subject when it comes to management fee conclusions.

3) The ORCF review appraiser will be reconciling the historical periods contained in the appraisal. The most recent income and expense statement supplied with the application is often out of sync with the one available at the time of the appraisal. It will save time if the lender includes not just the updated financial reports but the version that the appraisal used. Another option is to have the appraisers include the financials they used as an exhibit within the addenda of the appraisal.

4) Many lenders are saving processing time by filling out the Decision Circuit for the review appraiser. In order to keep things standardized, ORCF will be entering the four historical periods contained in the appraisal in the main section (shaded blue) of the "Hist Exp" tab. Updated financials will be entered in the "Optional Reporting Periods" columns (shaded yellow). It will save time if the lenders follow the same format.

Keywords: Appraisals, Expense, Historic NOI, Management Fee, Reconciliation, Income & Expense Statements

[Back to top](#)

REMINDER ON VALUATION, STATE RISK, REBALANCING

As a reminder, Handbook 4232.1, Section II, Chapter 5.3.R.4 ([here](#)) states:

In projecting all sources of income for the subject property, consideration should be given to foreseeable changes in competitive market conditions that will affect current occupancy, payer mix, and rate levels. Examples include changes in: the condition of state finances, state laws offering alternative forms of housing types, reimbursement structures, and competitors in the marketplace.

As highlighted in the 6/28/17 Email Blast, Rebalancing Efforts are noted as an underwriting risk. It is noted that the Money Follows the Person (MFP) Rebalancing Demonstration Grant continues to be funded and make an impact on SNF occupancy (see results of the study funded by HHS ([here](#))). Items on the State Risk Summary Grids provided in our 6/28/2017 and 2/29/2016 Email Blasts are not meant to limit the extent of the Lender's inquiry. As a demonstration program, MFP has spawned a number of innovative State Rebalancing programs, including restructuring of capitation

rates (see the Medicaid and CHIP Payment and Access Commission (MACPAC) report on Olmstead ([here](#))).

In particular, the State of Connecticut has made detailed data publicly available on its website ([here](#)) regarding the projected impact of its ongoing Rebalancing efforts. This data includes a breakout by Labor Market Area, of the projected 6,000 bed decrease in SNF demand in the State by 2040. The State initially published demand data in 2012 and subsequently closed a number of low-performing facilities. On 9/3/2019, the State also published site- level analyses on the same website, of the impact of legislation ([here](#))– (Substitute bill 7164 January Session 2019), an excerpt of which is as follows:

*For the fiscal year ending June 30, 2020, no facility shall receive a rate that is more than two percent lower than the rate in effect on June 30, 2019, **unless the facility has an occupancy level of less than seventy percent, as reported in the 2018 cost report, or an overall rating on Medicare's Nursing Home Compare Internet web site of one star on June 1, 2019.** Emphasis added*

As ORCF expects Lenders to address State budget and regulatory constraints as appropriate, applications for facilities located in Connecticut need to make particular note of the State's continued efforts to focus on low-performing facilities (both low Star ratings and low occupancy).

Keywords: Valuation, State Risk

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

12. [Section 223\(f\) Lender Narrative](#)
13. [Impact of the Money Follows the Person Program Study funded by HHS](#)
14. [Medicaid and CHIP Payment and Access Commission \(MACPAC\) Report](#)
15. [Connecticut Medicaid Long-Term Care Demand Data](#)
16. [Connecticut Substitute Bill 7164 January Session 2019](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of August 28, 2019

August 28, 2019 Contents

[ORCF Webinar Presentation – October 1, 2019, 3:00 P.M. Eastern, Focusing Primarily on Asset Management Matters Encompassed in Newly Revised Documents](#)

[FROM THE CLOSING CORNER](#)

[Clarification on Submitting “Complete” Closing Packages in the 232 Healthcare Portal](#)

[Clarification to Land Title Survey Requirements](#)

[Document Links Included In This Blast](#)

**ORCF WEBINAR PRESENTATION – OCTOBER 1, 2019,
3:00 P.M. EASTERN, FOCUSING PRIMARILY ON ASSET
MANAGEMENT MATTERS ENCOMPASSED IN NEWLY
REVISED DOCUMENTS**

In a webinar hosted by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL), ORCF will provide a brief overview of the Section 232 program and address asset management matters encompassed in newly revised documents. The webinar will run from 3:00 p.m. to approximately 4:00 p.m. EST on October 1, 2019, and will be open to AHCA/NCAL members and nonmembers. There is no charge for participation. Presentation topics will include:

- Understanding the updated form and procedures for Reserve for Replacement and Residual Receipt withdrawals.
- Understanding the updated form to request access to the 232 Healthcare Portal.
- Understanding the requirements and forms for changes in participants of residential care facilities that currently have FHA-insured financing.
- Understanding the updated form for adding or submitting changes to the Accounts Receivable Financing for your facility.
- Understanding the requirements and updated form for requesting a Loan Modification.

- Understanding the updated form for certification of completion of Non-Critical Repairs.
- Understanding the requirement and updated form for notification to HUD of threats to permits and approvals for your facility.

Speakers:

- John Hartung, Director, Policy, Risk Analysis and Lender Relations Division, Office of Residential Care Facilities, HUD
- Philip Head, Director, Asset Management Division, Office of Residential Care Facilities, HUD
- Rita Dockery, Supervisory Account Executive, Office of Residential Care Facilities, HUD

Event Date: October 1, 2019 – 3:00 p.m. – 4:00 p.m. (EST)

Registration Link: [Here](#)

Keywords: *Webinar*

FROM THE CLOSING CORNER

Clarification on Submitting “Complete” Closing Packages in the 232 Healthcare Portal

As follow-up to the August 30, 2018, and September 13, 2018, LEAN 232 Email Blasts, ORCF is clarifying the process for use of the 232 Healthcare Portal for closings and submitting “complete” closing packages. For all Firm Commitments that were underwritten in the portal, Lenders are required to use the portal for the closing. After the assigned HUD Attorney has received a complete draft closing package, a complete draft closer package should be submitted to the portal. The current Closer Checklists are here: *Section 232/223(f)* ([here](#)) and *232/223(a)(7)* ([here](#)). The Lender will be notified when an ORCF Closer has been assigned. *If the draft closer package is incomplete or substantially incorrect, the assigned Closer’s review may be postponed until a complete/acceptable package has been submitted to the portal.*

Please note: A complete package includes:

- Critical repair documentation and the Borrower’s signed/dated critical repair certification;
- Evidence of current Insurance coverage.
- Documents required to satisfy all special conditions.

For Section 223(f) projects, the final draft Cost Certification is due immediately after a closing date is agreed on by ORCF Closer, HUD Attorney and Lender, and must be provided *no less than 5 business days prior to closing*

Keywords: *Closing Package, Closing Package Checklist*

Reminder for Executed Firm Commitments

HUD Handbook 4232.1 and all Firm Commitments require that Lenders and Borrowers execute and return the Firm Commitment within 10 business days. *Lenders should continue submitting the fully executed firm commitment to ORCFCloser@hud.gov within 10 business days.*

Keyword: *Firm Commitment*

[Back to top](#)

C arification to Land Title Survey Requirements

The recently updated Survey Instructions and Borrower's Certification (Form HUD-91111-ORCF) calls for surveys to be in compliance with Minimum Standard Detail Requirements for ALTA/ACSM Land Title Survey (**Effective February 23, 2016**). Please note the new effective date which replaced the old effective date of February 23, 2011.

I

When using the new form ([here](#)), ORCF will accept item 20a under the list of required "Table A - Optional Survey Responsibilities and Specifications." Surveys reflecting Table A item 19 will continue to be accepted.

Keywords: *Land Title Survey, ALTA Title Policy*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

17. [AHCA Webinar Registration](#)
18. [Survey Instructions and Borrower's Certification \(Form HUD-91111-ORCF\)](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of August 5, 2019

August 5, 2019 Contents

[Section 232 Healthcare Facility Documents Implementation Date Clarification](#)
[Production Portal Submissions](#)

SECTION 232 HEALTHCARE FACILITY DOCUMENTS
IMPLEMENTATION DATE CLARIFICATION

As announced in the July 5, 2019 Email Blast ([here](#)), the new Section 232 Healthcare documents were published with a 90-day transition period. During this transition time, old documents can still be used and are still available on our PRA documents website ([here](#)). However, on or after October 3, 2019, please see the following details for clarification:

Production: All new Firm Commitment application documents will be required for Firm applications submitted on or after Oct 3. If an applicant chooses to use new Firm Commitment application documents before that date, then the applicant must also use new closing documents, regardless of closing date. Additionally, all new closing documents must be used for any project that receives a Firm Commitment on or after Oct 3.

Asset Management: All Asset Management transactions must use new documents on or after Oct 3.

Keywords: *Section 232 Documents*

[Back to top](#)

PRODUCTION PORTAL SUBMISSIONS

The following is provided as guidance for Production submissions through the 232 Healthcare portal:

Document Naming

- **Decision Circuit:** The Decision Circuit is an optional document and is therefore not identified on Firm Application Checklists. However, we are instituting a document naming convention for it so the files will be consistently named and located going forward. Please name the Decision Circuit files "Others_**Decision Circuit**" and place it in the **Section 1 Underwriting folder**.
- **Other Documents Not Identified on Checklists:** For other documents that are not standard Checklist exhibits, please add a descriptor to the file name so that the files are more easily identified. For example, "Others_**Promissory Note**" or "2-3.E_Other Specify – **Tank Closure**".
- **N/A Exhibits:** Lenders are not required to submit N/A exhibits, but if choosing to do so, please identify that it is "NA" in the document name so that reviewers don't spend time opening documents that do not require review. For example, "2-3.B_ **NA** - Phase II Environmental Report".
- **Multiple Version Documents:** Uploading multiple versions of the same document or adding additional description to "Others" documents is possible provided the document number (and underscore) is the same. Anything to the right of the underscore can be modified and uploaded. For example,
 - 1-2-9002_HUD-9002-ORCF, Lender Narrative
 - 1-2-9002_HUD-9002-ORCF, Lender Narrative – **Common Sections**
 - 1-8.HUD 2_HUD-2-ORCF, Request for Waiver of Housing Directive – **PCNA date**
 - 1-8.HUD 2_HUD-2-ORCF, Request for Waiver of Housing Directive – **PLI**
 - 39_HUD-92337-ORCF - Regulatory Agreement - Master Tenant
 - 39_**Redline** HUD-92337-ORCF - Regulatory Agreement - Master Tenant
 - 44_HUD-92323-ORCF - Operator Security Agreement – **Seattle Hospital**

- 44_HUD-92323-ORCF - Operator Security Agreement – **Caring Arms Management Agent**

The Document Naming Convention is posted on the Underwriting Guidance page at [ORCF Document Naming Convention for Checklist Exhibits](#).

Help Desk

As a reminder, if you encounter issues or problems with the Portal that require assistance from the Help Desk, please submit a detailed request for help to hhcp@hud.gov. If you have spoken with other AEs, Lenders, or WLMs who have also experienced the same issue that you have encountered, the Portal staff ask that you **please complete your own, separate Help Desk request.** Although the issue may have been reported by others and may be in the process of being addressed by the Portal staff, please submit your own individual request. The reason for this is to aid the contractor and other Portal staff with a true gauge of just how widespread a particular problem might be and assist them with establishing priorities.

You can access other Portal resources including trainings and FAQ's at: [How to Access the 232 Healthcare Portal](#).

Keywords: 232 Healthcare Portal

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of July 26, 2019

July 26, 2019 Contents

[Account Executive Vacancies in the Office of Residential Care Facilities \(ORCF\)](#)

ACCOUNT EXECUTIVE VACANCIES IN THE OFFICE OF RESIDENTIAL CARE FACILITIES (ORCF)

ORCF is pleased to announce that it is hiring seven (7) new Account Executives (AE). These AE's will be working in either the Development or the Asset Management Division of ORCF. These positions were posted in the below four vacancy announcements – with varying locations. Because the application window is short, we are asking you to help us spread the word. These AE positions are part of our ongoing effort to improve our customer service. Your help is greatly appreciated.

Here is a link to the external posting in Jacksonville, Chicago, Detroit, Minneapolis, and Columbus, which closes on 8/7/19 ([here](#)).

Here is a link to the internal posting in Jacksonville, Chicago, Detroit, Minneapolis, and Columbus, which closes on 8/7/19 ([here](#)).

Here is a link to the external posting in Denver, St. Louis, Portland, Fort Worth, and Seattle, which closes on 8/9/19 ([here](#)).

Here is a link to the internal posting in Denver, St. Louis, Portland, Fort Worth, and Seattle, which closes on 8/9/19 ([here](#)).

Keywords: *Account Executive, Vacancy Announcement*

[Back to top](#)

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of July 5, 2019

July 5, 2019 Contents

[Section 232 Healthcare Facility Documents Published
Document Links Included In This Blast](#)

**SECTION 232 HEALTHCARE FACILITY DOCUMENTS
PUBLISHED**

On July 5, 2019, the Department published a notice, "HUD Healthcare Facility Documents: Notice Announcing Final Approved Documents assignment of OMB Control Number" ("Notice") ([FR-7014-N-20](#)), making available a complete set of new/ revised Section 232 documents. The revised Section 232 Healthcare documents can be found ([here](#)). The effective date is June 17, 2019 with an implementation date of October 3, 2019.

HUD will allow a 90-day transition period for the implementation of the updated documents in this collection. The new documents will be required to be used for transactions in which the firm commitment is issued on or after October 3, 2019. Participants may choose to use the new documents beginning on the effective date; however, if participants choose to use the new documents for a transaction (e.g. application submission, change of ownership, etc.), they must use all the new documents in their entirety and may not mix the use of old and new documents. Upon the Implementation Date, the use of only new documents in submitted transactions will be mandatory.

Keywords: *Section 232 Documents*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

19. [HUD Healthcare Facility Documents: Notice Announcing Final Approved Documents assignment of OMB Control Number \(FR-7014-N-20\)](#)
20. [Section 232 Healthcare Documents Webpage](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of June 26, 2019

June 26, 2019 Contents

[Posting of Queues to HUD.GOV](#)

[Decision Circuit Update](#)

[Clarification Regarding Date of Appraisal Waivers](#)

[Application Processing Protocol for Loans Over \\$25 Million](#)

[Transfer of Construction Management Operations](#)

[New Star Rating System](#)

[FROM THE CLOSING CORNER](#)

[Lender Delegated Non-Critical Repair Escrow Clarification:](#)
[Document Links Included In This Blast](#)

POSTING OF QUEUES TO HUD.GOV

Effective immediately, when queues are posted to HUD.gov we will be combining the Section 223(f) portfolio and non-portfolio queues into one list as internally ORCF utilizes one combined 223(f) queue when making assignments. While ORCF generally assigns projects out of the queue on a first-in, first-out basis, ORCF continues to process applications with loan amounts of \$25M+ internally, so on occasion projects may be assigned to an underwriter slightly out of order based on the availability of ORCF internal underwriters. Queues will continue to be posted weekly [here](#).

To the extent possible, the ORCF Appraisal and Environmental Reviews are started while projects are in the queue. Lenders can check the portal to see the status of these reviews.

If you have questions regarding projects in the queue, please contact LeanThinking@hud.gov.

Keywords: *Application Processing*

[Back to top](#)

DECISION CIRCUIT UPDATE

The Decision Circuit is an Excel workbook that is used by ORCF to complete appraisal reviews. It only applies to Section 232/223f refinances and is not used in our new construction programs. It has proven useful for ORCF to share the Decision Circuit with lenders as it indicates, through the use of flags, items that the ORCF review appraiser must address. The Decision Circuit is an internal review document and lenders are not required to use it. In an effort to save time, ORCF accepts Decision Circuits filled out by the lender, thereby giving them the opportunity to proactively comment on the flags. It has been two years (May 12, 2017) since we last made changes to this tool. Our intention is to refrain from making changes for another two years. If we find errors in formulas or formatting we will issue patch notes that will instruct how to correct the problems. The new version of the Decision Circuit can be found online ([here](#)). ORCF will phase in the new Decision Circuit over the next 3 months, giving the ORCF reviewer the option to use the old version when it has been filled out by the lender.

Keywords: *Decision Circuit, Appraisal Review, Flags*

[Back to top](#)

CLARIFICATION REGARDING DATE OF APPRAISAL WAIVERS

Handbook 4232.1 REV-1, Chapter 5.3.B states "The effective date of the opinion of value should be the date that the designated appraiser inspected the subject property." When ORCF approves waivers for this requirement, the waiver is to allow the appraiser to include financial reports in the analysis that are more recent than the site visit. This allows appraisers to consider fresher financial information. The waiver is **NOT** to allow the inspection to be more than 180 days prior to submission. A second waiver would be needed if the inspection date is more than 180 days before application.

Keywords: *Date of Value, Appraisal, Financial Reports, Waivers*

[Back to top](#)

APPLICATION PROCESSING PROTOCOL FOR LOANS OVER \$25 MILLION

ORCF would like to clarify the application processing protocols for loan amounts over \$25 million. These loans are assigned to ORCF Underwriters, not Contract Underwriters. A site visit by the ORCF Appraisal Reviewer is also required. In addition, these loans must be reviewed by the Office of Risk Management prior to being presented to Loan Committee.

Keywords: *Application Processing*

[Back to top](#)

TRANSFER OF CONSTRUCTION MANAGEMENT OPERATIONS

After nearly 32 years of service, Michael Peeler, ORCF Construction Manager, will be retiring from HUD, on July 10, 2019.

As a result, on July 1, 2019, Rick Price will be assuming all construction management operations. Rick is located in HUD's Portland, Oregon Office, and has extensive previous construction management experience with HUD.

Rick can be reached at Rick.W.Price@hud.gov.

Please direct all construction related requests to Rick, including, but not limited to: PreConstruction Conferences, Monthly Site Inspections and Construction Draws, Change Orders, Permissions to Occupy, Escrow Releases, and Retainage Reductions.

Keywords: *Construction Management*

[Back to top](#)

SECTION 232 BORROWERS, OPERATORS & SERVICING LENDERS: RECENT STAR RATING CHANGES

Recently, CMS made changes to its Five-Star Rating System. As outlined in the CMS Memo to State Survey Agency Directors ([QSO-19-08-NH](#)), effective April 2019, CMS ended its freeze on Health Inspection Star Ratings that had been in effect since February 2018. The CMS Memo also discusses changes made to the Quality Measure and Staffing Domains of the overall Star Rating. The result is a widespread shift in overall Star Ratings, including almost 500 Section 232 SNFs experiencing an overall drop below three stars.

Although these recent drops in the Star Rating may be the result of circumstances beyond the scope of reporting requirements outlined in the Operator's Regulatory Agreement, they may still be an early indication of

deteriorating conditions at the facility and therefore, the ORCF Account Executive may reach out to Servicing Lenders and/or project participants.

Also, ORCF would like to remind its project participants, and requests its servicing lender partners to remind their clients, of the reporting requirement in the Healthcare Regulatory Agreement – Operator (Form HUD-92466A-ORCF). The Healthcare Regulatory Agreement - Operator requires reporting to HUD and the Lender Servicer when the Operator receives a report, survey, notice, or other correspondence from a governmental entity that asserts certain risks to the project's Permits and Approvals. Reporting for Licensed Nursing Facilities is only required when a survey has findings higher than a "G" level or any repetitive "G" level or higher findings from prior surveys (a G-level deficiency is where actual harm that is not immediate jeopardy is cited in an isolated incident).

Keywords: CMS

[Back to top](#)

FROM THE CLOSING CORNER

Lender Delegated Non-Critical Repair Escrow Clarification:

*For **Lender Delegated Non-Critical Repair Escrows**, ORCF looks to the Lender to ensure all administration guidelines are in accordance with **Handbook 4232.1, Section III, Chapter 3.2.4.H.***

Please note: *The "Addendum" seen in several submissions recently is not a HUD approved form and HUD will not accept this form with the Non-Critical Repair Escrow submission.*

Keywords: Lender Delegated Non-Critical Repair Escrows

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

21. [Underwriting Queues and Assignments](#)
22. [Decision Circuit](#)
23. [CMS Memo to State Survey Agency Directors](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of April 19, 2019

April 19, 2019 Contents

[Section 232 Healthcare Portal Helpdesk Updates](#)
[HUD's Office of Housing Wants Your Suggestions About Opportunity Zones](#)
[Document Links Included In This Blast](#)

SECTION 232 HEALTHCARE PORTAL HELPDESK UPDATES

The HHCP mailbox is the avenue by which all Portal issues, concerns and password resets are processed. It is important that all messages be sent directly to the 232 Healthcare Portal Help Desk e-mail box (hhcp@hud.gov), and not to individual ORCF staff members. Any messages sent to individuals will be replied with the request to please send those messages to the HHCP mailbox directly. Having the ability to respond to all messages from a central location allows for consistent responses, central tracking to ensure all issues are resolved, and the ability for multiple individuals to cover the HHCP mailbox at any given time. This is similar to our Lean Thinking inquiry process, and will be treated in the same way.

ORCF has awarded a new contract for monitoring and maintaining the Section 232 Healthcare Portal. We are currently working on the backlog of Helpdesk requests that resulted from the changeover in contracts and will be responding to all requests as quickly as possible.

Do you have a question regarding the 232 Healthcare Portal?

The Office of Residential Care Facilities has a Frequently Asked Questions web page that is specifically focused on Portal issues. This allows Portal users to both submit questions and review previously submitted questions and their responses regarding the 232 Healthcare Portal ([here](#)).

Do you need Portal Training?

You can search 232 Healthcare Portal training material and can access training information ([here](#)).

Keywords: 232 Healthcare Portal

[Back to top](#)

HUD'S OFFICE OF HOUSING WANTS YOUR SUGGESTIONS ABOUT OPPORTUNITY ZONES

We wanted to make sure you saw HUD's newest Request for Information (RFI) published on April 17 in the Federal Register. We are seeking to hear from stakeholders like you about how we can leverage the tools HUD has to maximize the positive impact of Opportunity Zones. Created by the 2017 Tax Cuts and Jobs Act, Opportunity Zones are distressed communities that provide tax benefits to investors who make new investments in the Zones.

You can see the RFI [here](#).

As the Chair of the White House Opportunity and Revitalization Council, HUD Secretary Carson is very interested in all the levers HUD can pull to make Opportunity Zones vibrant economic engines for their residents. Don't be wary of making outside the box suggestions on the information contained in the RFI, including the following questions:

- What tools can HUD provide to make local communities, investors and other stakeholders more aware of the full range of applicable Federal financing programs and incentives available to projects located in urban and economically distressed areas, including Opportunity Zones?
- What types of technical assistance should be offered through HUD?

It is important that you submit your comments and suggestions using one of the response methods contained in the RFI. We are unable to accept responses or reply to emails submitted to this email box.

Keywords: Opportunity Zones

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

24. [232 Healthcare Portal](#)
25. [232 Healthcare Portal Training Material](#)

26. [FR-6155-N-01 - Review of HUD Policy in Opportunity Zones](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of March 12, 2019

March 12, 2019 Contents

[ORCF Asset Management Workload Manager and Project Assignment Changes](#)

[FROM THE CLOSING CORNER](#)

[Waiver Requests for Insurance Requirements:
Document Links Included In This Blast](#)

**ORCF ASSET MANAGEMENT WORKLOAD MANAGER AND
PROJECT ASSIGNMENT CHANGES**

ORCF has had some recent staff changes that may affect which Account Executives and Workload Managers you are assigned. Thirteen new staff members have joined the Section 232 Asset Management Division, resulting in many new work assignments effective March 11, 2019.

Lenders will be contacted this week regarding these changes and to discuss arrangements for any transitional work. The new assignments are posted on the Section 232 Loan Servicing and Asset Management webpage [here](#). The Account Executive database also identifies the corresponding Workload Managers. In that regard, ORCF Asset Management has detailed Jerry Robitaille and Kristine Petrillo as Workload Managers. Effective immediately, Kristine Petrillo will be acting as the Workload Manager for the team previously led by Catherine Worley. Jeremy Robitaille will be acting as the Workload Manager for a new Asset Management team. With these changes, ORCF will continue to provide and improve upon our service for your asset management needs.

Keywords: *Asset Management*

[Back to top](#)

FROM THE CLOSING CORNER

Waiver Requests for Insurance Requirements:

It is the Lender's responsibility to request any necessary waivers of Handbook 4232.1, Section II, Chapter 14 insurance requirements in a timely manner. As a reminder, not all waivers submitted to ORCF receive approval. It is therefore incumbent upon the Lender to factor in the time needed for the underwriter to review the waiver requests and in cases of denial, to have adequate time to obtain or update insurance policies which meet program requirements. It is strongly recommended that waiver requests be submitted with your application during the time of the application review. Delayed submission of required waivers will likely delay setting a closing date, either as a result of the time needed for review and/or the time needed to obtain the required insurance policies before closing.

Keywords – *Insurance, Waivers*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

27. [Account Executive Facility Assignments - Contact Listing](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of February 27, 2019

February 27, 2019 Contents

[ORCF Management Updates](#)

[232 Healthcare Portal Status](#)

[Reminder Regarding Reserve For Replacement \(R4R\) Submissions](#)

[Post-Shutdown Underwriting Queues](#)

[Document Links Included In This Blast](#)

ORCF MANAGEMENT UPDATES

Patrick Berry, ORCF Production Division Director, retired at the end of December 2018. Please note the following ORCF management updates in both the Production and Asset Management Division:

- Tim Gruenes, in HUD's Minneapolis office, has been reassigned as ORCF Production Division Director.
- Philip Head, in HUD's Seattle office, has been reassigned as Acting ORCF Asset Management Division Director.

Keywords: *Production, Asset Management*

[Back to top](#)

232 HEALTHCARE PORTAL STATUS

ORCF is in the process of transitioning the governance of the 232 Healthcare Portal. During this transition, the Portal may have reduced functionality. If you have concerns, please submit them to Lean Thinking. Thank you for your patience as we work through this transition.

Keywords: *232 Healthcare Portal*

[Back to top](#)

REMINDER REGARDING RESERVE FOR REPLACEMENT (R4R) SUBMISSIONS

Lenders are reminded that R4R guidance can be found in Handbook 4232.1, Section III (Asset Management) Chapter 3.2.2 ([here](#)).

All R4R transactions submitted via the 232 Healthcare Portal or the 232R4Rrequest@hud.gov email box, require the Lender to certify that each submission has been reviewed for **completeness, accuracy, and eligibility**. If you have questions regarding the eligibility of any items, please contact the assigned Account Executive prior to submission. A list of Account Executive assignments can be found ([here](#)).

Keywords: *Reserve for Replacement*

[Back to top](#)

POST-SHUTDOWN UNDERWRITING QUEUES

ORCF has now updated the Underwriting Queues and Assignments lists posted on hud.gov to reflect both the SharePoint and Portal application queues. If you have any questions regarding the information presented, please submit an email to LeanThinking@hud.gov.

Keywords: *Application Processing*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

28. [Account Executive Facility Assignments - Contact Listing](#)

[Back to top](#)



February 13, 2019

February 13, 2019

MEMORANDUM FOR: All Section 232 and 242 Approved Lenders

FROM: Roger M. Lukoff, Deputy Assistant Secretary for
Healthcare Programs

SUBJECT: Resumption of FHA Office of Healthcare Programs
Activities

The Department of Housing and Urban Development (HUD) FHA Office of Healthcare Programs (OHP) remains committed to enabling the affordable financing and refinancing of healthcare facilities. Since fully returning to work on January 28, 2019, OHP has been working to address the significant backlog of work submitted during the shutdown period. As we work quickly to bring our pipeline and servicing queues current, we want to inform you of the prioritization of work across our offices.

Production

In Section 242, underwriter reviewers have already reached out post-shutdown to lenders on all pending transactions, and we are proceeding as expeditiously as feasible.

In the Section 232 Program, our first priority is to process loans that have been issued a firm commitment and are in a position to reach endorsement. Of these, our priority will be loans that have critical external deadlines such as rate lock extension fees and purchase sale agreements with substantial penalties. However, we will also work in the coming days to schedule a closing date for loans that are ready to close immediately, even if they do not have critical external deadlines. Closings will be scheduled as soon as staff are available.

We have conducted an inventory of Section 232 applications currently in process. Applications will be processed in the order of the date received, as there is available staff capacity. Applications submitted before the shutdown were date and time stamped when they were received in the Portal. Applications that were submitted during the shutdown through the 232 Healthcare Portal were time and date stamped by the system. Our priority for processing applications will be those that were in process prior to the shutdown. We will begin with applications that are close to the issuance of a Firm Commitment. We will then address applications that were in process but needed additional review to present for a Firm Commitment. As a third priority, we will then turn to applications that were submitted during the shutdown. Lenders may continue to submit new applications for mortgage insurance.

Asset Management

February 13, 2019

The first priority is work related to resident/patient health and safety, including release of funds for critical repairs from reserves and construction draws. For other requests such as standard Reserve for Replacement and other escrow withdrawals not processed by the lender, the work items will be processed in the order received. Transfers of Physical Assets and Partial Payment of Claims will be processed in the order received. We expect it will take some time to address all backlogged work and will maintain open communications with you on our progress.

If you have any questions related to a particular transaction in Production, please contact the HUD Underwriting Reviewer assigned to your transaction. For project-specific questions related to Asset Management, please contact the assigned Account Executive.

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of December 19, 2018

December 19, 2018 Contents

[Addressing Quality of Care Issues in Application](#)
[Professional Liability Insurance \(PLI\) and Valuation](#)
[Helpful Tips for Contacting ORCF Outside the Portal](#)
[Section 106 Historic Preservation Reviews in the State of Minnesota](#)
[FROM THE CLOSING CORNER](#)
[Clarification on Completion of Critical and Non-Critical Repairs Prior to Closing](#)
[Document Links Included In This Blast](#)

ADDRESSING QUALITY OF CARE ISSUES IN APPLICATION

Quality of care issues are of paramount importance during underwriting review, as the Lender Narrative template makes clear. In that regard, when data suggests quality of care concerns, ORCF expects the lender to provide detailed explanation about those matters in the Lender Narrative. Examples are situations when:

1. There is a 1 Star CMS rating for overall or health inspections,
2. There have been "G" or Higher survey tags in the past year, or
3. There have been other care related issues.

When these quality of care issues are present, the lender should address these issues by providing details, including the following information:

- What specific steps has the operator taken to improve the overall quality of care. This should address the specific survey tags, and also quality of care in general.
- Evidence that these steps have led to improved care and survey results.
- Facility names and addresses for their other facilities, Star Ratings, an explanation of survey history at those projects and information on any

Denials of Payment or Civil Money Penalties at these facilities to provide evidence that the operator is capable of providing strong quality of care.

It is not sufficient to simply add a one-time risk assessment or a third-party risk management program special condition without including the above information.

Keywords: *Quality of Care*

[Back to top](#)

PROFESSIONAL LIABILITY INSURANCE (PLI) AND VALUATION

In developing a market value for loan sizing, Handbook 4232.1, Section II, Chapter 5.3.D states that the appraisal should “mimic the processes of the market and estimate the most probable sales price of the going-concern.” The Advisory Note in Chapter 5.3.R also states that “Revenue and expenses should always be estimated based on market expectations as a stand-alone facility of that particular asset type and class”. When estimating the expense of Professional Liability Insurance, please do not simply select an average market expense for an average user. The rate going forward to any owner is dependent on the actual history of claims, as well as the care/star rating. Therefore, the going-concern of a low rated property with a history of high claim rates would have a higher conclusion for market PLI expense than a highly rated property with a low rate of claims. ORCF implements this guidance to portfolios on a property by property basis, rather than applying the same PLI expense per bed across the entire portfolio.

Keywords: *Professional Liability Insurance, Expense, Market Value*

[Back to top](#)

HELPFUL TIPS FOR CONTACTING ORCF OUTSIDE THE PORTAL

While most ORCF transactions can and should now be completed using the 232 Healthcare Portal ([here](#)), we recognize that there are some times when additional assistance is needed. Please see the chart below for additional resources:

Account Executive Facility Assignments Contact Listing	To find the assigned Account Executive for
--	--

here	projects under management
HHCP@hud.gov	For technical assistance or issues with the Portal
232R4RRequest@hud.gov , 232TPA@hud.gov OHPTribeNotice@hud.gov	For servicing Lenders temporarily without Portal access who need to submit specific loan servicing transactions to Asset Management (R4R, TPA or Asset Management Tribal Notice only)
LeanThinking@hud.gov	For comments or questions on the website and for program questions when no AE, UW or closer assigned.
Helpful emails outside of ORCF:	
Apps-F24@hud.gov	For technical assistance with APPS:
REAC_TAC@hud.gov	Technical Support for FASS and PASS
Revised9807Terminations@hud.gov	For final mortgage insurance termination processing only (after all conditions noted in the prepayment approval have been met).

Keywords: 232 Healthcare Portal, Asset Management, LeanThinking

[Back to top](#)

SECTION 106 HISTORIC PRESERVATION REVIEWS IN THE STATE OF MINNESOTA

To streamline Section 106 Historic Preservation Reviews, HUD now has a Programmatic Agreement with the Minnesota (MN) State Historic Preservation Office (SHPO). Lenders and Phase I consultants working on projects located in Minnesota should review the Programmatic Agreement and accompanying instructions which can be found ([here](#)). Please note that the MN SHPO does NOT accept submissions for Section 106 Reviews from lenders or Phase I consultants. The HUD Office is responsible for requesting the Section 106 review from the SHPO in instances where a review is required.

Keywords: *Section 106*

[Back to top](#)

FROM THE CLOSING CORNER

Clarification on Completion of Critical and Non-Critical Repairs Prior to Closing

A required exhibit in the draft closing package is the signed/dated Owner's Certification - Completion of Critical Repairs with photos and invoices. Lenders should carefully review the critical repair list from the PCNA and discuss Exhibit C – Critical, Non-Critical & Borrower Elective Repairs List, as applicable, of the firm commitment with the borrower in advance of submission of a draft closing package to ensure that the borrower understands the critical repair requirements.

Lenders may submit a request to move critical repairs to the non-critical repair category for ORCF consideration if:

- Weather prohibits the repair from being completed prior to closing.
- The PCNA analyst incorrectly identified a non-critical repair as a critical repair and documentation from the PCNA analyst correcting the error is provided.

The amendment request should be submitted to the assigned ORCF Closer; ORCF Underwriter approval will be required.

ORCF will **not** consider requests to move critical repairs to the non-critical repair category in the following situations:

- Borrower didn't get started on the repair quickly enough or the repair was more complicated than the borrower thought it would be.
- Borrower hasn't decided how they want to complete the repair.

December 19, 2018

Please contact the assigned ORCF Closer if questions.

Keywords: *Critical Repairs, Non-Critical Repairs*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

1. [Programmatic Agreement Between Minnesota SHPO and HUD](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of December 4, 2018

December 4, 2018 Contents

[Legal Instructions Concerning Applications for Full Insurance Benefits PRA Renewal](#)
[Document Links Included In This Blast](#)

LEGAL INSTRUCTIONS CONCERNING APPLICATIONS FOR FULL INSURANCE BENEFITS PRA RENEWAL

On November 26, 2018, the Department published a 60-day Federal Register Notice (FR-7000-N-02]) for the Paperwork Reduction Act ("PRA") notice and comment renewal process for the Legal Instructions Concerning Applications for Full Insurance Benefits-Assignment of Multifamily Mortgages to the Secretary ("Legal Instructions"), which fall under OMB Approval Number: 2510-0006 and set to expire next year. The Legal Instructions can be accessed from the following link ([here](#)). The Notice can be accessed from the link ([here](#)). Proposed revisions to the Legal Instructions in redline/strikeout format against the current version can be accessed from the following link ([here](#)). Please follow the procedures described in the Federal Register Notice to submit comments to HUD. Comments are due January 25, 2019.

Keywords: *Paperwork Reduction Act*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

29. [Legal Instructions Concerning Applications for Full Insurance Benefits – Assignment of Multifamily Mortgages to the Secretary](#)
30. [60-Day Notice of Proposed Information Collection: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily Mortgages to the Secretary](#)

31. [Proposed Revisions to the Legal Instructions in Redline/Strikeout Format Against the Current Version](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of October 31, 2018

October 31, 2018 Contents

[ORCF Reminders Regarding Previous Participation Reviews](#)
[Updated Environmental Clarification for Section 232 Partial Release and Easement Transactions](#)
[FROM THE CLOSING CORNER](#)
[Closing Documents to be Signed? PLEASE READ!](#)
[REMINDER – Post Closing Procedures for Closing Documents](#)
[REMINDER - Delegated Non-Critical Repair Escrow \(NCRE\) Administration to FHA Lenders/Servicers](#)
[Document Links Included In This Blast](#)

ORCF REMINDERS REGARDING PREVIOUS PARTICIPATION REVIEWS

Lenders are reminded that Previous Participation Requirements can be found in Housing Notice H16-15 ([here](#)).

Paper Option: ORCF has found that lenders utilizing the Paper Previous Participation Review (Consolidated Certification) option often submit incomplete and incorrect previous participation reviews, which dramatically increases processing time. To assist lenders in submitting complete and correct previous participation reviews via the paper option, ORCF has developed a lender tool. This tool can be found ([here](#)). Lenders are encouraged to utilize this tool prior to submitting Paper Previous Participation Reviews.

Frequent errors are noted below:

- Consolidated Certifications are not included for all Controlling Participants.
- A natural person is not identified as a Controlling Participant.
- Organization charts are not attached to the Consolidated Certifications. (Note that it is not acceptable to reference other application exhibits in

the Consolidated Certifications. They must be attached to the certification.)

- Organization charts do not include Social Security Numbers/Tax ID Numbers for Controlling Participants
- Organization charts include multiple specified capacities. A separate organization chart is required for each specified capacity.
- Organization charts include related projects that have the same organization structure.
- Business Partner Registration in the BPRS system is not completed or Social Security Numbers/Tax ID numbers in BPRS do not match the organization chart.

Electronic Option: Those lenders utilizing the electronic Active Partners Participation System (APPS) option for submitting Previous Participation Reviews typically submit complete and correct submissions.

A few reminders about submitting APPS Submissions are noted below:

- The lender should only include previous participation exhibits for the specific application being submitted.
- The lender should assure that the organization charts are consistent with the APPS submission.
- The lender should confirm that the signature pages include all of the required signatures for those submissions that are not signed electronically.

Keywords: *Previous Participation*

[Back to top](#)

UPDATED ENVIRONMENTAL CLARIFICATION FOR SECTION 232 PARTIAL RELEASE AND EASEMENT TRANSACTIONS

The following is clarification on the environmental requirements for partial release of security and/or easement transactions on HUD-insured Section 232 projects.

- **Partial Releases:** Handbook 4232.1, Section III, Chapter 3.4.4.C.7 addresses environmental reviews for, among other topics, subtractions from mortgaged property. A partial release involves such subtraction,

and environmental review is required. When ORCF receives a request to release a portion of a HUD-insured property, an environmental review is required. In its role as the releasing office, ORCF will conduct an environmental review. However, 24 CFR Part 51 Subparts B, C and D do not apply and, therefore, a Phase I Environmental Site Assessment (ESA) is not required. Lenders should submit the partial release application to the assigned Account Executive for approval of the transaction. *(Please note that if the re-used portion of land will involve another HUD-related program, the re-used land's program office may also be responsible for conducting an environmental review depending on the program's requirements, which may require a Phase I ESA and compliance with Part 51 Subparts B, C and D.)*

- **Easements:** Occasionally, municipalities, public utilities, or other city officials request owners to grant easements or right-of-way for construction of sewers, power lines, or for other purposes. **Environmental reviews are not required for these types of requests.** Lenders should submit the applicable easement documents to the assigned Account Executive for review. ORCF will review the easement request to determine the impact to the HUD-insured property. Upon completion of the project, ORCF will also require submission of all executed easement documents.

When submitting easement requests for private entities, owners, and other commercial or residential facilities, Lenders are advised to follow the guidance in the **Capital Improvements and Requests to Release or Modify Original Loan Collateral Checklist** as outlined in Section 232 Handbook 4232.1, Section III, Chapter 3.4 Request to Release or Modify Original Loan Collateral. Lenders should submit the capital improvement application and environmental documents to the Account Executive for approval of the transaction. ORCF will review the easement proposal to ensure it will not negatively affect the HUD-insured property. ORCF will also require submission of all executed easement documents once the project is complete.

Keywords: *Environmental, Partial Releases, Easements*

[Back to top](#)

FROM THE CLOSING CORNER

Closing Documents to be Signed? PLEASE READ!

As a reminder and clarification, per Handbook 4232.1, Section II, Chapter 9.2.G and 9.4.C and the March 30, 2012 Email Blast, please do not send documents to the OHP Closing Coordinator without prior expressed approval from the OHP Closing Coordinator. The OHP Closing Coordinator and HUD Attorney first need to approve the final draft documents and agree they are ready for ORCF signature. The OHP Closing Coordinator will then send the Lender and Lender Attorney an email with detailed instructions for delivering the documents to the designated signatory. **A minimum of three days should be anticipated for the signed documents to be sent back to the appropriate parties. Documents must not be sent for ORCF signature without prior, expressed approval from the Closing Coordinator.**

Please note that documents will be returned if received prior to expressed approval from Closing Coordinator.

Keywords: Closings, Signing Closing Documents

REMINDER – Post Closing Procedures for Closing Documents

As a reminder, Handbook 4232.1, Section II, Chapter 9.4.F and the February 27, 2015 Email Blast state that after closing, the ORCF Closing Coordinator will provide instructions on where the copies of the documents accepted by the HUD attorney at the closing are to be sent. As these critical documents are essential for the Account Executives to service new loans, the Lender's attorney should complete this process **within 2 weeks of closing.**

Keywords: Closings, Post Closing Procedures

REMINDER - Delegated NCRE Administration to FHA Lenders/Service

As a reminder, if Delegated NCRE Administration will be involved in the specific loan transaction, please submit the following in accordance with Handbook 4232.1, Section II, Chapter 2.9.K.3.a.-c.:

- ✓ The Firm Commitment Application, **which the Lender must specify will assume noncritical repair escrow administration on that particular transaction, and;**
- ✓ The Firm Commitment will include a **Special Condition** acknowledging the Lender is approved to administer the NCRE.

Both items must be included in the Firm Commitment Application if Delegated NCRE Administration will be involved in the specific loan transaction. Please contact the ORCF Underwriter if any questions.

Keywords: *Delegated Non-Critical Repair Escrow (NCRE) Administration, Closings*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

32. [Notice H 2016-15, Processing Guide for Previous Participation Reviews of Prospective Multifamily Housing and healthcare Programs' Participants](#)
33. [Lender Review Checklist for Previous Participation Certifications Submitted Via Consolidated Certifications](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of October 2, 2018

October 2, 2018 Contents

[Mortgagee Letter 2018-07 - Revised Procedures for the Submission of Form HUD-9807, Insurance Termination Request for Multifamily Mortgage for Prepayment Approval](#)
[Document Links Included In This Blast](#)

MORTGAGEE LETTER 2018-07 - REVISED PROCEDURES FOR THE SUBMISSION OF FORM HUD-9807, INSURANCE TERMINATION REQUEST FOR MULTIFAMILY MORTGAGE FOR PREPAYMENT APPROVAL

The Office of Residential Care Facilities is pleased to announce the revised procedures for the submission of Form HUD-9807, Insurance Termination Request for Multifamily Mortgage (OMB Approval Number 2502-0416) for Prepayment Approval. ML 2018-07 ([here](#)) provides updated guidance on the submission requirements of form HUD-9807, Insurance Termination Request for Multifamily Mortgage, for obtaining prepayment approval. Currently, all form HUD-9807s are submitted to the Office of Finance and Budget's Multifamily Insurance Operations Branch (MFIOB) at MFIOBTerminations@hud.gov. ***To expedite the prepayment review and approval process for FHA-insured multifamily and Section 232 properties,*** HUD is revising its process effective for requests submitted on or after October 1, 2018. The prepayment approval processes for FHA-insured Section 236 mortgages and Section 242 (hospital) mortgages are not impacted by this memorandum.

Keywords: Mortgage Termination, 9807

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

34. [Mortgagee Letter 2018-07 - Revised Procedures for the Submission of Form HUD-9807, Insurance Termination Request for Multifamily Mortgage for Prepayment Approval](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of September 13, 2018

September 13, 2018 Contents

[232 Healthcare Portal – Production](#)
[Document Links Included In This Blast](#)

232 HEALTHCARE PORTAL – PRODUCTION

ORCF is excited to announce the roll out of the 232 Healthcare Portal for Production and the submission of Application and Closing documents!

Trainings:

ORCF will offer webinar trainings to introduce lenders to the use of the Portal for Production Application and Closing Submissions at the following dates and times:

- Thursday, September 20, 2018 1:30PM EDT - 4:30PM EDT
Registration link ([here](#)).
(If pop up appears for credentials, please click "OK")
- Thursday, October 11, 2018 1:30PM EDT - 4:30PM EDT
Registration link ([here](#)).
(If pop up appears for credentials, please click "OK")
- Thursday, November 1, 2018 1:30PM EDT - 4:30PM EDT
Registration link ([here](#)).
(If pop up appears for credentials, please click "OK")

Please use the registration link for your selected date to register for the training. (Note: participation is limited to 250 registrants for each session.) Training documents will be posted on www.hud.gov ahead of the trainings.

Portal Registration:

Lenders will need to register their Users for the Portal. (Note: this registration is different from the Training Registrations above.) Please

September 13, 2018

complete the spreadsheet ([here](#)) with the information of the Users who will be accessing the Production Module of the Portal and email it back to Marsha.A.Gallion@hud.gov with a cc: to April.J.Edmunds@hud.gov.

Please indicate on the spreadsheet the staff you would like to designate as your Lender Account Manager (LAM) and Backup Account Manager (BAM). Those roles will allow for broader administrative functions and access. NOTE: Lender Counsel should also be registered as Users for the Portal if the Lender intends for Counsel to submit Closing documents directly through the Portal.

System Requirements:

Please note that Google Chrome is not supported by the Portal.

Application Queue:

Applications will be processed in the order they are submitted. We will not move applications from SharePoint to the Portal; applications in SharePoint will continue to be processed using the data posted on SharePoint as in the past. We will continue to accept non-Portal application submissions for now but will require use of the Portal for FHA Number Requests and Application Submissions as of December 1, 2018.

FHA Number Requests:

Portal Application submissions must start with an FHA Number Request.

- If you have already received an FHA Number, but have not yet submitted an application and wish to do so through the Portal, you must submit another FHA Number Request through the Portal first. We will assign you the same FHA Number, that step is just needed to start the process of opening your ability to start uploading application files and ultimately submit the application request. **Please send an email to the 232FHARequests@hud.gov email box to let us know if you are requesting to change the application to a Portal submission.**
- If you have not yet requested an FHA Number, but plan to submit your application using the Portal, please use the FHA Number Request process through the Portal, rather than requesting it through the e-mail box. (This process will be covered during the training.)

Keywords: 232 Healthcare Portal

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

- 35. [232 Portal Training - Thursday, September 20, 2018](#)
- 36. [232 Portal Training - Thursday, October 11, 2018](#)
- 37. [232 Portal Training - Thursday, November 1, 2018](#)
- 38. [Production Module of the Portal Spreadsheet](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of August 29, 2018

August 29, 2018 Contents

[Consolidated Certification Review Due Diligence](#)

[ORCF Appraisal Industry Group](#)

[Improved Lists of Major Movable Equipment Necessary on Construction Loans](#)

[Reminders Related to Florida's Emergency Power \(Generator\) Rules Document Links Included In This Blast](#)

ORCF APPRAISAL INDUSTRY GROUP

Our ORCF appraisers are creating an industry group with the purpose of discussing topics that deal with Residential Care appraisals and reviews. To form this group, we are asking lenders to spread the word to appraisers. Joining is voluntary and will be limited to appraisers only. We will periodically hold conference calls, the frequency of which will be decided on the first call. While the discussions will be led by ORCF, they will be participatory in nature. Interested appraisers can join and suggest agenda topics by sending an email to Wayne Harris, Supervisory Appraiser at wayne.d.harris@hud.gov. Wayne will maintain a members list, create the agendas, and schedule the calls.

Keywords: *Appraisers, Industry Group*

[Back to top](#)

IMPROVED LISTS OF MAJOR MOVABLE EQUIPMENT NECESSARY ON CONSTRUCTION LOANS

HUD's Contract Inspectors are required to verify all Major Movable Equipment has been delivered to the site before the Final Inspection. To do this, they must have an "inspectable" List of Major Movable Equipment. For example, a List that merely states, "Community Dining Room (tables and

chairs),” is not sufficient. The “Community Dining Room,” line item on an acceptable List of Major Movable Equipment would include, for example:

Location	Item	Quantity	Cost
Community Dining Room	36” square tables	24	\$275.00 each
	Dining chairs	125	\$75.00 each

The Lender’s Architectural Reviewer and Cost Analyst’s Statement of Work, dated July 30, 2018, has been revised accordingly ([here](#)).

Keywords: *Major Movable Equipment, New Construction, Substantial Rehabilitation, 241(a), Lender’s Architectural Reviewer and Cost Analyst’s Statement of Work Documents, Firm Application Checklist, Firm Commitments*

[Back to top](#)

REMINDERS RELATED TO FLORIDA’S EMERGENCY POWER (GENERATOR) RULES

ORCF would like to thank all servicing lenders, borrowers and other stakeholders of Section 232 projects in Florida for their efforts in providing compliance status updates and working to process R4R requests pursuant to procedures outlined in our April 3, 2018 Email Blast. Please note the following points of emphasis:

- Florida’s Agency for Health Care Administration has a number of resources for borrowers and operators related to the Emergency Power Plan Rules posted online ([here](#)).
- Stakeholders can use FloridaHealthFinder.gov to ascertain a facility’s compliance status, including the date a facility’s emergency power plan was approved and the date until which the facility has to fully implement the plan with a permanent, on-site alternate power source, if applicable.
- All pertinent R4R release requests should be sent to the 232R4RRequest@hud.gov mailbox, rather than through the Portal, and should include a copy of the emergency plan submitted to the state to demonstrate full or partial compliance, and must include copies of any supporting documentation used in connection with getting an extension beyond the June 1, 2018 deadline.
- **For Skilled Nursing Facilities only:** The R4R release request must include a plan for replenishment of the R4R account within a six-year

period (the approximate amount of time Medicaid is expected to reimburse providers via Florida's Prospective Payment System). The total amount to be replenished should be supported by documentation reflecting the percentage of Medicaid beds at the facility (e.g. documentation of the percentage of beds licensed or certified for Medicaid or trailing 12-month Census by payer for the facility).

- Previous Email Blasts (most recently the April 3, 2018 Email Blast) indicated ORCF's willingness to consider requests that would bring the R4R account balance below the standard recommended minimum threshold of \$1,000 per unit. However, ORCF does not anticipate granting exceptions to this minimum threshold that would substantially deplete the R4R account balance.

Requests which will take the account below the ORCF-recommended \$1000 per unit limit will be considered on a case-by-case basis to ensure the facility's needs moving forward will not be impacted negatively. Please review these cases with your assigned Account Executive (AE) and the AE can review it with his/her Workload Manager for approval. In most cases a Replacement Reserve analysis may be necessary to ensure the Replacement Reserve is adequately funded for the foreseeable future.

- ORCF is aware of one situation where a 5-year lease-to-purchase arrangement made sense for a facility's cash position, allowing it to achieve compliance with the rule even though the final overall cost of the generator was higher than if it were purchased up front. If lenders are considering this or other sorts of alternate financing arrangements, please be sure to detail the plan and get prior approval from the assigned AE.
- Lenders that service loans on facilities that do not have sufficient funds in their R4R account should contact their Account Executive to discuss other options for funding the costs of coming into compliance with these rules. ORCF would be open to considering Section 241(a) Supplemental Loans or Section 232(i) Fire Safety Equipment Loans if the project is otherwise eligible. Per 24 CFR 200.85, any supplemental loan that might otherwise be approved for the FHA borrower entity would need to be repayable only from surplus cash and cannot be amortizing.

Keywords: *Florida Emergency Generator Rules*

[Back to top](#)

CONSOLIDATED CERTIFICATION REVIEW DUE DILIGENCE

Lenders are reminded that as part of underwriting due diligence, lenders are required to review the Consolidated Certifications for all participants (not form HUD-2530) and to discuss any derogatory information in the Lender Narrative. This review and discussion should include any pending lawsuits, judgments or investigations. The Lender Narrative must discuss why any such instance is not a material risk to the transaction or provide an explanation of how the risk is mitigated. An additional best practice is to perform Internet searches on participants, in case there is more recent information available.

Keywords: *Consolidated Certification*

[Back to top](#)

DETAILS FOR MAJOR ORGANIZATIONAL CHANGE SUBMISSIONS IN APPS

ORCF is working to improve turn-times related to previous participation requests. In order to streamline this process and expedite those reviews so that transactions can be completed in a consistent and timely manner, we need the below information to be submitted at the time of your review.

Per Housing Notice 16-15, if a transaction is being processed in conjunction with an APPS or paper previous participation submission (e.g. with a major organizational change that would trigger a change in participant or transfer of physical assets, based on Section 232 Handbook guidance), the submitter is not to send the APPS or paper submission until the transaction package is also submitted to HUD. ORCF will not process previous participation submission without having the transactional submission as well. The previous participation review and approval is only one piece of the overall transactional submission and needs to be processed as part of that same review. Please note that receiving approval of an APPS submission is *not* approval of the overall transaction, and if you are doing a paper submission it must be on the ORCF Consolidated Certification form, and not using the Multifamily form HUD-2530. Applications submitting the form HUD-2530 will be returned.

For the previous participation submission for major organizational changes, once you have submitted the online APPS information, or the paper version, additional information is necessary to complete the review. Since the APPS submissions may have been completed directly by the participant, the Lender/Service will need to provide a detailed email, with additional information, and a recommendation for approval per participant guidance

noted throughout the Section 232 Handbook. The Lender/Servicer email must be provided to 232PreviousParticipation@hud.gov, providing the information necessary to complete the review. In order to ensure timely processing, submissions will not be assigned for review until the detailed email is received.

Detailed information to be included in the Lender/Servicer email, so that ORCF is able to evaluate and process the request, is outlined below.

- FHA Number
- Submission ID Number,
- Assigned Account Executive (find your Account Executive on the Account Executive Facility Assignments - Contact Listing on the Section 232 Program Website [here](#).)
- Identify if the project is currently in Asset Management or Production/Underwriting
- Identify if there are other transactions in process related to the submission (refinance, change of participant, etc.)
- Provide date the transaction submission package related to this org change was submitted to HUD
- Is the submission for a portfolio? List all projects the submission impacts for the org change
- Describe the purpose of the organizational change, including who is being added, who is being removed and why
- Per requirements of Notice 16-15 Section B, attach an org chart, identifying the proposed changes
- Does this package require HUD approval? Does this trigger a change in participant, based on the [Section 232 Handbook 4232.1](#)? If not, please explain why?
- Include Lender/Servicer recommendation for approval

Keywords: *Previous Participation*

DOCUMENT LINKS INCLUDED IN THIS BLAST

1. [Lender's Architectural Reviewer and Cost Analyst's Statement of Work](#)
2. [Florida's Agency for Health Care Administration](#)
3. FloridaHealthFinder.gov
4. [Account Executive Facility Assignments - Contact Listing](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of August 24, 2018

August 24, 2018 Contents

[ORCF Account Executive and Senior Account Executive Position Vacancies in the Asset Management Division, August 20 – September 6, 2018](#)
[Document Links Included In This Blast](#)

ORCF ACCOUNT EXECUTIVE AND SENIOR ACCOUNT EXECUTIVE POSITION VACANCIES IN THE ASSET MANAGEMENT DIVISION, AUGUST 20 – SEPTEMBER 6, 2018

ORCF is pleased to announce that it is hiring two (2) new Account Executives and (1) new Senior Account Executive in the Asset Management Division. The vacancy announcements were posted on various dates beginning on August 20 and will run through September 6. Because the application window is short, we are asking you to help us spread the word.

We anticipate filling three (3) positions. Each position is posted as available in a location negotiable after selection. These Account Executive positions are part of our ongoing effort to improve asset management customer service. Your help is greatly appreciated.

The vacancy announcements are available as follows;

[Account Executive - GS13 – Internal Posting](#)

[Account Executive - GS13 – Public Posting](#)

[Senior Account Executive - GS14 – Internal Posting](#)

[Senior Account Executive - GS14 – Public Posting](#)

Keywords: Account Executive, Vacancy Announcement

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

- 39. [USA Jobs Vacancy Announcement 18-HUD-1005](#)
- 40. [USA Jobs Vacancy Announcement 18-HUD-1006P](#)
- 41. [USA Jobs Vacancy Announcement 18-HUD-885](#)
- 42. [USA Jobs Vacancy Announcement 18-HUD-886P](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of August 20, 2018

August 20, 2018 Contents

[ORCF Management Analyst Position Vacancies in the Policy, Risk Analysis and Lender Relations Division, August 16 – August 29, 2018](#)
[Document Links Included In This Blast](#)

ORCF MANAGEMENT ANALYST POSITION VACANCIES IN THE POLICY, RISK ANALYSIS AND LENDER RELATIONS DIVISION, AUGUST 16 – AUGUST 29, 2018

ORCF is pleased to announce that it is hiring two (2) new management analysts in the Policy, Risk Analysis and Lender Relations Division. The vacancy announcement was posted on August 16 and will run through August 29. Because the application window is short, we are asking you, our partners, to help us spread the word to ensure we have a good field of candidates to select from.

There are two (2) positions that we anticipate to fill: one (1) in Washington, DC, and the other one (1) in a location negotiable after selection. These management analyst positions are a part of our ongoing effort to improve policy, risk analysis and lender relations. Your help is greatly appreciated.

The vacancy announcement is available ([here](#)).

Keywords: *Management Analyst, Vacancy Announcement*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

43. [USA Jobs Vacancy Announcement 18-HUD-888-P](#)
[Back to top](#)

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of July 31, 2018

July 31, 2018 Contents

[ORCF Underwriter Position Vacancy July 31 – August 13, 2018](#)
[Current Radon Standards for New Construction](#)
[Document Links Included In This Blast](#)

ORCF UNDERWRITER POSITION VACANCY JULY 31 – AUGUST 13, 2018

ORCF is pleased to announce that it is hiring new underwriters! The vacancy announcement was posted on July 31st and will run through August 13th. Because the application window is short, we are asking you our partners to help us spread the word, to ensure we have a good field of candidates to select from.

There are three positions that we anticipate will be filled in any of the following locations: Chicago, Columbus, Denver, Detroit, Los Angeles, Minneapolis, New York City, or Washington, DC. These underwriter positions are part of our effort to improve application turn-around times. Your help is greatly appreciated.

The vacancy announcement is available ([here](#)).

Keywords: *Underwriter, Vacancy Announcement*

[Back to top](#)

CURRENT RADON STANDARDS FOR NEW CONSTRUCTION

As noted in Handbook 4232.1, Section II, Chapter 7.1, "(T)he standards and guidance documents referenced in this chapter may be updated, amended or superseded from time to time. Wherever standards or guidance are cited in this chapter, ORCF requires reliance on the most recent edition or

superseding document.” Consistent with that statement, the radon standards for new construction have been updated to the following:

- ANSI CC-1000 2018 is the current new construction standard for large buildings. Section 232 new construction projects must meet the minimum requirements of this standard, regardless of the radon zone where the project is located.
- ANSI CCAH 2013 is the current new construction standard for single family buildings (1-family, 2-family, townhouses). This standard may be appropriate for a small number of Section 232 projects. An example would be a large main building (which must comply with CC-1000) with several duplex residences (which must comply with CCAH) around the main building.

Keywords: Radon, ANSI, Construction, Environmental

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

44. [USA Jobs Vacancy Announcement 18-HUD-792-P](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of July 13, 2018

July 13, 2018 Contents

[New Mailing Address for Firm Applications](#)

NEW MAILING ADDRESS FOR FIRM APPLICATIONS

The Minneapolis, MN field office, to which all Section 232 applications are submitted, will be moving locations effective July 19, 2018. All Section 232 firm applications that will be received on or after July 19, 2018 should be mailed to the new address below:

Mike Luke
U.S. Department of Housing & Urban Development
Office of Residential Care Facilities
212 Third Avenue, South
Suite No. 150
Minneapolis, MN 55401

Keywords: *Application Submission*

[Back to top](#)

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of June 29, 2018

June 29, 2018 Contents

[Section 232 Documents Re-Opened for Public Review and Comment Document Links Included In This Blast](#)

SECTION 232 DOCUMENTS RE-OPENED FOR PUBLIC REVIEW AND COMMENT

On June 29, 2018, HUD published a Federal Register Notice, FR-7001-N-32 ([here](#)), advising the public it had re-opened the comment period for an additional 15 calendar days. There have been no changes made to the posted documents since the April 10, 2018 notice; however, HUD has been made aware that not all submissions were able to be transmitted, and thus is requesting that all commenters please resubmit their comments to the address provided in this notice. When resubmitting comments, submitters are asked to clearly identify any changes they make from the version they initially submitted by the May 10, 2018 closing date.

Please also note that the current document collection is still in effect, and should be used for all transactions, until further notice.

Keywords: *Section 232 Documents*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

45. [Proposed Information Collection: Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees and Contractors Federal Housing Administration \(FHA\) Healthcare Facility Documents; Re-Opening of Comment Period \(FR-7001-N-32\)](#)

[Back to top](#)

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of June 27, 2018

June 27, 2018 Contents

[Updated Firm Application Checklists](#)
[Environmental and Timing Considerations](#)
[Refinances via 223\(a\)\(7\) of Poorly Performing Loans](#)
[Previous Participation Exhibits](#)
[Multiple Project Exhibits](#)
[Document Links Included In This Blast](#)

UPDATED FIRM APPLICATION CHECKLISTS

The Firm Application Checklists for all loan types have been updated and are available on the Section 232 Underwriting Guidance website ([here](#)). The new checklist versions align exhibits to be consistent across all loan types. The updated checklists are also in the format for document submission when ORCF starts accepting application submissions through the Healthcare Portal. Lenders should start using the new versions for any applications not yet submitted. As a reminder, lenders should always use the most current version of documents available when preparing application packages.

Keywords: *Checklist, Portal*

[Back to top](#)

ENVIRONMENTAL AND TIMING CONSIDERATIONS

For applications where an existing or proposed HUD-Insured project involves work that exceeds the level of routine maintenance (including construction, demolition, building modifications, site clearing, tree removal, or ground disturbance), HUD must complete an Environmental Review before the work can commence. Depending on the nature of the proposed activities, specific review requirements may apply pertaining to floodplain management, protection of wetlands, historic preservation, endangered species, and other environmental factors. Proposals should consider early submission of

environmental factors where early consultation is necessary in order to avoid processing delays.

Note that some State Historic Preservation Offices (SHPOs) and some regional offices of the US Fish and Wildlife may only respond to consultation requests from HUD. Since these consultations can sometimes take months to complete, it is important to get the process started early in these instances. ORCF's Handbook 4232.1, REV-1, Section II, Chapter 1.4.D.2 describes such instances. Examples include:

- Where proposed ground disturbance or vegetation / tree removal has the potential to impact endangered species, and a consultation with the US Fish Wildlife service may be necessary, early contact with HUD is recommended.
- Whenever a project involves work that exceeds the level of routine maintenance, consultation with the State Historic Preservation Officer (SHPO) is required regardless of the age and location of the property, unless the applicable SHPO has a formalized agreement with HUD that excludes certain types of activities from consultation.
- When a project involves Tribal Consultation, early contact with ORCF is recommended.

Lenders are encouraged to contact ORCF at LeanThinking@hud.gov, during the assembly of their applications, to avoid processing delays due to required consultation periods (sometimes 30 days or longer). Lenders are also encouraged to contact LeanThinking@hud.gov with any other questions that impact application processing. For projects which already have HUD Mortgage Insurance, and that are also proposing work beyond routine maintenance, early environmental contact with ORCF may also apply, so contact the ORCF Account Executive for your specific project.

For a description of "routine maintenance", please see: Notice CPD 16-02: Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58 ([here](#)).

Keywords: *Environmental Review, Application Processing, Routine Maintenance, Demolition, Construction, Ground Disturbance*

[Back to top](#)

REFINANCES VIA 223(A)(7) OF POORLY PERFORMING LOANS

An (a)(7) refinance is sometimes a useful tool for improving a property's performance; it can reduce debt service while also making some funds available for repairs and limited improvements. However, when this tool is used on a poorly performing property (certainly one with a debt service coverage ratio below 1.10), the tool needs to be part of a larger plan for performance improvement. That business plan should demonstrate a thorough consideration of the market and set forth specific steps being initiated to increase revenue, improve resident care and control expenses. The Lender Narrative should detail that plan. Without an upfront plan and the lender's initial analysis of how that plan will bring sufficient performance improvement, ORCF is not well positioned to evaluate the risk of the proposed (a)(7). In such cases, the lender will experience substantial delays as ORCF asks the lender for further data and analysis.

Keywords:223(a)(7)

[Back to top](#)

PREVIOUS PARTICIPATION EXHIBITS

Recently ORCF has been seeing applications with placeholder pages for Previous Participation exhibits noting the item is in process and will be submitted at a later date. Please note that not having these exhibits ready to submit results in an incomplete application that is not ready for review and creates delays in processing. As a reminder, please ensure that all relevant application exhibits are included at application submission. Incomplete submissions may be placed on hold or be held for assignment to an underwriter until the application is complete and ready to review.

Keywords:*Previous Participation, Application Processing*

[Back to top](#)

MULTIPLE PROJECT EXHIBITS

ORCF has also been seeing applications with large files covering information for multiple projects. For example, we have seen all of the APPS submissions for the principals on multiple projects being submitted in a single large file. ORCF needs discrete information for each application. In addition, such combined files are not efficient for reviewers to work with and

result in processing delays. Dication of these files in multiple applications also uses up limited file storage space, which may result in delays uploading new application submissions.

Keywords: *Application Processing*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

46. [Section 232 Underwriting Guidance website](#)
47. [Notice CPD 16-02: Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of June 18, 2018

June 18, 2018 Contents

[ORCF Appraiser Position Vacancy June 13-27, 2018](#)

ORCF APPRAISER POSITION VACANCY JUNE 13-27, 2018

ORCF is pleased to announce that it is hiring a new review appraiser! The vacancy announcement was posted on June 13th and will run through June 27th. Because the application window is short, we are asking you our partners to help us spread the word, to insure we have a good field of candidates to select from. The selection will be made from one of two locations, Columbus, Ohio, or Fort Worth, Texas. ORCF recently welcomed two new appraisers onboard and this third appraiser position is part of our effort to improve application turn-around times and prepare for planned retirements. Your help is greatly appreciated. Again there are two site options, but only one position.

Here are the two vacancy announcement links:

To view your announcement, please click the following link:
<https://www.usajobs.gov/GetJob/ViewDetails/502177500>

To view your announcement, please click the following link:
<https://www.usajobs.gov/GetJob/ViewDetails/502177300>

Keywords: *Appraisers, Vacancy Announcement*

[Back to top](#)

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of May 2, 2018

May 2, 2018 Contents

[Correction to April 3, 2018 Email Blast Article on Florida's Emergency Generator Rules](#)
[Document Links Included In This Blast](#)

CORRECTION TO APRIL 3, 2018 EMAIL BLAST ARTICLE ON FLORIDA'S EMERGENCY GENERATOR RULES

The ORCF published an Email Blast article on April 3, 2018 noting that Florida's Emergency Generator Rules (also referred to as Emergency Power Plan Rules) had a compliance deadline of July 1, 2018. **ORCF has learned that the compliance deadline is June 1, 2018.** We apologize for the error. Please find the final rule text ratified by the Florida Legislature for assisted living facilities ([here](#)) and skilled nursing facilities ([here](#)).

Providers may file for an extension of the compliance date out to January 1, 2019 under certain circumstances and with approved documentation. You may find samples developed by Florida's Agency for Health Care Administration for requesting an extension ([here](#)).

Keywords: *Florida Emergency Generator Rules*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

- 48. [Emergency Environmental Control for Assisted Living Facilities](#)
- 49. [Emergency Environmental Control for Nursing Homes](#)
- 50. [Emergency Power Plan Rules Resources](#)

May 1, 2018

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Real Estate Assessment Center (REAC)
Update and Clarification
May 1, 2018

May 1, 2018 Contents

[Asset Management Updates and Reminders on Real Estate Assessment Center \(REAC\) Inspections](#)
[Clarification of Process for REAC Inspections of Section 232 Projects](#)
[REAC Inspections and Skilled Nursing Facilities \(SNFs\)](#)
[Database Adjustment/Pre-Database Adjustments/Technical Review](#)
[REAC Information on HUD.gov](#)
[Document Links Included In This Blast](#)

This Email Blast is most relevant to servicers of Section 232 projects since it provides updates and clarification on REAC inspections of Section 232 projects. The Office of Residential Care Facilities (ORCF) will be following up with a session to address questions about this guidance. Details will be provided in a forthcoming Email Blast.

ASSET MANAGEMENT UPDATES AND REMINDERS ON REAL ESTATE ASSESSMENT CENTER (REAC) INSPECTIONS

Clarification of Process for REAC Inspections of Section 232 Projects

ORCF is clarifying its internal process for addressing Section 232 projects with a single, non-consecutive score of 31-59 on a REAC physical inspection report to ensure consistency with the process followed by Multifamily Housing (as outlined in Notice 2011-24 and Notice 2015-02).

Currently, when a Section 232 project receives a single, non-consecutive score of 31-59, after the owner completes their 100% survey and provides the Project Owner Certification to HUD, ORCF staff immediately requests

another inspection with REAC staff. This inspection has been performed by REAC staff.

Effective with the issuance of this Email Blast, ORCF staff will no longer request a subsequent inspection from REAC staff (provided HUD has received a Project Owner Certification that is acceptable to HUD). On such projects, the next REAC inspection will be performed one year from the date that HUD releases the prior REAC inspection report and the next REAC inspection will be ordered by the lender using the normal REAC inspection protocol.

Please note that ORCF staff will continue to request a subsequent inspection from REAC in the following situations:

- The project received a score of less than 31, or
- The project received two or more consecutive scores of less than 60, or
- The project received a single, non-consecutive score of 31-59, and the owner failed to provide the required Project Owner Certification in a manner that is acceptable to HUD, or
- Any subsequent inspection required on a Nursing Home/SNF due to a previous less than 60 score.

REAC Inspections and Skilled Nursing Facilities (SNFs)

On September 7, 2012 (effective October 9, 2012), HUD issued the Final Rule: **Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program-Strengthening Accountability and Regulatory Revisions Update**. The rule amended 24 CFR Section 200.85, *Physical Condition Standards and Physical Inspection Requirements*, to allow HUD greater flexibility in the physical inspections of skilled nursing facilities (SNF), assisted living facilities, board and care facilities and intermediate care facilities.

In implementing this rule, the Office of Healthcare Programs (OHP) chose only to exempt all SNFs in the HUD portfolio where the last REAC inspection score was 60 or above – considered a passing score. The remaining SNFs were required to have subsequent inspections and would not be considered exempt until they received a passing score.

We have had several properties scheduled by lenders for a REAC inspection that should have been exempt - based on the above criteria. Lenders should check the Account Executive Facility Assignments - Contact Listing ([here](#)) to

verify if a property has been exempted from REAC Inspections prior to scheduling. In addition, if the property is a SNF **and** the last REAC inspection was a score of 60 or greater, they are not subject to additional REAC Inspections. Please note, projects containing more than one type of facility are coded as the predominant (based on number of beds) facility type. If you notice an error on this report or have any questions, please contact the assigned Account Executive (AE). In any event, lenders will not have to order any second inspection on a SNF/Nursing Home.

Exigent Health and Safety (EH&S) Tickets

Many Section 232 facilities have residents with Alzheimer's, dementia or other memory issues, and require restricted windows and doors to provide for resident safety. In a REAC Inspection, these blocked doors and windows are marked as blocked egress, which results in EH&S findings. The inspector leaves a ticket and informs the property that they must address the blocked egress finding. If windows or doors are physically altered because of this REAC deficiency, it may be a resident safety issue as well as a conflict with licensing requirements.

To address our concern that some properties may physically alter the facility to address this REAC deficiency, REAC has updated the tickets left at the property to include the following language:

FOR NURSING HOME/HEALTHCARE PROPERTIES ONLY: If local or state code requires that windows either not open or open only a prescribed number of inches (e.g., 6 inches) to prevent residents with Alzheimer's, dementia, or other conditions from injury or leaving the premises, the nursing home property is not required to mitigate the deficiency "blocked egress/inoperable" window(s) when recorded on this form as an observed EH&S deficiency. If local or state code allows for this restriction and the property has not filed a pre-database adjustment with the REAC, please submit an appeal immediately (within 45 days of the inspection report's release date) and indicate it should also be processed as a pre-database adjustment.

The borrower certification related to corrected EH&S deficiencies should note the specifics of any egress deficiency that meets the above language. If you have any questions or concerns on this issue, please contact your assigned AE.

Database Adjustment/Pre-Database Adjustments/Technical Review

One of the most common database adjustments needed is the blocked egress issue noted above. We strongly encourage you to submit a database/pre-database adjustment for these findings to prevent the same issue from recurring.

Below are the differences between the types of adjustments and key points to remember when submitting a request for an adjustment:

- **Database Adjustment:** Requesting REAC to reevaluate the report as there are circumstances out of the ordinary, such as:
 - Local Conditions and Exceptions – allowed by local codes or license
 - Ownership issues (sidewalk or retaining wall not part of the mortgaged property)
 - Adverse Conditions Beyond Owner's Control – natural disaster

If the property is undergoing rehabilitation, you should seek a REAC inspection deferment. While "Modernization Work in Progress" is a justifiable reason for a database adjustment, it is a more efficient use of the process to wait for the rehabilitation work to be completed prior to the inspection.

A REAC database adjustment request:

- Must be submitted to REAC within **45 days** of the release of the report.
- Must include supporting 3rd party documentation; such as, local codes, letters from Fire Marshals, license requirements, legal descriptions, etc.

We recommend notifying your assigned AE when the database adjustment request has been sent. AEs only need an electronic copy.

- **Pre-database Adjustment** – A previously approved database adjustment that is stored in the REAC database. This will delete the deficiency from future inspection reports. When submitting your original database adjustment, request that it also be treated as a pre-database adjustment.
- **Technical Review** – Objectively verifiable and material error.

Technical Reviews must be submitted to REAC within **30 days** of the release of the report. Examples:

- Building Data Errors -The inspection includes the wrong building or a building that is not owned by the property.
- Unit Count Errors -The total number of units considered in scoring is incorrect as reported at the time of the inspection.
- Non-Existent Deficiency Errors -The inspection cites a deficiency that did not exist at the time of the inspection.

REAC Information on HUD.gov

Please refer to the web sites listed below for additional REAC guidance:

Preparing for a REAC Inspection	http://portal.hud.gov/hudportal/documents/huddoc?id=Prep4REACInspecR2Oct2016.pdf
Top 20 Deficiencies	https://apps.hud.gov/offices/reac/products/pass/top20.pdf
YouTube Videos: Topics include: Technical Review, Scoring, and Inspection Review	https://www.hud.gov/program_offices/public_indian_housing/reac/training/learningtools#1
Technical Reviews and Database Adjustment Guidelines	https://apps.hud.gov/offices/reac/products/pass/PDFs/guidelines-adj.pdf
Certification of Exigent Health and Safety (EH&S) Issues *	https://www.hud.gov/sites/documents/93332_orcf.doc
Certification of Physical Condition Compliance*	https://www.hud.gov/sites/documents/93333_orcf.doc

*Please note: These are two different forms and certify to different areas of completion.

- EH&S Certification is for the items noted in the ticket that the inspector leaves at the property. These repairs must be remedied within 72 hours.

- Certification of Physical Condition is the certification that is completed when a property receives a **REAC score of 59 and below**. This certification is completed and returned to the Account Executive when the property maintenance staff has conducted a 100% review of the property and all items have been addressed. This includes any items noted on the REAC Inspection and any items discovered during the 100% inspection conducted by staff. Once the AE receives this certification; they will order a follow up inspection.

Keywords: REAC, Inspections

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

51. [Account Executive Facility Assignments - Contact Listing](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of April 25, 2018

April 25, 2018 Contents

[Email Blast Articles For Lenders' Loan Servicers](#)

[Lender Point of Contact \(POC\) For Chief Underwriters and Servicing
Mortgagee Contacts](#)

[Updated Financial Tables](#)

["De Minimus" Initial Draws In Construction Transactions](#)

[FROM THE CLOSING CORNER](#)

[Non-Critical Repair Escrow \(NCRE\) Request – Revised Procedures – Portal
Submissions Beginning May 1, 2018](#)

[Document Links Included In This Blast](#)

EMAIL BLAST ARTICLES FOR LENDERS' LOAN SERVICERS

Have your loan servicing colleagues joined ORCF's Email Blast list? As this Blast well illustrates, the Email Blasts contain information relevant to them as well. You may wish to forward this Blast to them and suggest that they subscribe ([here](#)).

Keywords: *Email Blast, Servicers*

[Back to top](#)

**LENDER POINT OF CONTACT (POC) FOR CHIEF
UNDERWRITERS AND SERVICING MORTGAGEE CONTACTS**

ORCF requires all Section 232 Lenders to designate a qualified individual as "Chief Underwriter" and "Deputy Chief Underwriter." See Handbook 4232.1, Section I, Chapter 2.3.C ([here](#)). Lenders can verify the POC information HUD has for their Chief Underwriter on the Mortgagee Certification MAP Approved Lenders List ([here](#)). If that information as to Lean participation is not current, then the lender should send an email to Terry Clark at: Terry.W.Clark@hud.gov with complete POC information for that individual, including the individual's name, title, company name, email address and company phone number.

Additionally, ORCF is requesting that all approved Section 232 Lenders provide point of contact information for their Director of Loan Servicing (or similarly titled position), the individual who would be ORCF's senior primary contact. The contact information should include the individual's name, title, company name, email address and company phone number. Please forward your Servicing Mortgagee point of contact information to LeanThinking@hud.gov.

Keywords: *Lender Point of Contact; Chief Underwriter; Servicing Mortgagee Contact Information*

[Back to top](#)

UPDATED FINANCIAL TABLES

We have previously emphasized ORCF's need for updated financial tables during the underwriting process and for presentation at Loan Committee. As a reminder, ORCF may request updated financial tables that are dated no more than 3 months prior to the date of Loan Committee. When submitting updated financial tables, it is the lender's responsibility to analyze the data and provide an explanation of any changes in financial performance with the updated financial statements.

Keywords: *Financial tables*

[Back to top](#)

"DE MINIMUS" INITIAL DRAWS IN CONSTRUCTION TRANSACTIONS

Appendix 10.2 of Handbook 4232.1, Section II, sets forth instructions for the lender's approval of advances of loan proceeds in construction transactions. Chapter 10.2.A.1 states generally that 232 loan proceeds are to be advanced *after* escrow, grant and other loan proceeds. However, Chapter 10.2.A.5 contains a limited exception, stating:

HUD recognizes that, in order to deliver documents to the investor for satisfactory receipt and delivery of the initial GNMA Construction Loan Certificate, a de minimis first draw of the loan proceeds may need to be approved for disbursement at initial closing. The disbursements must be supported by justification and found acceptable to ORCF.

ORCF has seen these initial draws generally between \$25,000 and \$40,000; ORCF has generally found such amounts justified and has approved those draws. However, lenders obviously do take some risk when, as is the

practice, they commit to such draws prior to HUD approval. Lenders should be especially cautious when this initial draw would be a larger amount, exceeding the amount of the application fee. In such rare instances, the lender would be well advised to check with ORCF in advance.

Keywords: *De Minimus, Initial Draws*

[Back to top](#)

FROM THE CLOSING CORNER

Non-Critical Repair Escrow (NCRE) Request – Revised Procedures – Portal Submissions Beginning May 1, 2018

The December 21, 2017, LEAN 232 update announced that, eventually, all Non-Critical Repair Escrow (NCRE) requests would be processed through the ORCF Portal. As a follow-up to that update, ***beginning May 1, 2018***, ORCF will be using only the portal to process all NCRE requests. The 232NCRrequest@hud.gov mailbox will be discontinued after May 1, 2018, and the portal will be used for all NCRE requests. NCRE submissions on all loans should be submitted through the ORCF Portal starting May 1st. Please refer to the January 12, 2017 LEAN 232 update and Mortgagee Letter 2107-04 for more information about the portal.

Keywords: *Non-Critical Repair Escrow*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

52. [Mortgagee Certification MAP Approved Lenders List](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of April 10, 2018

April 10, 2018 Contents

[Section 232 Documents Available For Public Review and Comment](#)
[Document Links Included In This Blast](#)

**SECTION 232 DOCUMENTS AVAILABLE FOR PUBLIC
REVIEW AND COMMENT**

On April 10, 2018 a Federal Register Notice ([FR-7001-N-09](#)) was published to open a 30-day comment period on the revised collection of Section 232 documents. The entire collection subject to this notice, in both clean and redline format, is available for review at: www.hud.gov/232comments. Please read, consider, and submit your comments, if any. In order to be considered, all comments **must** be submitted **as instructed in the Federal Register**. The comment period ends May 10, 2018.

Please also note that the current document collection is still in effect, and should be used for all transactions, until further notice.

Keywords: *Section 232 Documents*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

53. [30-Day Notice of Proposed Information Collection:
Comprehensive Listing of Transactional Documents for Mortgagors,
Mortgagees and Contractors Federal Housing Administration \(FHA\)
Healthcare Facility Documents: Proposed Revisions and Updates of
Information Collection \(FR-7001-N-09\)](#)
54. [Section 232 Documents for Comment](#)

[Back to top](#)

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of April 3, 2018

April 3, 2018 Contents

[Revised Guidance for Processing Reserve for Replacement \(R4R\) Requests
Related to Florida's Emergency Generator Rules
Document Links Included In This Blast](#)

**REVISED GUIDANCE FOR PROCESSING RESERVE FOR
REPLACEMENT (R4R) REQUESTS RELATED TO FLORIDA'S
EMERGENCY GENERATOR RULES**

The Florida state legislature has passed emergency generator rules for assisted living facilities ([here](#)) and skilled nursing facilities ([here](#)). Governor Rick Scott signed them into law on March 26, 2018. We understand that the compliance deadline is July 1, 2018, but providers may file for an extension out to January 1, 2019, under certain circumstances and with approved documentation. Further, we understand that the approved state budget includes funding to help defer the costs to comply with the rules imposed on skilled nursing facilities (no such funding has been proposed for assisted living facilities).

Section 232 project borrowers are encouraged to contact their servicing lender to develop a plan for achieving compliance with these rules.

The following guidance amends that given in the October 13, 2017, Email Blast concerning the eligibility of generators and related components as reserve for replacement items. It applies specifically to R4R requests for a Section 232-insured facility in Florida coming into compliance with the emergency generator rules:

- All R4R release requests for generators, storage tanks and other related components pursuant to complying with these requirements are to be sent to 232R4RRequest@hud.gov, rather than the Portal (emails should include in the Subject Line: "Florida Generator

Requirement"). This applies to lenders following the established delegated approval process.

- All pertinent R4R release requests should include a copy of the emergency plan submitted to the state to demonstrate full or partial compliance, and must include copies of any documents supporting an extension request beyond the July 1, 2018 deadline.
- **For Skilled Nursing Facilities only:** the R4R release request must include a plan for replenishment of the R4R account within a six-year period (the approximate amount of time Medicaid is expected to reimburse providers via Florida's Prospective Payment System). The total amount to be replenished should be supported by documentation reflecting the percentage of Medicaid beds at the facility.
- If the request will bring the balance of the R4R account below the \$1,000 per unit recommended minimum threshold, a waiver may be considered.
- The existence or non-existence of a generator on the PCNA will not be a reason on its own to deny a request.
- Pursuant to 3.2.2 H.3 of the handbook, advances may be considered for this type of work.
- Pursuant to 3.2.2.H.4 of the handbook, requests shall be made no more than one year after the expenditure occurred; complying with the Florida requirement will not be a rationale for waiving this requirement.
- Section 3.2.2.H.5 of the handbook has guidance on delegated approval (by lenders). Generators/tanks/component improvements (as long as they meet the requirements of this section) may be processed using the delegated approval process; in these cases, the details of the approved transaction are to be sent to the 232R4RRequest@hud.gov mailbox rather than through the Portal, per above.

The Environmental Guidance provided in the November 13, 2017 Email Blast is applicable to the above requests.

Keywords: *Florida Emergency Generator Rules*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

- 55. [Emergency Environmental Control for Assisted Living Facilities](#)
- 56. [Emergency Environmental Control for Nursing Homes](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of February 28, 2018

February 28, 2018 Contents

[Keys Amendment Letters Posted Online](#)
[Clarification of "Management Agent" Role](#)
[Exclusion of the Cost Approach](#)
[Flood Insurance Reminders](#)
[Initial Operating Deficit Worksheet Preparation For Section 241 Applications](#)
[Reconciling NOI History with Certified Financials](#)
[Document Links Included In This Blast](#)

KEYS AMENDMENT LETTERS POSTED ONLINE

In response to industry requests, and with permission from the Social Security Administration (SSA), ORCF is now posting all **new** (2018 & forward) annual Keys Amendment certifications on the ORCF website ([here](#)). Each "X" on the chart not only indicates that a state has submitted their certification letter for calendar year 2018, but it is also a hyperlink to the certification itself. As a reminder (and as discussed in our [October 25, 2017 Email Blast](#)), the state letter is not the only requirement for Board and Care eligibility; each project must be specifically regulated by the state, pursuant to Section 1616e of the Social Security Act, and meet all other ORCF requirements.

Keywords: *Board and Care; Keys Amendment; Section 1616e*

[Back to top](#)

CLARIFICATION OF "MANAGEMENT AGENT" ROLE

ORCF has recently received inquiries regarding the role that will lead to a party's designation as a facility's "management agent." Per Handbook 4232.1, Section II, Chapter 8.3, a Management Agent is an entity that "directs the day-to-day functions of a healthcare project as a contracted agent for either the Operator or the Borrower." The most fundamental *function* of a residential care facility is, of course, resident care. Thus, while

a Management Agent's role will include a wide range of activities, those activities necessarily include resident care. This specifically includes the selection and supervision of the administrator and the staff providing care and services to the residents. Management agents thus include entities who have overall responsibility for resident care and for the operations that support that care, but who do not meet the definition of operator in Chapter 8.2 and are therefore not required to sign the Operator Regulatory Agreement.

The Management Agent role is distinguished from the role of the various parties with whom an operator may contract to optimally operate the facility (e.g., administrative services provider, back-office services provider, therapy provider, etc.) Those parties would not (as a Management Agent does) go through a certification/approval process at the ORCF or lender level. Any costs incurred for such services, however, must not exceed amounts normally paid for such services in the geographic area (pursuant to 24 CFR 232.1007 and to the borrower's and operator's regulatory agreements). HUD may require that fees paid to a service provider be disclosed and substantiated as reasonable and necessary.

Keywords: *Management Agent*

EXCLUSION OF THE COST APPROACH

ORCF is noticing a trend to inappropriately exclude the Cost Approach in appraisals. The Lender may not request that the appraiser omit the approach. When the costs to construct and stabilize a potential new facility, including land, are well below the estimated market value for the subject property, there is a possibility that a competitor may be added to the market. Lenders are reminded that Handbook 4232.1, Section II, Chapter 5.3.R.2:

ORCF will expect to see a fully developed cost approach in cases where there is little depreciation or in cases where the undepreciated replacement cost new would be expected to be lower than the conclusions of the Sales Comparison or Income Capitalization Approaches. For that reason, base costs of new facilities will need to be carefully discussed in the narrative justification for excluding the approach.

Since "base costs" need to be carefully discussed in the narrative, most of the Cost Approach will already need to be completed and will prove insightful to the discussion.

Keywords: *Cost Approach, Undepreciated Replacement Cost, Competition*

[Back to top](#)

FLOOD INSURANCE REMINDERS

Lenders are reminded that Handbook 4232.1, Section II, Production, 14.7.H addresses flood insurance requirements. It is the lender's responsibility to review the Standard Flood Hazard Determination Form as well as current and preliminary FEMA Maps prior to submission of an application. Chapter 14.7.H requires that every mortgage insurance application must include a Standard Flood Hazard Determination Form (FEMA Form 086-0-32 or most recent version), prepared by a qualified third-party flood zone determination firm. In addition, because the status of a flood zone may change over time, the Lender must obtain from its flood zone determination firm "life-of loan" monitoring and coverage.

For projects that require flood insurance, you are reminded that the following requirements apply:

1. HUD considers flood insurance to be a market expense that other lenders would also require, therefore, flood insurance costs should be included in the appraisal's net operating income estimate as an expense. This expense should also be included in the lender's underwritten net operating income used to calculate debt service coverage.
2. The lender narrative and draft firm commitment should include a special condition requiring flood insurance as well as the following required flood insurance coverage amounts:
 - a. The amount of the replacement cost of improvements located in the Special Flood Hazard Area (SFHA). This number should be found in the PCNA for refinance projects and in the third-party cost report for construction projects.
 - b. The amount of Business Income coverage as described in Handbook 4232.1, Section II, 14.7.H
 - c. The maximum deductible amount, which cannot exceed 5% of the replacement cost of the mortgaged property.

Keywords: *Flood Insurance*

[Back to top](#)

INITIAL OPERATING DEFICIT WORKSHEET PREPARATION FOR SECTION 241 APPLICATIONS

As a reminder, Handbook 4232.1, Section II, Appendix 2.1, Calculating the Initial Operating Deficit Escrow, provides instructions on how to complete the Initial Operating Deficit (IOD) workbook. Section 241 applications often do require an IOD when beds/units are being added, or payor mixes are changing. As a reminder:

- Existing operations should be considered in the 'number of preleases' column;
- Changes to expense floor percentages must be justified;
- The Details and Draw Requests tab of the workbook automatically defaults to income commencing in month 3. Manipulation of the monthly forecast columns is permitted, where appropriate, to reflect income being achieved in months 1 and 2;
- The combined debt service of both loans (existing and proposed) must be reflected in the principal/interest and MIP line items of the Details and Draw Requests tab;
- The actual proposed IOD amount must be included on the Details and Draw Requests tab; and
- In the situation where an IOD is not proposed, the IOD workbook is still required to be completed, to prove that the existing operations cover operations and debt service of both loans.

Keywords: *Section 241, IOD*

[Back to top](#)

RECONCILING NOI HISTORY WITH CERTIFIED FINANCIALS

An important part of the ORCF appraisal review is checking to see if the financial history summarized in the appraisal is reported accurately. This is done by comparing the historical net operating income (NOI) to the detailed income and expense statements, which are certified by the owner to be correct (exhibits 3-x-B or 5-x-B or 9-x-B). For the two to "balance", expense "add-backs" are sometimes needed. Examples of add-backs are interest

income, interest expense, depreciation, amortization, property rent, lawsuits, fund raising activities, and major capital improvements. Currently the review appraiser's reconciliation table is found in the Decision Circuit, but we hope to have a place for it in a future version of the 223(f) Lender Narrative Template. The lender will be asked for clarifications when the review appraiser is unable to reconcile the reported history with the certified financials. It is inappropriate to "normalize" any historical expense to market levels or include adjustments for corporate structure. Such "normalizations" will be reflected in the appraisal's forecasts. The lender can speed the balancing process by describing the add-backs using the specific name or accounting code used in the certified financials.

Keywords: *Lender Narrative, Certified Income & Expense, Financial History, Reconciliation, Balancing, Appraisal*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

57. [ORCF State Compliance with Keys Amendment Website](#)

[Back to top](#)



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](#)

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

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

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

[Risk Notification](#)

[Document Links Included In This Blast](#)

**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](#)

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](#)

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](#)

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](#)), "**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](#)

RISK NOTIFICATION

Handbook 4232.1, Section III, Chapter 3.10 ([here](#)), 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 [\(here\)](#).
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

58. [Capital Improvements Application Checklist](#)
59. [Servicer's Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of November 13, 2017

November 13, 2017 Contents

[Environmental Guidance In Response to Florida's Emergency Generator Requirements](#)
[Document Links Included In This Blast](#)

ENVIRONMENTAL GUIDANCE IN RESPONSE TO FLORIDA'S EMERGENCY GENERATOR REQUIREMENTS

The Office of Residential Care Facilities (ORCF) is providing the following guidance pertaining to Florida's Emergency Generator Rules (assisted living facilities ([here](#)) and skilled nursing facilities ([here](#))). Although an Administrative Law Judge's order ([here](#)) has stated that the Emergency Generator Rules are invalid, the State of Florida's Agency for Health Care Administration and Department of Elder Affairs have filed a Notice of Administrative Appeal ([here](#)).

Given the current circumstances at the Florida state level, ORCF is providing the following reminders regarding issues that may arise at facilities installing generators.

Consistent with ORCF's Regulatory Agreements and the Section 232 Handbook (4232.1), installing aboveground storage tanks, generators and/or related components will generally not constitute "remodeling" or other modifications to the collateral securing a currently FHA-insured mortgage, and will therefore not trigger an environmental review. However, ORCF offers the following to help borrowers and lenders ensure compliance with HUD Environmental Requirements related to installing storage tanks:

- **Aboveground Storage Tanks (ASTs)**: Projects adding ASTs must follow the Section 232 Handbook, Production Chapter 7.5.G.4 requirements. Specifically, projects adding ASTs must:

- Obtain documentation confirming that the AST conforms to all applicable state and local permit requirements;
- Obtain and submit to HUD a permit, conformance letter or other form of assurance from a local authority that specifically addresses the safety of the AST:
 - **Projects with a permit, conformance letter or other assurance** may be asked to submit documentation of Acceptable Separation Distance (ASD) calculations between the tank and any buildings and outdoor areas of congregation;
 - **Projects unable to obtain a permit, conformance letter or other assurance** must submit documentation of Acceptable Separation Distance (ASD) calculations between the tank and any buildings and outdoor areas of congregation, and may need to complete remediation or mitigation acceptable to HUD.
- **Underground Storage Tanks (USTs)**: The Office of Residential Care Facilities will perform an environmental review in accordance with 24 CFR Part 50 on projects contemplating the installation of an Underground Storage Tank (UST).

Lenders should immediately determine if any projects they service in Florida intend to install Underground Storage Tanks to comply with the emergency rule. If so, they should contact their Account Executives to discuss the specific situation and to immediately begin the process for coordinating an Environmental Review (e.g. State Historic Preservation Office Letter and Phase I Report).

The circumstances in Florida regarding emergency generators are also very relevant in ORCF Production activities. In that regard, and consistent with Section Handbook, Production, Chapter 7.2 B.1, Lenders with a submitted Florida ORCF application must evaluate their submission to assure compliance with any applicable Florida emergency generator requirements and must provide ORCF evidence of this compliance. Lenders currently preparing applications must, before submission, confirm such compliance and include evidence of compliance in their application. Facilities not in compliance with Florida's law relating to emergency generators must include in the firm application – as critical repairs – any repairs needed to assure compliance.

Keywords: Generator, Environmental

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

60. [58AER17-1 Procedures Regarding Emergency Environmental Control for Assisted Living Facilities](#)
61. [59AER17-1 Nursing Home Emergency Power Plan](#)
62. [Florida Administrative Law Judge Order](#)
63. [Notice of Administrative Appeal](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of October 25, 2017

October 25, 2017 Contents

[Reminder Regarding Section 1616e Requirements for Board and Care Homes Calculating Fidelity Bond Coverage](#)
[Reminder on Valuation of Medicaid Waivers](#)
[Change in Legal Review Process – No Upfront \(Part 1\) Legal Reviews for Applications with Master Leases or Accounts Receivable \(AR\) Financing](#)
[PAY.GOV – Payment of Section 232 Program Fees](#)
[FROM THE CLOSING CORNER](#)
[Important Reminder for Closing Documents Routed for ORCF Signature](#)
[Reminder for New Construction Final Closings](#)
[Document Links Included In This Blast](#)

REMINDER REGARDING SECTION 1616E REQUIREMENTS FOR BOARD AND CARE HOMES

The Section 232 Handbook, Section II, Production, Chapter 2.2.D sets forth the programmatic requirements for insuring Board and Care Homes pursuant to Section 232. Those requirements largely originate in the 232 statute itself. Key among those are the statutory requirements that the state where the facility is located is in compliance with Section 1616e of the Social Security Act (known as the "Keys Amendment"), AND that the facility itself is regulated by the state pursuant to Section 1616e. Note on this last point that the requirement is not only that the facility be regulated, but that it be regulated specifically pursuant to 1616e.

States report compliance with 1616e annually to the Social Security Administration, and, per the statute, the lender must verify that such certification of compliance has been provided. The certification itself, however, does not necessarily address the other matter, namely, whether the particular facility type at issue is in fact within the state's 1616e regulatory scope. If the state's certification does not make that clear, the lender must do sufficient investigation to present evidence establishing that this statutory requirement is fulfilled. The lender must resolve this issue

clearly before submitting the application, or the application will be at risk of rejection for statutory non-compliance.

Keywords: *Board and Care, Section 1616e*

[Back to top](#)

CALCULATING FIDELITY BOND COVERAGE

The fidelity bond coverage requirement in Handbook 4232.1, Section II, Chapter 8.8.N, requires at least two months of “actual gross potential income.” ORCF recognizes this quoted term is more commonly used for multi-family facilities and may cause confusion when calculating fidelity bond coverage for residential care facilities, given how rates per resident can vary with payor source and care level. Given these circumstances, the lender may use effective gross income as the closest available approximation of “actual gross potential income.”

Keywords: *Fidelity Bond Insurance*

[Back to top](#)

REMINDER ON VALUATION OF MEDICAID WAIVERS

As a reminder, Handbook 4232.1, Section II, Chapter 5.3.R.4 [here](#) states, *In projecting all sources of income for the subject property, consideration should be given to foreseeable changes in competitive market conditions that will affect current occupancy, payer mix, and rate levels. Examples include changes in: the condition of state finances, state laws offering alternative forms of housing types, reimbursement structures, and competitors in the marketplace.*

States are increasingly relying on Medicaid Waivers to provide services in a variety of non-institutional settings, (such as ALFs, the NY Assisted Living Program and the Illinois Supportive Living Program). When a project is heavily reliant on this income source, it is important to ensure that this funding source remains stable. Thus, for example, an operator's reliance on a Medicaid Waiver that expired and is being extended only briefly--pending CMS's decision on a longer-term waiver request--is problematic. In such an instance, the long-term availability of the funding source is unclear.

Additional information on the status of State Medicaid Waivers can be found on Medicaid's website [here](#).

Keywords: *Valuation, State Risk*

[Back to top](#)

CHANGE IN LEGAL REVIEW PROCESS – NO UPFRONT (PART 1) LEGAL REVIEWS FOR APPLICATIONS WITH MASTER LEASES OR ACCOUNTS RECEIVABLE (AR) FINANCING

ORCF is no longer requiring upfront (Part 1) Legal reviews for applications with Master Leases or AR Financing, except for applications requiring a Corporate Credit Review. Master Leases and AR Financing should be using standardized forms and following published guidance, therefore upfront review is not necessary. Reviews of these items will be conducted as part of the Closing process, and any deviations from the standard forms or published guidance could cause delays to the Closing. An OGC Closing Attorney assignment will be made when the project will be presented to Loan Committee. The related contact information and instruction will be provided in the Firm Commitment email.

Note that the ORCF Underwriter MAY request an OGC review in situations where help is needed drafting uncommon special conditions, when there is a waiver that hasn't been previously approved or when there is a legal issue that could impact a Loan Committee decision.

Keywords: *Legal Review, Master Lease, AR Financing*

[Back to top](#)

PAY.GOV – PAYMENT OF SECTION 232 PROGRAM FEES

It has come to the attention of ORCF that Mortgagees may not be submitting Program Fees and Charges on the correct Pay.gov form. The correct form can be accessed ([here](#)).

Mortgagee Letter 2014-20 published on September 18, 2014 ([here](#)) mandated Pay.gov for the payment of Section 232 Program Fees and Charges.

Keywords: *Pay.gov*

[Back to top](#)

FROM THE CLOSING CORNER

Important Reminder for Closing Documents Routed for ORCF Signature

When sending closing documents in for HUD signature, please ensure that the mailing label/instructions for the Note clearly identifies the assigned HUD OGC Attorney. Include return prepaid shipping labels/packages, along with explicit return instructions for the Note to go to the HUD OGC Closing Attorney. **It is of utmost importance that the HUD signer sends the Note directly to the HUD OGC Attorney.** Your attention to this matter is appreciated.

Keywords: *Closing documents*

[Back to top](#)

Reminder for New Construction Final Closings

In order to complete the Final Closing Title Survey Review **all parties will need to adhere to the Title and Survey Requirements for Final Closings as outlined in Handbook 4232.1, Section II:**

- Chapter 9, 9.11.B for Title Evidence at Final Endorsement – **New Title Policy required.**
- Chapter 9, Section 9.11.I – Survey - **A current Survey and Surveyor's Certification is required within 120 days of Final Closing.**

If you have any questions, please contact your assigned ORCF Closing Coordinator.

Keywords: *New Construction Final Closing*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

64. [Handbook 4232.1, Section II, Chapter 5.3.R.4](#)
65. [Medicaid State Waivers List Website](#)
66. [Pay.gov - Healthcare Program Fees Form](#)
67. [Mortgagee Letter 2014-20 - Section 232 Program - Implementation of Pay.gov for Program Fees](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of October 13, 2017

October 13, 2017 Contents

[Processing Reserve for Replacement \(R4R\) Requests Related to Florida's Emergency Generator Rules](#)

PROCESSING RESERVE FOR REPLACEMENT (R4R)
REQUESTS RELATED TO FLORIDA'S EMERGENCY
GENERATOR RULES

In response to the emergency generator rules imposed by the Governor of Florida on assisted living facilities ([here](#)) and skilled nursing facilities ([here](#)), the Office of Residential Care Facilities (ORCF) has conducted outreach with servicing lenders to ascertain the compliance status for its entire Florida portfolio. The September 28, 2017 Email Blast affirmed that generators and related components are an eligible reserve for replacement item.

Project borrowers are encouraged to contact their servicing lender to develop a plan for achieving compliance with these rules, ensuring all HUD requirements are met in the installation of a generator.

Servicing lenders should work with their ORCF Account Executive to communicate plans for making these improvements, including obtaining a cost estimate and a timeline for the proposed work, and determining how the borrower/operator plans to fund the improvements. If outside sources of funding are being contemplated, lenders should communicate this to their Account Executive as early in the process as possible.

The September 28, 2017 Email Blast affirmed that generators and related components are an eligible reserve for replacement item. The following guidance applies specifically to R4R requests for a Section 232-insured facility in Florida coming into compliance with these rules:

- All R4R release requests for generators, storage tanks and other related components pursuant to complying with this requirement are

to be sent to 232R4RRequest@hud.gov, rather than the Portal. This applies to lenders following the established delegated approval process

- A plan should be established for replenishment of the R4R account over time, if necessary
- If the request will bring the balance of the R4R account below the \$1,000 per unit recommended minimum threshold, a waiver may be considered
- The existence or non-existence of a generator on the PCNA will not be a reason on its own to deny a request
- Pursuant to 3.2.2 H.3 of the handbook, advances may be considered for this type of work
- Pursuant to 3.2.2.H.4 of the handbook, requests shall be made no more than one year after the expenditure occurred; complying with the Florida requirement will not be a rationale for waiving this requirement
- Section 3.2.2.H.5 of the handbook has guidance on delegated approval (by lenders). Generators/tanks/component improvements (as long as they meet the requirements of this section) may be processed using the delegated approval process; in these cases, the details of the approved transaction are to be sent to the 232R4RRequest@hud.gov mailbox rather than through the Portal, per above.
-



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of September 28, 2017

September 28, 2017 Contents

[Installing Emergency Generators in Existing Section 232 Projects](#)
[Document Links Included In This Blast](#)

INSTALLING EMERGENCY GENERATORS IN EXISTING SECTION 232 PROJECTS

In the wake of Hurricanes Harvey and Irma, the Office of Residential Care Facilities (ORCF) is informing all borrowers and operators of projects with Section 232 Insurance, that generators and related components (e.g. pads on which they sit, fuel storage tanks, and delivery lines) are an eligible reserve for replacement item.

ORCF anticipates that Section 232 projects in impacted areas may wish to install generators, if they do not already have one. This may be in response to new requirements, such as in Florida, where the Governor has imposed an emergency rule ([here](#)) that requires all assisted living facilities and skilled nursing facilities to have generators with enough fuel to sustain operations and comfortable temperatures for at least 96 hours after a power outage.

Lenders are encouraged to immediately discuss this issue with owners of the Section 232 insured projects they service that were impacted by power outages, or that will be impacted by this new requirement. Such discussions should include whether the project currently meets the new requirements, and if not, what the owner's plan is to address and fund this requirement.

If improvements to the property are needed to comply with this Florida requirement, or to more effectively prepare for future emergencies, and there are adequate reserve for replacement (R4R) funds in escrow, HUD will not object to the use of R4R funds in this manner. For situations where the cost of these improvements would bring the reserve for replacement account below the minimum recommended threshold of \$1,000 per unit, servicing lenders should contact their Account Executive. ORCF staff will also be

proactively reaching out to servicing lenders to discuss any issues they encounter in their follow-up on this issue.

Keywords: *Generator, Disaster Recovery*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

68. [Florida Emergency Action to Force ALF/Nursing Homes to Have Generators](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of August 30, 2017

August 30, 2017 Contents

[Lender Deficiency Responses](#)

[Identifying Controlling Participants in Previous Participation Reviews](#)

[ORCF Presentation on Webinar – September 21, 2017, 2:00 p.m. Eastern,
Focusing Primarily on Owner/Operator Compliance Issues](#)

[FROM THE CLOSING CORNER](#)

[Reminders:](#)

[Incomplete Closing Packages](#)

[Response to Review Comments](#)

[232 HUD Fee Payments](#)

[Portfolio Closings and Closer Assignments](#)

[Updated Closer Checklist for Section 223\(f\) and 223\(a\)\(7\)](#)

[Document Links Included In This Blast](#)

LENDER DEFICIENCY RESPONSES

In response to feedback received at the ORCF Lender Dialogue Sessions in June, HUD underwriters will now include in their Lender Deficiency List email a status update on the internal HUD review.

As a reminder, the lender response to the Lender Deficiency list must include a full written response to each of the listed items, any applicable supporting documentation AND an addendum to the Lender Narrative, signed by the Lender UW, incorporating responses to all deficiency items. As noted in HUD Handbook 4232.1, Section II Production, Chapter 1.4, the Lender Narrative provides a summary of the Lender's analysis as it relates to each exhibit in the application. It is imperative that the final version of the Lender Narrative be a complete reflection of the transaction being presented to the Loan Committee.

Keywords: *Application Processing, Lender Deficiency*

[Back to top](#)

IDENTIFYING CONTROLLING PARTICIPANTS IN PREVIOUS PARTICIPATION REVIEWS

Housing Notice 2016-15 "*Processing Guide for Previous Participation Reviews of Prospective MFH and Healthcare Programs' Participants*" requires lenders to identify controlling participants when a triggering event, such as a Change in Operator or a TPA occurs. An organizational chart must be submitted for each applicable Specified Capacity (Borrower, Operator, Management Agent) when a triggering event occurs; controlling participants can be identified on the organizational chart or on a separate list, but must be identified with each triggering event. This lender-identification process will aid in ensuring that HUD receives an appropriate Consolidated Certification form (HUD 90013-ORCF through HUD 90018-ORCF) for each controlling participant associated with a triggering event. Failure to identify controlling participants could result in a delay in the review of the asset management transaction.

Keywords: *Previous Participation Reviews*

[Back to top](#)

ORCF PRESENTATION ON WEBINAR – SEPTEMBER 21, 2017, 2:00 P.M. EASTERN, FOCUSING PRIMARILY ON OWNER/OPERATOR COMPLIANCE ISSUES

ORCF will make a presentation on a webinar on September 21, 2017. The webinar will run from 2:00 p.m. to approximately 3:00 p.m. Eastern. The webinar is hosted by the American Health Care Association/National Center for Assisted Living and will be open to AHCA/NCAL members and nonmembers. There is no charge for participation. In addition to providing a brief Section 232 program overview, presentation topics will include:

- Updated procedures for assuring that Section 232 facilities are in physically sound condition
- Requirements for changes in participants of residential care facilities that currently have FHA-insured financing
- Requirements for changes in collateral of an FHA-insured facility, including capital improvements (and environmental issues associated with those improvements), changes in the number of beds, granting of easements, sale of land or other security
- Requirements in connection with taking distributions from the facility's accounts

August 30, 2017

- Updated financial reporting and record keeping requirements, including updates on using the Healthcare Portal
- The need for, and how to obtain HUD approval for secondary loans on a facility

Speakers:

- John Hartung, Director, Policy and Risk Analysis Division, Office of Residential Care Facilities, HUD
- Tim Gruenes, Director, Asset Management and Lender Relations Division, Office of Residential Care Facilities, HUD
- Phillip Head, Program Analyst, Office of Residential Care Facilities, HUD
- Rita Dockery, Supervisory Account Executive, Office of Residential Care Facilities, HUD

Event Date: September 21, 2017 – 2:00 p.m. – 3:00 p.m. (EST)

Registration Link: [Here](#)

Keywords: *Webinar*

[Back to top](#)

FROM THE CLOSING CORNER

Reminders:

Incomplete Closing Packages

The Closing Team is re-emphasizing ORCF's Policy regarding incomplete closing packages; incomplete closing packages will go back to the closing queue. Complete packages address all items on the Closer Checklist. Please see the updated 223(f) Closer Checklist ([here](#)) and 223(a)(7) Closer Checklist ([here](#)).

Response to Review Comments

In order to expedite closings, responses to ORCF deficiency comments will be reviewed when all items have been addressed. ORCF Closers will not review deficiency comments until a complete response (one response with all items addressed - no "piece-meal" or separate emails) is received.

232 HUD Fee Payments

Please ensure HUD fee payments for 232 loans are submitted to the Office of Healthcare Program:

- Form Name: **Healthcare Program Fees**
- Application Name: **Office of Healthcare Program Fees**

Please do not submit HUD fee payments to the Office of Multifamily Programs.

Portfolio Closings and Closer Assignments

When requesting a Closer Assignment where there are multiple projects to close at the same time, please include in your request, the number of the project in the portfolio (i.e. number three of 25 deals in the portfolio) as well as the name of the portfolio and/or the name and FHA numbers of projects involved. This information will assist ORCF in workload management and will help in the assignment of a "Lead Closer" for the Portfolio.

Updated Closer Checklist for Section 223(f) and 223(a)(7)

The Closer Checklists have been updated. Please use the checklists: 223(f) Closer Checklist ([here](#)) and 223(a)(7) Closer Checklist ([here](#)) beginning September 1, 2017.

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

69. [Updated Section 223\(f\) Closer Checklist](#)
70. [Updated Section 223\(a\)\(7\) Closer Checklist](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)

Update as of June 28, 2017

June 28, 2017 Contents

[Handbook 4232.1 REV-1 Scrivener and Minor Error Corrections](#)
[232 Lender Training Presentation Slides Available Online](#)
[Updated State Risk summary grid and further clarification on Risk Mitigation Steps](#)
[Updated Lender's Preconstruction Conference Agenda, and Lender's Preconstruction Conference Duties](#)
[Updated Lender's Architectural Reviewer and Cost Analyst's Statement of Work; Project Capital Needs Assessment \(PCNA\) Statement of Work – Section 232/223\(f\); and Project Capital Needs Assessment \(PCNA\) Statement of Work – Limited Scope - Section 232/223\(a\)7;](#)
[Clarification on Inspection Fees For 223\(f\) Applications Using the Optional Process for Delegated Administration of the Non-Critical Repair Escrow Section 232 and REAC Physical Inspection Compliance](#)
[FROM THE CLOSING CORNER](#)
[Hard Copy Submission of ORCF Closer Packages to HUD Closing Attorney Document Links Included In This Blast](#)

HANDBOOK 4232.1 REV-1 SCRIVENER AND MINOR ERROR CORRECTIONS

Since the January 12, 2017 publication of Handbook 4232.1 REV-1, Scrivener and other minor errors have been identified and corrected. These corrections are reflected in the handbook posted on the Handbook 4232.1 webpage. For a list of Scrivener and other minor error corrections, please refer to Transmittal June 26, 2017 on the handbook website ([here](#)).

Keywords: *Section 232 Handbook, Scrivener Errors*

[Back to top](#)

232 LENDER TRAINING PRESENTATION SLIDES AVAILABLE ONLINE

On June 7, 2017, ORCF held a Lender Training Session in Seattle, WA. The focus of the training was to provide guidance for newer Lender Underwriters

about 232 application submissions, reviews and closings. Presentation slides from the training may be found on the Section 232 Program Website ([here](#)).

Keywords: Training, Presentations

[Back to top](#)

UPDATED STATE RISK SUMMARY GRID AND FURTHER CLARIFICATION ON RISK MITIGATION STEPS

In the February 29, 2016 Email Blast ([here](#)), ORCF provided the industry with an Updated State Risk Summary Grid to provide suggestions on how to address and mitigate funding and regulatory risks.

Based on lessons learned since the initial publication, ORCF has updated state risk summary grid which can be found below and ([here](#)).

Please note that the Risk Mitigation to Consider section is not intended to be all-inclusive. Lenders may propose alternative risk mitigation with supporting rationale for why it would address the potential risk to the same or greater extent as the Risk Mitigation included in this grid.

This grid is not meant to limit the extent of the Lender's inquiry; ORCF expects Lenders to address State budget and regulatory constraints, as appropriate.

Updated State Risk Summary Grid
(Print Version [here](#))

State Risk Category	Facility Characteristics	Risk Mitigation to Consider
Medicaid Waivers (1915(c)) & Medicaid State Plan Option (1915(i)) – Final Home and Community-Based Services (HCBS) Settings Rule - high Medicaid Census & combos including SNF beds	<ul style="list-style-type: none"> • Non-SNFs with very high Medicaid Census (e.g., $\geq 80\%$) • Combined SNF/ALFs that rely on Medicaid for non-SNF residents whose DSCR falls below 1.0 with a minimal decline in Medicaid Census or Rate <p>(NOTE: CMS will require combined SNF/ALF settings to undergo “heightened scrutiny”)</p>	<p>Indicate whether facility is at risk of being unable to comply with the HCBS Settings Rule.</p> <ul style="list-style-type: none"> • Refer to the Statewide Transition Plan (here), CMS responses to or approval of the Plan, State requirements (either enacted or proposed) and/or State Medicaid Agency Input (including documentation of a setting survey or evidence of “heightened scrutiny” having been conducted) indicating the likelihood of compliance. • If unable to determine from the above, discuss the facility’s compliance with HCBS Settings requirements (here). <p>If facility appears unable to comply, or will be out of compliance for a time, consider including one or more of the following in the underwriting to mitigate this risk:</p> <ul style="list-style-type: none"> • Subject facility’s ability to operate without Medicaid Waiver residents, including a demonstrated market and capacity for serving a different resident mix, more private pay residents, etc.; • Long-term operating and Debt Service Escrow in an amount that adequately mitigates risk of being out of compliance for a time, a demonstrated market for private pay and a demonstrated capacity to eventually come into compliance; and/or • Project’s ability to convert to a viable alternative residential care facility type, that a market exists and Certificate of Need process would allow for such a conversion, and the operator has financial capacity to withstand such a transition if it is anticipated that coming into compliance will not be possible.
Medicaid Reimbursement Delays	SNFs that will not have AR Financing, but that are in a state with a history of reimbursement delays	<p>Consider including one or more of the following in the underwriting to mitigate this risk:</p> <ul style="list-style-type: none"> • Evidence of a recent history (e.g. last six months) of timely payments (e.g. payments made in 60 days); • Accounts Receivable Financing will be required for the project as a condition for firm commitment;

		<ul style="list-style-type: none"> • Long-Term Debt Service Escrow in an amount that adequately mitigates risk of future payment delays; or • Project's ability to handle delayed payments without AR Financing, as evidenced by available sources of liquidity compared with the project's material accounts receivable aged over 120 days.
State Budgetary Risk (SNFs susceptible to possible future cuts)	<p>Projects with SNF beds whose DSCR falls below 1.0 with:</p> <ul style="list-style-type: none"> • a minimal decline in Medicaid Census or Rate (e.g. $\leq 5\%$), • a moderate decline (e.g. $\leq 10\%$) in Medicaid Census or Rate and very high reliance on Medicaid (e.g. $\geq 80\%$) 	<p>Consider and discuss the project state's anticipated commitment to funding skilled nursing care through Medicaid, as evidenced by: recent rate increases, anticipated budget increases, etc. If long-term funding is uncertain, Lender should consider including one or more of the following in the underwriting to mitigate this risk:</p> <ul style="list-style-type: none"> • Project's ability to reduce its reliance on Medicaid (increasing capacity for short term rehab & Medicare patients, marketing to private pay residents, etc.); • Long-Term Debt Service Escrow in an amount that adequately mitigates against the risk of future rate decreases; and/or • Reduced Mortgage Amount.
State Budgetary Risk (SNFs susceptible to forthcoming cuts)	<p>Projects with SNF beds in states with proposed cuts to Medicaid provider rates whose DSCR falls below 1.0 with:</p> <ul style="list-style-type: none"> • a moderate decline in Medicaid Census or Rate (e.g. $\leq 10\%$), or • high reliance on Medicaid (e.g. $\geq 70\%$) 	<p>Consider and discuss the project's ability to withstand funding cuts, as evidenced by: outline of previous instances where the project, or project participants at a different facility, successfully implemented a strategy to respond to rate decreases, or a significant decline in occupancy; or documentation verifying prospective new sources of revenue, etc. If the project's ability to withstand these cuts is uncertain, Lender should consider including one or more of the following in the underwriting to mitigate this risk:</p> <ul style="list-style-type: none"> • Project's ability to reduce its reliance on Medicaid (increasing capacity for short term rehab & Medicare patients, marketing to private pay residents, etc.); • Long-Term Debt Service Escrow in an amount that adequately mitigates against the risk of pending and future rate decreases; and/or • Reduced Mortgage Amount.
Rebalancing Initiatives - Money Follows the Person (individuals with mental illness)	<p>Projects with a current or historical concentration of MI/DD residents* (e.g., $\geq 25\%$)</p>	<p>Some states intend to focus their rebalancing efforts toward moving significant numbers of mentally ill individuals to home and community-based settings.</p> <p>If Lender cannot provide evidence that the subject facility does not serve a significant MI/DD resident population, Lender should consider including one or more of the following in the underwriting to mitigate this risk:</p>

		<ul style="list-style-type: none"> • Project state's Medicaid funding for residents with mental illness is stable; • Project's ability to reduce its reliance on Medicaid (by diversifying its Census mix or demonstrating the ability to serve other types of residents), that a market exists for this alternative resident type and that the operator has the financial capacity to withstand the transition; • Long-term operating and/or Debt Service Escrow in an amount that adequately addresses the risk of losing significant Census; • Reduced Mortgage Amount; and/or • Project's ability to maintain healthy Debt Service Coverage with fewer beds.
Rebalancing Initiatives - Money Follows the Person (individuals with mental illness in ICFs)	Projects with ICF beds	<p>Several states intend to focus their rebalancing efforts toward moving significant numbers of mentally ill individuals out of Intermediate Care Facilities for intellectually or developmentally disabled (ID/DD) populations.</p> <p>Consider and discuss the project state's commitment to funding ICFs, including confirmation that ICFs of comparable size (by # of beds) are considered a viable option. Consider and discuss the project's ability to sustain an Olmstead challenge, possibly resulting in a significant decrease in Census.</p> <p>If either of the above is uncertain, Lender should consider including one or more of the following in the underwriting to mitigate this risk:</p> <ul style="list-style-type: none"> • Project's ability to convert to a viable alternative residential care facility type, that a market exists and Certificate of Need process would allow for such a conversion, and the operator has financial capacity to withstand such a transition; • Long-term operating and/or Debt Service Escrow in an amount that adequately addresses the risk of losing significant Census; and/or • Reduced Mortgage Amount or significant reduction in Loan Term.
Rebalancing Initiatives - Money Follows the Person (Non-Elderly, Physically Disabled)	Projects with SNF beds whose DSCR falls below 1.0 with a moderate decline in Medicaid Census or Rate (e.g. $\leq 20\%$)	<p>Several states intend to focus their rebalancing efforts toward moving significant numbers of non-elderly, physically disabled individuals out of Skilled Nursing Facilities (SNFs).</p> <p>If Lender cannot provide evidence that the subject facility does not serve a significant population of non-elderly with physical disabilities, then Lender should consider including one or more of the following in the underwriting to mitigate this risk:</p>

		<ul style="list-style-type: none"> • Project's ability to reduce its reliance on Medicaid (by diversifying its Census mix or demonstrating the ability to serve a larger population of frail elderly in need of skilled care), that a market exists for this shift in residents and that the operator has the financial capacity to withstand the transition; • Long-Term Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census; • Reduced Mortgage Amount; and/or • Project's ability to maintain healthy Debt Service Coverage with fewer beds.
Rebalancing Initiatives - Money Follows the Person (Elderly)	Projects with SNF beds whose DSCR falls below 1.0 with a moderate decline in Medicaid Census or Rate (e.g. $\leq 15\%$)	<p>Several states intend to focus their rebalancing efforts toward moving significant numbers of elderly individuals out of Skilled Nursing Facilities (SNFs). Lender should consider including one or more of the following in the underwriting to mitigate this risk:</p> <ol style="list-style-type: none"> 1. Project's ability to reduce its reliance on Medicaid (by diversifying its Census mix, increasing capacity for short term rehab & Medicare patients, marketing to private pay residents, etc.), that a market exists for this shift in residents and that the operator has the financial capacity to withstand the transition; 2. Long-Term Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census; 3. Reduced Mortgage Amount; and/or 4. Project's ability to maintain healthy Debt Service Coverage with fewer beds.
Olmstead Cases & Settlement Agreements (SNFs)	Projects with SNF beds in States with Olmstead Settlement Agreements or pending litigation, specifically serving a disabled population (e.g., DC, IL) or serving a concentrated population of residents with MI/DD* (e.g., $\geq 25\%$) (e.g., LA, ME, NH, TX)	<p>Several states have Olmstead Settlement agreements or pending Olmstead litigation which could potentially impact residents of nursing facilities with physical disabilities, mental illness (MI) or developmental disabilities (DD). If Lender cannot provide evidence that community-based care is not appropriate for the residents served, Lender should consider including one or more of the following in the underwriting to mitigate this risk:</p> <ol style="list-style-type: none"> 1. Sufficient evidence that the project demonstrates the ability to reduce its reliance on Medicaid (by diversifying its Census mix or demonstrating the ability to serve a larger population of frail elderly in need of skilled care), that a market exists for this shift in residents and that the operator has the financial capacity to withstand the transition;

		<ol style="list-style-type: none"> 2. Long-term operating and/or Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census; 3. Reduced Mortgage Amount; and/or 4. Demonstrated ability to maintain healthy Debt Service Coverage with fewer beds.
Olmstead Cases & Settlement Agreements (individuals with mental illness)	Projects with a concentrated population of residents with MI/DD (e.g., $\geq 25\%$) in States with Olmstead Settlement Agreements or pending litigation (e.g., FL, IL, IN, KY, NY, NC, VA)	<p>Several states have Olmstead Settlement agreements or pending Olmstead litigation which could potentially impact residents with mental illness (MI) or developmental disabilities (DD).</p> <p>If Lender cannot provide evidence that community-based care is not appropriate for the residents served, Lender should consider including one or more of the following in the underwriting to mitigate this risk:</p> <ol style="list-style-type: none"> 1. Sufficient evidence that the project demonstrates the ability to reduce its reliance on Medicaid (by diversifying its Census mix or demonstrating the ability to serve a larger population of frail elderly in need of skilled care), that a market exists for this shift in residents and that the operator has the financial capacity to withstand the transition; 2. Sufficient evidence that the project demonstrates the ability to convert to a viable alternative residential care facility type, that a market exists and Certificate of Need process would allow for such a conversion, and the operator has financial capacity to withstand such a transition; 3. Long-term operating and/or Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census; 4. Reduced Mortgage Amount; or 5. Demonstrated ability to maintain healthy Debt Service Coverage with fewer beds.

*NOTE: For SNFs, the number of MI/DD residents can be derived using data from CMS Form 672 related to the Mental Status of residents. Specifically, the number of residents with an intellectual and/or developmental disability and those residents with a documented psychiatric diagnosis as their *primary* diagnosis would be considered MI/DD residents.

Keywords: State Risk, State Risk Summary Grid

[Back to top](#)

UPDATED LENDER'S PRECONSTRUCTION CONFERENCE AGENDA, AND LENDER'S PRECONSTRUCTION CONFERENCE DUTIES

The Lender's PreConstruction Conference Agenda ([here](#)), and Lender's PreConstruction Conference Duties ([here](#)), have been revised and are both dated May 16, 2017.

All references to Early Commencement of Construction have been removed to be consistent with the revisions in Handbook 4232.1 REV-1. In addition, improvements and notes were added throughout the documents.

Remember, the Lender's PreConstruction Conference Coordinator works with ORCF's Construction Manager, Michael Peeler, to schedule and conduct the Conference. The Conference is scheduled only after a date for Initial Closing has been set, or an Early Start has been approved, and shall be no earlier than one week prior to Closing and/or the start of construction.

All Conferences conducted after July 1, 2017, should use these two revised documents.

Keywords: *PreConstruction Conference, ORCF's Construction Manager*

[Back to top](#)

UPDATED LENDER'S ARCHITECTURAL REVIEWER AND COST ANALYST'S STATEMENT OF WORK; PROJECT CAPITAL NEEDS ASSESSMENT (PCNA) STATEMENT OF WORK – SECTION 232/223(F); AND PROJECT CAPITAL NEEDS ASSESSMENT (PCNA) STATEMENT OF WORK – LIMITED SCOPE - SECTION 232/223(A)7;

The Lender's Architectural Reviewer and Cost Analyst's Statement of Work – New Construction, Substantial Rehabilitation, and 241(a) ([here](#)); Project Capital Needs Assessment (PCNA) Statement of Work – Section 232/223(f) ([here](#)); and Project Capital Needs Assessment (PCNA) Statement of Work – Limited Scope - Section 232/223(a)7 ([here](#)), have been revised and are all dated May 16, 2017.

References to compliance with Radon requirements found in HUD Handbook 4232.1 Rev.1, Section II – Production, Chapter 7 – Environmental Review, 7.8 Radon, have been added.

All Firm Commitment Applications submitted to HUD after July 1, 2017, should use these revised statements of work.

Any questions regarding Radon should be directed to Terry Bessette, ORCF Senior Appraiser, at Terry.L.Bessette@hud.gov.

Keywords: *Radon, Statement of Work, PCNA*

[Back to top](#)

CLARIFICATION ON INSPECTION FEES FOR 223(F) APPLICATIONS USING THE OPTIONAL PROCESS FOR DELEGATED ADMINISTRATION OF THE NON-CRITICAL REPAIR ESCROW

Handbook 4232.1 REV-1, Section II, Chapter 2.9.G.3 ([here](#)) states that if the Lender elects and is approved to follow the optional process for delegated non-critical repair escrow administration, HUD will not charge an inspection fee. **As a clarification to the October 30, 2015 Email Blast, approved lenders will not need to pay the inspection fee and receive a refund from HUD.** Please follow the guidance in Section II, Chapter 2.9.K.3.

Please review Chapter 3 of the Asset Management portion of Handbook 4232.1 REV-1, Non-Critical Repair Escrow – Chapter 3.2.4.G, for further details. The logistics of requesting Lender approval are posted on HUD.GOV: Request for Optional Lender Delegated Review and Approval Process ([here](#)).

Keywords: *Inspection Fees, Non-Critical Repair Escrow Administration*

[Back to top](#)

SECTION 232 AND REAC PHYSICAL INSPECTION COMPLIANCE

The Office of Residential Care Facilities (ORCF) recently changed its process for addressing Real Estate Assessment Center (REAC) physical inspections. REAC physical inspections, combined with inspections performed by State and local regulatory entities where applicable, are an integral component of HUD's monitoring of the physical plant on Section 232's. ORCF will continue to work in partnership with the servicing FHA Lender to address follow-up on REAC physical inspections.

ORCF now uses a centralized process for tracking follow-up on all non-passing REAC physical inspections (below 60) and has implemented a "Rapid Response Team" (RRT) to follow up with inspection scores below 31.

Inspections with a below 31 score: For these properties, ORCF's RRT will coordinate the follow-up related to this physical inspection. As soon as possible after the report is released, a site visit by an ORCF RRT member will be scheduled; this visit will include owner representatives (including on-site staff) and the servicing FHA lender will also be notified (we strongly recommend participation by the FHA servicing lender). The site visit and follow-up by the RRT will address the owner's plan to mitigate all deficiencies in the REAC physical inspection report, as well as other financial, operational, compliance, and quality of care issues at the property.

Inspections with a score of 31 to 59: For these properties, the HUD assigned Account Executive will follow-up with the borrower, working in cooperation with the servicing FHA lender.

On all inspections with a score that is below 60, a Notice of Violation (NOV) of the Regulatory Agreement will be issued by either HUD's Departmental Enforcement Center (DEC) or by ORCF staff. The NOV will detail required owner follow-up (including the timeline for such) as well as remedies that HUD may choose to employ in the event of continued owner non-compliance.

On all inspections with a score below 60, once the deficiencies in the REAC physical inspection report have been addressed, HUD will work with REAC to have the property re-inspected.

Please see the below links for further information related to REAC physical inspections, and if you have questions about how this relates to a particular FHA Insured Section 232 property, please contact the property's Account Executive.

Resources for REAC Inspections:

- Information for the borrower to have before the inspection: [Preparing for REAC Inspection](#)
- Information if the property needs to request a database adjustment after the inspection: [Technical Review and Database Adjustments \(TRDBA\)](#)

Keywords: *Real Estate Assessment Center (REAC), Departmental Enforcement Center (DEC), Physical Inspections*

[Back to top](#)

FROM THE CLOSING CORNER

Hard Copy Submission of ORCF Closer Packages to HUD Closing Attorney

In the February 22, 2017 Email Blast, ORCF stated ORCF Closer Packages can be submitted to the Closer electronically. ***However***, hard copy draft submissions should continue to be provided to the HUD Closing Attorney for legal review.

Keywords: *Legal Review, ORCF Closer Packages*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

71. [Handbook 4232.1 REV-1 Webpage](#)
72. [Updated State Risk Grid](#)
73. [June 2017 Seattle, WA Lender Training](#)
74. [Lender's PreConstruction Conference Agenda](#)
75. [Lender PreConstruction Conference Duties](#)
76. [Lender's Architectural Reviewer and Cost Analyst's Statement of Work - New Construction, Substantial Rehabilitation, and 241\(a\)](#)
77. [Project Capital Needs Assessment \(PCNA\) Statement of Work – 223\(f\)](#)
78. [Project Capital Needs Assessment \(PCNA\) Statement of Work – 223\(a\)7](#)
79. [Preparing for REAC Inspection](#)
80. [Technical Review and Database Adjustments \(TRDBA\)](#)

[Back to top](#)

Past Lean 232 Updates are [available online](#).

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

June 28, 2017

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](#).

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](#).

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of May 25, 2017

May 25, 2017 Contents

[Section 232 Documents Available For Public Review and Comment](#)
[Document Links Included In This Blast](#)

**SECTION 232 DOCUMENTS AVAILABLE FOR PUBLIC
REVIEW AND COMMENT**

On May 19, 2017 a Federal Register Notice ([FR-6001-N-10](#)) was published to open a 60-day comment period on the revised collection of Section 232 documents. Please read, consider, and submit your comments, if any. In order to be considered, all comments **must** be submitted **as instructed in the Federal Register**. The comment period ends July 18, 2017.

Please also note that the current document collection has received OMB approval to extend its expiration date until December 31, 2017 (or until the collection is renewed, whichever occurs first); therefore, although their printed expiration date is June 30, 2017, they are still in effect through the remainder of 2017.

Keywords: *Section 232 Documents*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

1. [Federal Register Notice \(FR-6001-N-10\)](#)

[Back to top](#)

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of April 26, 2017

April 26, 2017 Contents

[Radon Testing Requirements](#)

[Applying Handbook 4232.1 REV-1's Debt Seasoning Provisions](#)

[Previous Participation Review Reminders](#)

[Mortgagee Listed as Loss Payee on Professional Liability Insurance](#)

[Current ORCF Documents Available on ORCF Program Websites](#)

[Document Links Included In This Blast](#)

RADON TESTING REQUIREMENTS

All applications submitted after the effective date of Handbook 4232.1 REV-1 must comply with the handbook's radon guidelines, found in Production, Chapter 7.8. Here are a few items to keep in mind regarding Radon Testing:

- The radon report is required for all mortgage insurance applications, unless an exception applies (See Production, Chapter 7.8.B.3 for exceptions);
- For new construction, the Radon Report is required post-construction and prior to final closing;
- For new construction, Radon resistant construction is required for all radon zones;
- For new construction and substantial rehabilitation properties, all mitigation, including follow-up testing, must be completed prior to Final Closing;
- Radon Testing is also required for existing structures and new additions;
- Some 223(a)(7) projects may qualify under 24 CFR 50.19(b)(21) as categorical exclusions from environmental review. In these cases, a radon report may not be required.

Keywords: Radon Testing, Environmental

[Back to top](#)

APPLYING HANDBOOK 4232.1 REV-1'S DEBT SEASONING PROVISIONS

Production Chapter 3.13.B of Handbook 4232.1 REV-1 ([here](#)), lists categories of existing indebtedness that are eligible to be included in a Section 232/223(f) loan. Section 3.13.D in turn sets forth a debt seasoning requirement for any existing indebtedness that does *not* fit within the 3.13.B listed categories and also lists some exceptions to the debt seasoning requirement. These very limited exceptions are based *in part* on a mathematical calculation. It is thus very important that, if you are relying on an exception to the debt seasoning requirement, you clearly set forth in the lender narrative all components and *sub-components* of that calculation. Make specific reference to the exceptions in Handbook 4232.1 REV-1 and explain how each exception applies. The HUD reviewer must be able to readily discern which items of debt you are asserting are project-related and why.

Example:

Data Points Needed to Demonstrate that a Project Qualifies for Debt Seasoning Exception Described in Handbook 3.13.D

FHA#	Name	# Beds	Type	Borrower in Project Since
123-45678	Sample Community	35	ALF	2010

Requested Mortgage Amount	Appraised Value	LTV as Presented
7,000,000	10,000,000	70.0%

Existing Debt				
Project	Date of Project-Related Debt	Non-Project	Date of Non-Project-Related Debt	% of existing debt that is non-project
4,875,000	Over 2 yrs	1,864,200	Oct-16	27.7%

Normalized NOI				
2014	2015	2016	T12	CAGR

799,955	817,903	855,636	881,121	3.3%
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Keywords: *Existing Indebtedness, Eligible Debt*

[Back to top](#)

PREVIOUS PARTICIPATION REVIEW REMINDERS

Housing Notice H16-15 implements the revised Previous Participation Rule, 24 CFR Part 200. Section C of the H16-15 lists the filing options for each program type. The preferred filing method is an electronic submission via the Active Partners Performance System (APPS). A paper filing option is available. For ORCF projects, the paper filing option is via the Consolidated Certification Previous Participation Section. Note that Form HUD-2530 is no longer accepted for ORCF projects.

Per H16-15, when completing the previous participation certification via the Consolidated Certifications, an organization chart must be attached to the consolidated certification. This organization chart **must** include the name of each participant, their percentage of ownership of the relevant entity and Social Security Number or Tax ID number for the controlling participants. Lenders should carefully review the organization chart requirements listed in H16-15, Section B. Please note that this organization chart is required as an attachment to the Consolidated Certifications even though organizational charts are currently required as separate application exhibits. Complete and correct Consolidated Certifications must be submitted in the application.

You are reminded that Controlling Participants for Previous Participation Review purposes may not be the same as the principals for Credit Purposes (HUD Handbook 4232.1, Chapter 6).

Training was conducted for Lenders and HUD Staff on November 7, 2016 via webcast. The archived webcast is available to view ([here](#)).

Keywords: *Previous Participation*

[Back to top](#)

MORTGAGEE LISTED AS LOSS PAYEE ON PROFESSIONAL LIABILITY INSURANCE

As a reminder, HUD is not to be listed as loss payee on Professional Liability Insurance (please see Handbook 4232.1 REV-1, Section II, Chapter 14.1.B).

Any existing policies, at renewal, need to replace HUD with the Mortgagee's name. Any future policies need to list the Mortgagee.

Keywords: *Professional Liability Insurance, PLI*

[Back to top](#)

CURRENT ORCF DOCUMENTS AVAILABLE ON ORCF PROGRAM WEBSITES

For current ORCF document use, please always check and download the current ORCF documents available on HUDClips and ORCF program websites. This will ensure you are always using the most current documents.

Keywords: *ORCF Documents*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

81. [Previous Participation Training Webcast](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of February 22, 2017

February 22, 2017 Contents

[Implementation of Insurance Chapter Revisions in Handbook 4232.1 REV-1, Healthcare Mortgage Insurance Program is Effective January 19, 2017](#)

[Selection of Appraiser - Qualifications](#)

[ORCF Production Division Workload Manager Updates](#)

[FROM THE CLOSING CORNER](#)

[Updated Lender Non-Critical Repair Escrow Request Checklist](#)

[Clarification of Acceptable Format for Section 232 Closing/Settlement Statements -](#)

[ORCF Draft Closing Documents are going Electronic!](#)

[Document Links Included In This Blast](#)

IMPLEMENTATION OF INSURANCE CHAPTER REVISIONS IN HANDBOOK 4232.1 REV-1, HEALTHCARE MORTGAGE INSURANCE PROGRAM IS EFFECTIVE JANUARY 19, 2017

On January 12, 2017, HUD published 4232.1 REV-1, effective January 19, 2017. The January 12th Email Blast article ([here](#)) announcing the publication, although speaking generally to the applicability of REV-1, did not specifically address revisions to Chapter 14, Insurance Requirements. To clarify, ORCF intends to take the same approach to implementing the *revisions* in Chapter 14 as it did to implementing Chapter 14 itself when first published in 2014. (See June 26, 2014 Email Blast, [here](#).) Specifically:

- **Insurance** (including property and general liability insurance, but excluding professional liability insurance):
 - New applications received on or after January 19, 2017 will be required to comply with the new insurance requirements set forth in Handbook 4232.1 REV-1, Section II, Production, Chapter 14;
 - new applications submitted prior to that date have the option to comply with these requirements.

- Existing Section 232 projects will not be required to implement these new insurance requirement revisions; however, a Project may choose to implement the changes at the time of insurance renewal, provided that the new property and general liability insurance requirements are then met in their entirety.

Keywords: *Insurance Requirements, Handbook 4232.1 REV-1*

[Back to top](#)

SELECTION OF APPRAISER - QUALIFICATIONS

As a reminder, as stated in Handbook 4232.1 REV-1, Section II, Production, Chapter 5.2: In order to qualify as the appraiser, an individual must:

- (1) personally inspect the property being appraised on the date of valuation,
- (2) perform the analysis,
- (3) have the necessary knowledge and experience,
- (4) sign the appraisal report certification as the appraiser, and
- (5) be a Certified General Appraiser in the State in which the subject property is located.

We have recently seen cases where the lender has identified the wrong individual as the appraiser in their lender narrative, naming the chief appraiser, rather than the one who performed the inspection. We have seen other cases where no single person met all the requirements for qualification because the responsibilities were spread across a team. Teamwork on appraisals is allowed, as long as at least one person meets all five requirements stated above.

Keywords: *Appraisers*

[Back to top](#)

ORCF PRODUCTION DIVISION WORKLOAD MANAGER UPDATES

Since the beginning of 2017, ORCF has had a few Workload Manager (WLM) changes in the Production Division. Please note the following WLM updates:

- Tom McMillan, in HUD's Los Angeles office retired in January 2017.

- Rachel Coleman, in HUD's Minneapolis office, was added as a Workload Manager.
- ORCF also added Terry Bessette, in HUD's Providence office, as a new Workload Manager to lead a team for environmental reviews.

Keywords: *Production, Workload Manager*

[Back to top](#)

FROM THE CLOSING CORNER

Updated Lender Non-Critical Repair Escrow Request Checklist

As a follow-up to the December 21, 2016 email blast, the Lender Non-Critical Repair Escrow Request Checklists found on the ORCF website - NCRE section [here](#) - have been updated to clarify that a current lien search is acceptable evidence of clear title for final draw/close-out requests.

Keywords: *Non-Critical Repair Escrow; NCRE*

Clarification of Acceptable Format for Section 232 Closing/Settlement Statements -

It is ORCF's current policy to only accept Closing/Settlement Statements in the format of the Sources and Uses page of Maximum Insurable Loan Calculation, form HUD-92264a-ORCF, as noted on the list of [required closing exhibits](#) on the [223\(a\)\(7\) Closer Checklist](#) and [223\(f\) Closer Checklist](#). Please ensure all Closing/Settlement Statements are submitted in this format, with the addition of Lender-required escrows as Non-Eligible Costs and signature lines for Lender and Borrower. This required format applies to all Section 232 programs/closings. Should you have any questions, please contact your assigned ORCF Closing Coordinator.

Keywords: *Closing Statement; Settlement Statement*

ORCF Draft Closing Documents are going Electronic!

In the spirit of continuous improvement, the Closing Team is requesting electronic copies of draft closing documents. Effective immediately, ORCF Closer Packages can be submitted to the Closer electronically. Further details will be included in the cover email sent when Firm Commitments are issued. If you have any questions, please contact your assigned ORCF Closer.

Keywords: *ORCF Closer Package; ORCF Closer Draft Closing Package*

[Back to top](#)

DOCUMENT LINKS INCLUDED IN THIS BLAST

- 82. [Section 232 Loan Servicing Website – Non-Critical Repair](#)
- 83. [ORCF 223\(a\)\(7\) Closer Checklist](#)
- 84. [ORCF 223\(f\) Closer Checklist](#)



2017

January 12,

HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of January 12, 2017

January 12, 2017 Contents

[Handbook No. 4232.1 REV-1, Healthcare Mortgage Insurance Program, is Effective January 19, 2017](#)

[232 Healthcare Portal](#)

[Document Links Included In This Blast](#)

HANDBOOK NO. 4232.1 REV-1, HEALTHCARE MORTGAGE INSURANCE PROGRAM, IS EFFECTIVE JANUARY 19, 2017

HUD posted to its website an update to its Healthcare Mortgage Insurance Program Handbook, Handbook No.: 4232.1 REV-1, on December 6, 2016. The effective date for the revised handbook was to be January 5, 2017. However, on that date, HUD announced that the effective date was being delayed until further notice.

The new effective date for this handbook, available [here](#), is January 19, 2017.

The updated handbook provisions will apply to all new loan applications, as well as other transactional requests for existing Section 232 projects (e.g., change of participants, Reserve for Replacement requests, etc.), received on or after January 19, 2017. Additionally, the updated handbook provisions will apply to all projects in the Section 232 portfolio, and to all lender/underwriter approval requests received on or after January 19, 2017.

If you have any questions, please contact John Hartung, at (314) 418-5238

Keywords: *Handbook 4232.1 REV-1*

[Back to top](#)

232 HEALTHCARE PORTAL

January 12,

2017

Mortgagee Letter 2017-04 ([here](#)) issued on January 11, 2017 announced that the 232 Healthcare Portal is now available to process asset management transactions and notifications for all Section 232 insured projects. For information on training, please email hhcp@hud.gov .

Keywords: *Healthcare Portal*

DOCUMENT LINKS INCLUDED IN THIS BLAST

- 85. [Handbook 4232.1 REV-1](#)
- 86. [Mortgagee Letter 2017-04](#)

[Back to top](#)



HUD's Lean 232 Program
Office of Residential Care Facilities (ORCF)
Update as of JANUARY 5, 2017

JANUARY 5, 2017 Contents

[Delay in effective date of Handbook No. 4232.1 REV-1, Healthcare Mortgage Insurance Program](#)

**DELAY IN EFFECTIVE DATE OF HANDBOOK NO. 4232.1
REV-1, HEALTHCARE MORTGAGE INSURANCE PROGRAM**

HUD posted to its website an update to its Healthcare Mortgage Insurance Program Handbook, Handbook No.: 4232.1 REV-1 on December 6, 2016. The effective date for the revised handbook was January 5, 2017. **This effective date is being delayed until further notice.** A new effective date will be announced [at](#) a future time.

Questions

If you have any questions, please contact John Hartung, at (314) 418-5238
