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

February 24, 2021

## 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

## 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

## 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.

Stay Connected with the Office of Housing and the Federal Housing Administration:

SUBSCRIBER SERVICES:
Manage Subscriptions | Help

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.

February 24, 2021

***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

The Federal Housing Administration's
# Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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

The Federal Housing Administration's
Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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

The Federal Housing Administration's
# Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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

The Federal Housing Administration's
Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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

The Federal Housing Administration's
# Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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

The Federal Housing Administration's
Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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

The Federal Housing Administration's
Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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/Servicers 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 servicers, 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. ¼ of the annual payment should be reported for 3 months of reporting, ½ 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*

April 30, 2020

Back to top

The Federal Housing Administration's
Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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*

The Federal Housing Administration's
Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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*

The Federal Housing Administration's
Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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 FASS 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, FASSUB*

The Federal Housing Administration's

# Lean 232 Program

An Email Update from the Office of Residential Care Facilities

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*

The Federal Housing Administration's
Lean 232 Program
An Email Update from the Office of Residential Care Facilities

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 232FHARequest@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 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

February 26, 2020

# 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

December 18, 2019

# 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*

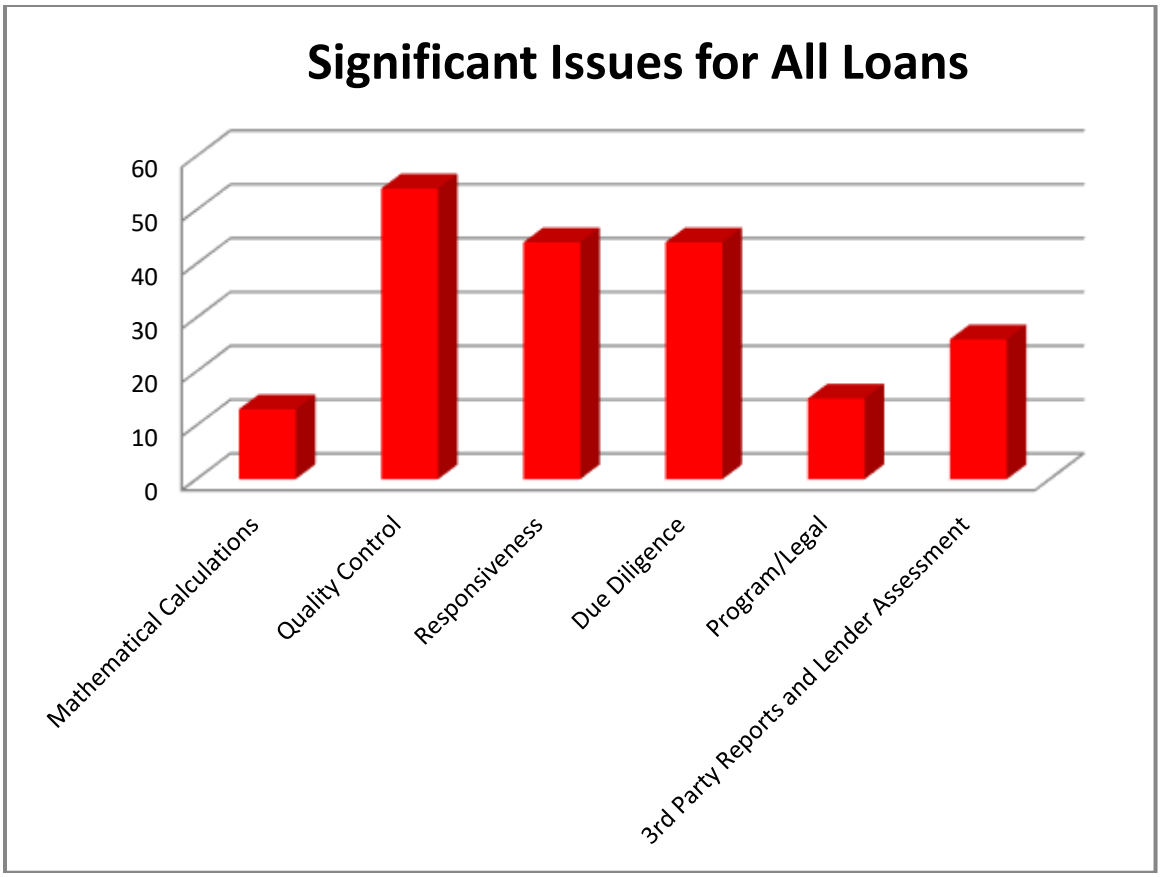
Back to top

## 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*

December 18, 2019

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

November 1, 2019

# 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

September 27, 2019

# 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

September 12, 2019

# 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

August 28, 2019

# 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

August 5, 2019

# 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

July 26, 2019

# 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*

Back to top

July 5, 2019

# 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

June 26, 2019

# 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

April 19, 2019

# 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).

April 19, 2019

***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

April 19, 2019

26. FR–6155–N–01 - Review of HUD Policy in Opportunity Zones

Back to top

March 12, 2019

# 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

February 27, 2019

# 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

February 27, 2019

## 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

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**

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.

December 19, 2018

# 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

December 4, 2018

# 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

October 31, 2018

# 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 Non-Critical Repair Escrow (NCRE) Administration to FHA Lenders/Servicers**

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

October 2, 2018

# 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

September 13, 2018

# 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

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

August 29, 2018

# 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 a 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/Servicer 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

August 24, 2018

# 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*

August 24, 2018

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

August 20, 2018

# 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*

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*

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

June 29, 2018

# 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

June 27, 2018

# 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*

Back to top

May 2, 2018

# 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

# 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

April 25, 2018

# 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

April 10, 2018

# 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

April 3, 2018

# 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

February 28, 2018

# 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

December 21, 2017

# 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

November 13, 2017

# 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.

November 13, 2017

***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

October 25, 2017

# 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

October 13, 2017

# 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.
-

September 28, 2017

# 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

August 30, 2017

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of August 30, 2017

## *August 30, 2017 Contents*


Lender Deficiency Responses
Indentifying 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

August 30, 2017

## INDENTIFYING 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

- 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

# 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.

June 28, 2017

# 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 | • Non-SNFs with very high Medicaid Census (e.g., >=80%)<br>• 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<br><br>(NOTE: CMS will require combined SNF/ALF settings to undergo "heightened scrutiny") | Indicate whether facility is at risk of being unable to comply with the HCBS Settings Rule.<br>• 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.<br>• If unable to determine from the above, discuss the facility's compliance with HCBS Settings requirements (here).<br><br>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:<br>• 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.;<br>• 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<br>• 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 | Consider including one or more of the following in the underwriting to mitigate this risk:<br>• Evidence of a recent history (e.g. last six months) of timely payments (e.g. payments made in 60 days);<br>• Accounts Receivable Financing will be required for the project as a condition for firm commitment; |

| | | |
|---|---|---|
| | | • Long-Term Debt Service Escrow in an amount that adequately mitigates risk of future payment delays; or<br>• 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) | Projects with SNF beds whose DSCR falls below 1.0 with:<br>• a minimal decline in Medicaid Census or Rate (e.g. <= 5%),<br>• a moderate decline (e.g. <=10%) in Medicaid Census or Rate and very high reliance on Medicaid (e.g. >= 80%) | 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:<br>• Project's ability to reduce its reliance on Medicaid (increasing capacity for short term rehab & Medicare patients, marketing to private pay residents, etc.);<br>• Long-Term Debt Service Escrow in an amount that adequately mitigates against the risk of future rate decreases; and/or<br>• Reduced Mortgage Amount. |
| State Budgetary Risk (SNFs susceptible to forthcoming cuts) | Projects with SNF beds in states with proposed cuts to Medicaid provider rates whose DSCR falls below 1.0 with:<br>• a moderate decline in Medicaid Census or Rate (e.g. <= 10%), or<br>• high reliance on Medicaid (e.g. >= 70%) | 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:<br>• Project's ability to reduce its reliance on Medicaid (increasing capacity for short term rehab & Medicare patients, marketing to private pay residents, etc.);<br>• Long-Term Debt Service Escrow in an amount that adequately mitigates against the risk of pending and future rate decreases; and/or<br>• Reduced Mortgage Amount. |
| Rebalancing Initiatives - Money Follows the Person (individuals with mental illness) | Projects with a current or historical concentration of MI/DD residents* (e.g., >=25%) | Some states intend to focus their rebalancing efforts toward moving significant numbers of mentally ill individuals to home and community-based settings.<br>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: |

| | | |
|---|---|---|
| | | • Project state's Medicaid funding for residents with mental illness is stable;<br>• 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;<br>• Long-term operating and/or Debt Service Escrow in an amount that adequately addresses the risk of losing significant Census;<br>• Reduced Mortgage Amount; and/or<br>• 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 | 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.<br>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.<br>If either of the above is uncertain, Lender should consider including one or more of the following in the underwriting to mitigate this risk:<br>• 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;<br>• Long-term operating and/or Debt Service Escrow in an amount that adequately addresses the risk of losing significant Census; and/or<br>• 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. <=20%) | Several states intend to focus their rebalancing efforts toward moving significant numbers of non-elderly, physically disabled individuals out of Skilled Nursing Facilities (SNFs).<br>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: |

| | | |
|---|---|---|
| | | • 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;<br>• Long-Term Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census;<br>• Reduced Mortgage Amount; and/or<br>• 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. <=15%) | Several states intend to focus their rebalancing efforts toward moving significant numbers of elderly individuals out of Skilled Nursing Facilities (SNFs).<br>Lender should consider including one or more of the following in the underwriting to mitigate this risk:<br>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;<br>2. Long-Term Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census;<br>3. Reduced Mortgage Amount; and/or<br>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., >=25%) (e.g.,LA, ME, NH, TX) | 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).<br>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:<br>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. Long-term operating and/or Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census;<br>3. Reduced Mortgage Amount; and/or<br>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., >= 25%) in States with Olmstead Settlement Agreements or pending litigation (e.g., FL, IL, IN, KY, NY, NC, VA) | Several states have Olmstead Settlement agreements or pending Olmstead litigation which could potentially impact residents with mental illness (MI) or developmental disabilities (DD).<br>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:<br>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;<br>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;<br>3. Long-term operating and/or Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census;<br>4. Reduced Mortgage Amount; or<br>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

June 28, 2017

## 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.

June 28, 2017

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.

May 25, 2017

# 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

April 26, 2017

# 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

April 26, 2017

# 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% |

***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

February 22, 2017

# 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*

February 22, 2017

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

January 12, 2017

# 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

December 21, 2016

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of December 21, 2016

## *December 21, 2016 Contents*


Technical Review/Database Adjustment Appeal Process
Issue Resolution Process
Radon Testing Requirements
Web-based Instructional System for Environmental Review (WISER) Training Modules Now Available
FHA Number Issued – Data Cleanup Project
Please Keep Documents under 50 MB
FROM THE CLOSING CORNER
Evidence of Clear Title for Non-Critical Repair Escrow (NCRE) Closeouts
Avoid Closing Delays
Reminder for all New Construction Cost Certification Package Submissions: Document Links Included In This Blast


## TECHNICAL REVIEW/DATABASE ADJUSTMENT APPEAL PROCESS

As a reminder, FR–5526–N–02 - "Public Housing Assessment System (PHAS): Physical Condition Scoring Notice and Revised Dictionary of Deficiency Definitions the Scoring Notice (here) explains physical inspection scoring as well as deficiency definitions inspectors use while inspecting facilities. For Technical Review/Database Adjustment Appeal process, please see REAC's Physical Inspection Documents and Guidance website (here).

***Keywords:*** *Technical Review/Database Adjustment Appeal process*

Back to top

## ISSUE RESOLUTION PROCESS

In the February 25, 2015 Email Blast, ORCF announced the formation of an Issue Resolution Committee. This is a reminder that, as set forth in the February 25, 2015 article, if an issue needs to be brought to the Issue

Resolution Committee, the lender is provided the opportunity to provide a succinct write up explaining the lender's position on the matter with any needed charts and justification. This document will be presented in its entirety to the Issue Resolution Committee. Please work with your assigned underwriter to provide this material.

***Keywords:****Issue Resolution Process*

Back to top

## RADON TESTING REQUIREMENTS

All applications submitted after the effective date of Handbook 4232.1 REV-1 must comply with the handbook's radon guidelines. Note that radon testing requirements will apply regardless of the project's Radon Zone designation.

***Keywords:****Radon Testing, Environmental*

Back to top

## WEB-BASED INSTRUCTIONAL SYSTEM FOR ENVIRONMENTAL REVIEW (WISER) TRAINING MODULES NOW AVAILABLE

The HUD Office of Environment and Energy is pleased to announce the release of a new module series: *Web-based Instructional System for Environmental Review (WISER)* (here). This online training series provides training for those who are interested in understanding the various areas to be considered in conducting an Environmental Review.

The WISER curriculum offers detailed and specific information on environmental topics, enabling users to evaluate topics such as risk to endangered species, considerations regarding bodies of water such as rivers, ponds and wetlands, as well as how to achieve environmental justice goals and protect HUD-assisted projects from excessive noise.

Each module includes a downloadable key definitions PDF, knowledge checks to confirm comprehension, and links to needed resources.

Additional WISER modules addressing more topics central to understanding the environmental review process, such as site contamination and historic preservation will be forthcoming.

To explore this new curriculum, visit the WISER webpage (here).

Back to top

## FHA NUMBER ISSUED – DATA CLEANUP PROJECT

ORCF is currently completing a data cleanup project of FHA Numbers that have been issued, but no subsequent application has yet been submitted. Any FHA Numbers issued prior to October 1, 2015 where no application has been submitted to date are being noted as "withdrawn" in our systems. If you have concerns about any FHA Number that falls into that category, please send an email to 232FHARequests@hud.gov, and we will work with you to address that FHA Number assignment and application.

***Keywords:****FHA Number*

Back to top

## PLEASE KEEP DOCUMENTS UNDER 50 MB

As a reminder, many recent submissions to the queue have documents that have been over 50 MB. HUD servers cannot handle documents over 50 MB. To avoid a delay in processing, please ensure all documents submitted in your application are under 50 MB. This may require splitting the submission into smaller documents sizes.

***Keywords:****Application*

Back to top

## FROM THE CLOSING CORNER

### Evidence of Clear Title for Non-Critical Repair Escrow (NCRE) Closeouts

In the June 29, 2016 Email Blast, ORCF reminded Lenders that we are now approaching the deadline for completion of non-critical repairs draws for many projects. A question has come up regarding what Lenders can provide as evidence of clear title for NCRE closeouts. *ORCF has determined that a current lien search is sufficient evidence of clear title for NCRE closeouts. This includes Lender-Delegated final closeouts.*

***For all loans closed on or after July 20, 2015,*** please submit the final draw/closeout request to 232NCRrequest@hud.gov.

If you have any questions related to closeout requests, please see the ORCF website - NCRE section here or email 232NCRrequest@hud.gov.

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

## Avoid Closing Delays

Identifying potential delays or changes upfront of the Closing process (after Firm Issuance) can help avoid unnecessary delays with Closings. The Closing Team is asking for Lenders to help identify and disclose potential changes or "surprises" that may impact closings ***once the project is assigned an ORCF Closing Coordinator***. Examples of changes or "surprises" may include:

- ✓ **Changes in terms, amounts, secured interests, or parties anticipated** in secondary financing prior to closing
- ✓ **Change in the number or type of licensed bed/units licensed** or otherwise expected
- ✓ **Change** of Borrower (**participants**), Operator or Management expected prior to closing
- ✓ **Substantial survey requirements** that will require an updated survey prior to closing
- ✓ **Existing UCC filings and litigation.** If any existing UCC filings and litigation searches are expected to be on the pre-closing litigation/UCC search report, the same information provided to ORCF underwriting must be provided to the HUD closing team. (**2/27/14** EmailBlast)
- ✓ **Anticipated changes in loan amount** prior to closing
- ✓ **Expected extenuating circumstances** that could influence closing (e.g., borrower out of country, tax exchange, funding resource deadline or availability)

- ✓ Other **potentially significant changes** in the transaction since the time of the firm commitment, including the need for waivers or amendments to special conditions or required repairs.

Help to avoid delays in closing your 232 project by sharing any changes or "surprises" that may impact your 232 closing ***immediately*** with your assigned ORCF Closing Coordinator.

**Reminder for all New Construction Cost Certification Package Submissions:**

The Office of Healthcare Programs (OHP) requires Lenders to review all Construction Cost Certification documents prior to submission to the OHP Closing Coordinator. Under the Lean 232 program, the Cost Certification review is the responsibility of the Lender.

**ORCF would like to emphasize:**

- The ORCF Closer will perform an analysis of the Lender's conclusion and final mortgage determination, based on the documentation provided, starting with the Lender Certification (form HUD-91129-ORCF). This certification is the Lender's summary review of the Cost Certification Package. This is a **Certification** and is to include the Lender's supported final conclusions.

- All packages must include the required forms and documents as outlined in Handbook 4232.1, Section II, Production, Chapter 11, Section 11.10. *Incomplete Cost Certification Packages will be returned to the Lender.*

  Please Note: *ORCF shall conduct a detailed review if the Borrower applies for a mortgage increase. Requests for mortgage increases will go back to Loan Committee for final approval.*

Please contact your ORCF Closer if you have any questions specific to your project.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

87. FR–5526–N–02 - "Public Housing Assessment System (PHAS): Physical Condition Scoring Notice and Revised Dictionary of Deficiency Definitions the Scoring Notice
88. REAC's Physical Inspection Documents and Guidance website
89. Web-based Instructional System for Environmental Review (WISER)

Back to top

December 6, 2016

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as December 6, 2016

*December 6, 2016 Contents*

Handbook 4232.1 REV-1 Published
Document Links Included In This Blast

## HANDBOOK 4232.1 REV-1 PUBLISHED

Handbook 4232.1 REV-1 was published on December 6, 2016 and will be effective January 5, 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 5, 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 5, 2017.

Handbook 4232.1 REV-1 (here) continues to improve the Section 232 Program by updating and revising guidance that required further clarification or that needed to better reflect program policy. Minor corrections, grammatical errors, etc. were also made throughout the Handbook. Below are some highlights of revisions in Handbook 4232.1 REV-1.

Section I – Introduction

- Incorporates Housing Notice H-2015-08 and Mortgagee Letter 2015-16 regarding Underwriter Approval Delegation (Section I, Chapter 2)

Section II – Production

- Updates loan sizing and eligibility matters (Section II, Chapters 2 and 3)
    - Updates existing guidance for debt seasoning and bridge loans
    - Updates guidance on line of credit financing and specifically addresses REITs

  - Provides guidance on the use of tax credits on 232 transactions
  - Identifies as ineligible those projects having a CMS special focus designation
  - Provides further details for allowable costs during cost certification
  - Updates guidance and references related to the Previous Participation Final Rule

- Enhances underwriting in ways that foster improved asset management and servicing (Section II, Chapter 2)
  - More clearly articulates expectations with regard to the experience and capacity of prospective owners and operators
  - Adds the requirement of HUD form 91128-ORCF for consistency in method of estimating Initial Operating Deficit, and provides a solid basis for comparing projected and actual draws and intervening early on if necessary
  - Provides an optional process for delegating non-critical repair escrow administration to the FHA lender/servicer--which makes ORCF consistent with Multifamily and fosters more efficient use of HUD staff time
  - Consistent with new documents, treats nonprofits as nonprofits for distribution purposes. If for-profit underwriting benchmarks are met, they have limited ability to take surplus cash.

- Updates environmental and related matters (Section II, Chapter 7)
  - Revises the Subsurface Exploration/Geotechnical Investigation policy to be consistent with industry standards and MFH
  - Adds a new section to provide guidance on Radon Reports
  - Revises guidance language related to the environmental review process with the implementation of the new HUD Environmental Review Online System (HEROS).

- Improves and clarifies property and professional liability insurance requirements (Section II, Chapters 14)
  - Adds depth and specificity to property insurance requirements, bringing HUD requirements in line with industry standards and making them more consistent with Fannie Mae property insurance requirements.

- Sets forth updated Master Lease Requirements (Section II, Chapters 13)
  - Includes clarifying language regarding alternatives to master lease when there is no operating lease

- Clarifies guidance on Insurance Upon Completion Section II, Chapter 18)

Section III – Asset Management

Revisions include updates necessary to correspond with those made in Sections I and II (e.g. environmental, Previous Participation, etc.). Other revisions highlights are described below.

- Lays out expectations of lenders in proactive monitoring and risk management (Section III, Chapter 4)
    - Sets forth expectations of lenders regarding financial statements and regarding notices of matters placing Permits and Approvals at risk (information that lenders now receive pursuant to the Accountability Rule)
    - Delineates specific review criteria for financial and operational data received, as well as timing and reporting requirements to HUD
    - Provides details regarding lender follow-up with borrowers to obtain action plans addressing financial or operational performance
    - Includes various provisions for lenders to get involved in addressing problematic issues as they arise. (Though some lenders already do this sort of monitoring, standards will guide such reviews and foster consistency.)

- Addresses various workout tools in detail, as well as lender involvement in such workouts (Section III, Chapter 4)
- Specifically addresses loan modifications, staying substantially consistent with the Multifamily approach (Section III, Chapter 5)
- Addresses master lease and accounts receivable financing issues in asset management (Section III, Chapters 9 and 10)
- Revises 'Optional Lender Delegated Approval' processes and procedures for Reserve for Replacement and Non-Critical Repair releases (Section III, Chapter 3)
- Amends Reserve for Replacement deposit and investment requirements (Section III, Chapter 3)
- Broadens language for some Asset Management requirements to reference current governing protocols housed elsewhere within HUD (e.g. REAC, DEC, etc.) instead of specific details in the Handbook that would trigger actions, and may change over time in those originating locations (Section III, Chapters 3 and 6)

***Keywords:****Handbook 4232.1 REV-1*

December 6, 2016

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

90. Handbook 4232.1 REV-1

Back to top

November 8, 2016

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of November 8, 2016

## *November 8, 2016 Contents*

Roger Lukoff Appointed as Deputy Assistant Secretary for Office of Healthcare Programs

## ROGER LUKOFF APPOINTED AS DEPUTY ASSISTANT SECRETARY FOR OFFICE OF HEALTHCARE PROGRAMS

Principal Deputy Assistant Secretary for Housing Edward Golding has announced the appointment of Roger Lukoff as the new Deputy Assistant Secretary for Healthcare Programs. Roger brings a wealth of experience to the position, experience in the Office of Healthcare Programs (OHP), DHHS's Centers for Medicare and Medicaid Services (CMS) and the private sector.

Roger has led OHP as the Acting Deputy Assistant Secretary for Healthcare Programs since May 2016. He joined HUD as Associate Deputy Assistant Secretary for OHP in 2010. In conjunction with the OHP Management Team, Roger developed and implemented organizational policies, strategies, plans, and operating guidelines to address the leading national healthcare mortgage insurance programs.

Prior to his HUD service, Roger was the Associate Regional Administrator at CMS, where he was responsible for the Northeast Consortium Survey, Certification and Enforcement Division, overseeing quality assurance and standards for hospitals, long term care facilities and other healthcare facilities and suppliers participating in federal health programs.

Before joining CMS, Roger was a senior healthcare executive at a major integrated health delivery system in Pennsylvania. He is a Certified Fellow of the American College of Healthcare Executives. He completed his undergraduate degree at the University of Massachusetts at and his graduate degree at The George Washington University. Roger also completed the Wharton Management Program in Business Administration at the University of Pennsylvania. He is an adjunct professorial lecturer in the

November 8, 2016

Graduate School of Public Health, Department of Health Policy at George Washington University and in the School of Public Affairs, Department of Government at American University.

Roger is extremely proud of the 161-member FHA Healthcare Team supporting a health care facility portfolio of over $32 Billion, including $3.7 Billion in production during the past year.

Please join HUD in congratulating Roger!

***Keywords:*** *Deputy Assistant Secretary*

Back to top

October 26, 2016

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of October 26, 2016

*October 26, 2016 Contents*


Interest Rate Reduction Loan Modifications
Complete 3-Year Income & Expense History
FY 2016 ORCF Production Statistics
FROM THE CLOSING CORNER
NEW Workload Manager for the ORCF Closing Team
Document Links Included In This Blast


## INTEREST RATE REDUCTION LOAN MODIFICATIONS

Thank you for your help in making ORCF's Interest Rate Reduction Loan Modification (IRR) program such a great success. Now that the IRR program has been operating for a few years, ORCF has some helpful information to make the process even quicker for everyone involved.

### Document Submission

When submitting documents to ORCF during any stage of the IRR process, keep all exhibits separate. Do not combine them into one PDF. Do not use long file names or special characters other than hyphens, underscores, and periods. Do not add cover sheets to your exhibits.

You may need to submit documents to HUD via multiple emails if the attached files exceed 10MB. You may also submit documents to ORCF via an online file transfer system.

### Lender Analysis and Recommendations

Use the most recent template available on ORCF's website. Do not add a cover letter, table of contents, or any other additional pages to the beginning of the Lender Analysis template.

**Recorded and Other Final IRR Documents**

After HUD issues the Final Approval Letter and you have completed the IRR, please remember to send the final IRR documents back to ORCFLoanModification@HUD.gov. The email should include the recorded Modification Agreement, Allonge, and Final Approval Letter. Be sure to include the effective date of the modification and the date of recordation. If there was no need to record a Modification Agreement because the security instrument does not state the interest rate, please explain this in the email and include the other attachments.

This information is used to update all of HUD's systems with the modified interest rate, and is a critical part of the IRR process.

**Project Capital Needs Assessment (PCNA)**

A PCNA is only required for the IRR submission if a PCNA or comparable reserve analysis (e.g., as found in a 232NC application) has not been submitted to HUD in the previous 10 years. This PCNA requirement is an IRR program requirement, and the existing regulatory agreement has no bearing on whether a PCNA must be submitted.

In order to start the IRR review as soon as possible, the PCNA can be submitted within 90 days of the IRR submission. A sample PCNA special condition is as follows:

> Prior to closing, the borrower and lender shall provide a certification that states they will submit a PCNA in accordance with the ORCF PCNA Statement of Work, as well as a timeline of repair completion with sources of funds. The certification must state that the borrower and lender will submit these items to the lender's assigned HUD Account Executive by [date 90 days from IRR submission]. The certification must also state that the borrower and lender understand that if HUD reviews the IRR package and issues a Preliminary Approval Letter, the PCNA and timeline for completion must be submitted to the HUD Account Executive, even if the loan is not modified.

**Balance Sheets**

Balance sheets are no longer a required IRR exhibit.

**GNMA Guidance Letters**

Although the lenders are responsible for compliance with any applicable GNMA requirements, ORCF does not require a GNMA Guidance Letter as an IRR exhibit.

**Other Asset Management Actions**

The IRR program is for interest rate reductions only. The ORCF IRR reviewer will not combine other asset management actions with the IRR review. Submit TPAs, AR financing, and other asset management actions to your assigned HUD Account Executive. Existing asset management actions or issues that may impact the processing of your IRR must be addressed with your assigned HUD Account Executive prior to submission of the IRR. When you submit the IRR for review, explain the plan you have worked out with your assigned HUD Account Executive for processing these actions concurrently.

**Incomplete and Incorrect IRR Submissions**

The IRR program is a streamlined program. ORCF's intent is to allow you and the borrower to modify your interest rate as soon as possible. To accomplish this, ORCF needs IRR submissions to include all required exhibits, and expects the exhibits to be correct.

The exception for submitting an IRR without a required PCNA is explained above. If extraordinary circumstances will not allow you to provide another exhibit at the time of IRR submission, you may email a request to provide an incomplete IRR submission to Corley.D.Audorff@hud.gov and ORCFLoanModification@hud.gov. If ORCF agrees to review an incomplete IRR submission, a special condition will almost always be added to the Preliminary Approval Letter requiring that the missing exhibits be submitted prior to closing.

An incomplete or incorrect IRR submission very often results in severe closing delays and a great deal of anxiety over extension fees. For example, the lack of a signed Survey Affidavit of No Change at the time of the IRR submission is a good indicator that a major issue is being pushed to the closing stage, after rate-lock has occurred.

*Under no circumstances will extension fees or other timing problems be sufficient grounds for HUD to close an IRR without resolving any issues to ORCF and OGC's satisfaction.* Please carefully consider the circumstances surrounding any missing exhibits or other issues that have not yet been disclosed to HUD when deciding to rate-lock.

**Multiple Related IRRs**

If you plan to submit six or more IRRs for projects with a common principal, please contact Corley.D.Audorff@hud.gov and ORCFLoanModification@hud.gov early during your preparation. ORCF can modify the review process to save everyone a great deal of time. This has already been successfully implemented multiple times.

Thank you for participating in the IRR program. ORCF wants this program to improve continuously for you and your borrowers. If you have any suggestions, questions or concerns, please reach out to Corley.D.Audorff@hud.gov.

***Keywords:****IRRs, Loan Modifications, Loan Mods, Interest Rate Reductions*

Back to top

## COMPLETE 3-YEAR INCOME & EXPENSE HISTORY

For existing projects, the Lender Narratives call for 3 full years of financial history plus any partial years. Sometimes historical income and expense information is available for a subject facility, but the lender does not consider it applicable because a prior operator or owner kept different accounting or a facility's operation has drastically changed. The Lender Narrative should still include all of the prior three-year historical information and the underwriter should simply explain why some years are not applicable. This historical information would be useful to HUD reviewers and loan committee members and provide a better overall picture of the recent history of the subject property. Do not fill the historical tables with various trailing income and expense information in lieu of the needed 3 years of annual information.

***Keywords:****Lender Narrative, 3-Year Income & Expense History*

Back to top

## FY 2016 ORCF PRODUCTION STATISTICS

Production statistics for ORCF for Fiscal Year 2016 are available on ORCF's web site: FY 2016 Summary Statistics (here) and FY 2016 Closings (here)

***Keywords:****FY 2016 Statistics*

Back to top

## FROM THE CLOSING CORNER

### NEW Workload Manager for the ORCF Closing Team

ORCF is proud to announce ***Jason Roth*** as the new Workload Manager for the ORCF Closing Team! Jason brings a wealth of experience not only as an

Underwriter but as a Closing Coordinator for several years in ORCF and specifically the Section 232 Program. ***Join us in congratulating Jason on his new role!***

***Keywords:*** *ORCF Closing Team*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

91. FY 2016 Summary Statistics
92. FY 2016 Closings

Back to top

October 19, 2016

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of October 19, 2016

*October 19, 2016 Contents*

Final Rule and Processing Guide Set Forth Revised Previous Participation Review Process; Training is Scheduled
Document Links Included In This Blast

## FINAL RULE AND PROCESSING GUIDE SET FORTH REVISED PREVIOUS PARTICIPATION REVIEW PROCESS; TRAINING IS SCHEDULED

HUD has now published a Final Rule, available here, that revises HUD's regulations for reviewing the previous participation in federal programs of certain participants seeking to take part in multifamily housing and healthcare programs administered by HUD's Office of Housing. The Final Rule clarifies and simplifies the process by which HUD reviews the previous participation of participants that have decision-making authority over their projects. The Final Rule, together with an accompanying Processing Guide (included as an Appendix to the Final Rule):

- Clarifies which individuals and entities will undergo review,
- Clarifies HUD's purpose in conducting such review, and
- Describes the review to be undertaken.

By targeting more closely the individuals and actions that would be subject to previous participation review, HUD brings greater certainty and clarity to the process. HUD also provides program participants and HUD itself with flexibility in the necessary previous participation review for entities and individuals that is not possible in a one-size fits all approach. Through this Rule, HUD replaces the current previous participation regulations in their entirety. The Rule and accompanying Participation Guide will become effective on November 14, 2016.

October 19, 2016

HUD is offering training on the Rule and the Processing Guide on November 7, 2016 from 1:00 to 3:00 p.m. Eastern Standard Time. The training will be via webcast and will also be archived for later viewing. You may access the training using the following links, which will not be active until 30 minutes before the scheduled start time:

With Captions - http://portalapps.hud.gov/HUDMediaChannel/liveplayer.jsp
Without Captions
- http://portalapps.hud.gov/HUDMediaChannel/liveplayer_secondary.jsp

You may submit questions or suggestions related to the training to LeanThinking@hud.gov by October 28, 2016, using the subject line "Previous Participation Webcast." (If your questions relate to HUD Multifamily transactions, you will want to use the email box Multifamily has set up for this purpose, MF_PreviousParticipation@hud.gov.)

***Keywords:****Previous Participation Final Rule*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

1. Retrospective Review—Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Program Participants

August 31, 2016

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of August 31, 2016

## *August 31, 2016 Contents*


Lender Relations' New Point of Contact
Revised Lender-Level Certifications Are Now Required
Project Capital Needs Assessment to Address Water Quality
Account Executive Facility Assignment – Contact Listing
CMS Provider Agreement Number
ORCF Presentation on Webinar – SEPTEMBER 27, 2016, Focusing Primarily on Owner/Operator Compliance Issues
Document Links Included In This Blast


## LENDER RELATIONS' NEW POINT OF CONTACT

Mary Walsh has accepted the position of HUD Multifamily Director in the Southwest Region, effective September 4, 2016. We are happy for Mary and know she will do *extremely* well in that position. The HUD Multifamily Office—along with the multifamily industry-- is fortunate to have Mary in her new role.

One of Mary's key roles has been that of liaison to lenders. This has been of critical importance so that ORCF can continue to improve its processes and so that you lenders, with feedback from ORCF, can do so as well. John Hartung, Director of the Policy and Risk Analysis Division has agreed to assume this function. Beginning immediately, lender inquiries should be directed to John, preferably via email (John.M.Hartung@hud.gov). The Policy and Risk Analysis division will also be responsible for providing annual reports to lenders regarding performance issues.

Again, congratulations to Mary!

***Keywords:****Lender liaison*

Back to top

August 31, 2016

## REVISED LENDER-LEVEL CERTIFICATIONS ARE NOW REQUIRED

MAP Lenders and 232 lenders were provided the below message via email on August 5th by the Office of Housing. Out of an abundance of caution, however, we are including it here as well.

The Federal Housing Administration (FHA) implemented the final revisions to its Lender Annual and Initial Certifications effective August 1, 2016. The implementation follows FHA's publication of a 30-Day Notice of Proposed Information Collection in the *Federal Register* (Docket Number FR-5909-N-13) on March 15, 2016.

As clarified in HUD Handbook 4000.1, FHA-approved lenders complete the Annual Certification at the end of each fiscal year as a part of their overall recertification requirements using the Lender Electronic Assessment Portal (LEAP). As of August 1, 2016, all new LEAP recertification packages will reflect the revised certification statements.

Lenders applying for new FHA approval complete the Initial Certification as part of FHA's Online Application. As of August 1, 2016, all new applicants must complete the revised certification statements. The implementation may also affect some in-process applications.

The revised certification statements are available for review on FHA's "Annual Recertification" and "How to Become an FHA-approved Lender" web pages, which can be found under the "Approvals & Renewals" tab on www.hud.gov/lenders. The Office of Management and Budget's (OMB) approval documentation, including a Summary of Public Comments, can be accessed at www.reginfo.gov by searching for OMB Control Number 2502-0005 under "Information Collection Review."

Lenders with questions may contact the FHA Resource Center at answers@hud.gov or (800) 225-5342.

***Keywords:*** *Lender Certification*

Back to top

## PROJECT CAPITAL NEEDS ASSESSMENT TO ADDRESS WATER QUALITY

Section IV.E.2 of the PCNA Statement of Work requires that matters needing correcting related to health and safety be detailed. Drinking water is one

such matter. When a PCNA is submitted as an application exhibit, the report is expected to address the safety of the facility's drinking water supply. In this regard, documentation confirming that the facility's potable water supply meets local, state, and federal safe drinking water standards is to be included in the PCNA report or, in cases where the water supply does not meet the applicable safety standards, corrective measures must be identified as a critical repair. The implementation of corrective measures must be completed and compliance with the applicable water quality standards must be confirmed prior to the loan closing.

***Keywords:****PCNA, Health and Safety, Water Supply*

Back to top

## ACCOUNT EXECUTIVE FACILITY ASSIGNMENT – CONTACT LISTING

As a reminder, please check for updated Account Executive Assignments on the Account Executive Facility Assignment – Contact Listing posted on the Section 232 Program website: Loan Servicing Guidance Home Page (here). Click on Account Executive Facility Assignments – Contact Listing to download the spreadsheet.

A number of Account Executive reassignments were recently made.

***Keywords:****Account Executive Facility Assignment – Contact Listing*

Back to top

## CMS PROVIDER AGREEMENT NUMBER

As a reminder, please provide the CMS Provider Agreement Number (if there is one) in the contact sheet. If it does not apply, please put "N/A." Many lenders have been missing this part. It should be a 6-digit number with no spaces/dashes/etc.

***Keywords:****CMS*

Back to top

## ORCF PRESENTATION ON WEBINAR – SEPTEMBER 27, 2016, FOCUSING PRIMARILY ON OWNER/OPERATOR COMPLIANCE ISSUES

ORCF will make a presentation on a webinar on September 27, 2016. The webinar will run from 2:00pm to approximately 3:00pm 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.
The HUD presentation topics will include:

- Requirements in connection with making capital improvements to an insured property
- Requirements in connection with taking distributions from the facility's accounts.
- Requirements regarding expenses—reasonableness & nexus to facility
- Financial reporting and record keeping requirements, including updates on electronic submission processes
- Procedure for requesting HUD approval for
    - change in participants (e.g., change in owner, operator, agent)
    - secondary loans on a facility
    - changes in the licensed beds

Registration for this webinar is available here.

***Keywords:*** *Owner/Operator compliance, Webinar*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

93. Section 232 Program website: Loan Servicing Guidance Home Page
94. PCNA Statement of Work
95. Webinar - HUD Updates on Residential Care Facilities Asset Management

Back to top

June 29, 2016

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of June 29, 2016

## *June 29, 2016 Contents*


Guidance on Shared Operating Expenses in the Operator Healthcare Regulatory Agreement
Project Capital Needs Assessment (PCNA) Statement of Work Update
FROM THE CLOSING CORNER
Non-Critical Repair Escrow (NCRE) Administration and Close-Out Process
Document Links Included In This Blast


## GUIDANCE ON SHARED OPERATING EXPENSES IN THE OPERATOR HEALTHCARE REGULATORY AGREEMENT

Paragraph 20, HUD 92466A-ORCF Healthcare Regulatory Agreement provides guidance for operators for "*Books, Accounts, Financial Reports, and Financial Covenants" (*here*).* The provision addresses, among other matters, the *documentation and reasonableness* of expenditures for the particular project. When multiple projects are sharing expenses, the parties must be very attentive to the implications of this provision on the *allocation of* costs among the projects; each project can be allocated no more than its appropriate share of an expenditure benefiting multiple projects.

In this regard, Lenders shall ensure that when projects share expenses (as when they are part of the same or adjacent buildings, or part of a continuum of care campus), the method of determining costs (for each significant account, whether by allocation and/or direct charges with timecards, invoices, etc.) is established in legal documents such as shared use, operations, maintenance, access, cost or easement agreements (which must be reviewed and approved by ORCF prior to their execution).

Common shared expenses to be described should include such items as nursing or other resident care staff, office or administrative staff and space, marketing (salaries, commissions, office space, expenses), maintenance staff and supplies, kitchen and meals, amenities such as chapels, theaters, barber and/or beauty shops, snow-plowing, and landscaping.

If such written agreements do not currently exist, it is the responsibility of lenders to work with their borrowers to draft such documents to assure compliance with the Regulatory Agreement – Operator.

It is also the responsibility of the lender to notify the ORCF Account Executive of the existence of shared expenses and provide any documentation that may be requested to assure compliance with the Regulatory Agreement – Operator.

***Keywords:****Shared Operating Expenses, HUD 92466A-ORCF, Healthcare Regulatory Agreement*

Back to top

## PROJECT CAPITAL NEEDS ASSESSMENT (PCNA) STATEMENT OF WORK UPDATE

The Project Capital Needs Assessment (PCNA) Statement of Work, Section 232/223(f), has been updated, and is now dated May 10, 2016 (here). The following sections have been updated:

- IV.B.3.e. – Seismic Resistance Requirements. The ASCE 31 reference has been corrected, and ASCE 41-13 has been added when repairs are required.

- IV.B.4 – Compliance with the Department of Health & Human Services, Centers for Medicare & Medicaid Services, final rule entitled, "Fire Safety Requirements for Certain Health Care Facilities." CMS amended their final rule for fire safety standards, and the Statement of Work now references the applicable Codes.

All Firm Commitment Applications submitted after July 1, 2016, must utilize this updated Statement of Work.

Key Words: Seismic, Fire Safety

***Keywords:****Seismic, Fire Safety, PCNA SOW*

Back to top

## FROM THE CLOSING CORNER

### Non-Critical Repair Escrow (NCRE) Administration and Close-Out Process

June 29, 2016

In the June 24, 2015 Email Blast, ORCF announced that administration of the Non-Critical Repair Escrow (NCRE) on all loans closed on or after July 20, 2015, would be conducted by the ORCF's Closing Team. This task became part of the post-closing items handled by the assigned ORCF Closer and all submissions to HUD related to the NCRE were to be submitted electronically to the following email box: 232NCRrequest@hud.gov.

We are now approaching a year since implementation of this process and the deadline for completion of these repairs draws near for many projects. Please keep in mind the following actions required for the final draw and closeout of these escrows:

- ✓ On or before the one-year anniversary of closing and the deadline for completion of all repairs covered by these escrows, please submit the final draw/closeout request to 232NCRrequest@hud.gov.

- ✓ If the lender elects to provide a six-month extension based on adequate justification provided by the Borrower, please send a notification of the extension to 232NCRrequest@hud.gov.

If you have any questions related to closeout requests, please see the ORCF website - NCRE section here or email 232NCRrequest@hud.gov.

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

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

96. HUD 92466A-ORCF Healthcare Regulatory Agreement
97. Project Capital Needs Assessment (PCNA) Statement of Work, Section 232/223(f)
98. Non-Critical Repair Escrow Program Webpage

Back to top

May 13, 2016

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of May 24, 2016

## *May 24, 2016 Contents*

Retrospective Review—Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Programs Participants; Supplemental Notice of Proposed Rulemaking Published May 17, 2016
Document Links Included In This Blast

## RETROSPECTIVE REVIEW—IMPROVING THE PREVIOUS PARTICIPATION REVIEWS OF PROSPECTIVE MULTIFAMILY HOUSING AND HEALTHCARE PROGRAMS PARTICIPANTS; SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING PUBLISHED MAY 17, 2016

A Supplemental notice of proposed rulemaking, [FR–5850–N–03] RIN 2502–AJ28, "Retrospective Review-Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Programs Participants; Supplemental Notice of Proposed Rulemaking," was published on May 17, 2016 (here). This document opens the public comment period solely for the provisions in the Processing Guide (Guide), which addresses concerns that, although the proposed rule provided greater flexibility, it lacked the specificity and clarity to which HUD committed. HUD is seeking comments on the Guide, which provides the specificity and clarity requested.

This Guide supplements HUD's Previous Participation Review regulations in 24 CFR part 200, subpart H. The Guide defines controlling participants for previous participation review, new flag approval, and rejection guidance and flag protocols in federal programs of certain participants seeking to take part in multifamily housing and healthcare programs administered by HUD's Office of Housing. The Guide aids in clarifying and simplifying the process by which HUD reviews previous participation of participants that have decision making authority over their projects as one component of HUD's responsibility to assess financial and operational risk to projects in these programs. Comments are due by June 16, 2016. An easy to read version of the notice is posted on HUD's website here.

May 13, 2016

***Keywords:****Previous Participation*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

99. Retrospective Review-Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Programs Participants; Supplemental Notice of Proposed Rulemaking
100. Easy To Read Format on HUD Website - Retrospective Review-Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Programs Participants; Supplemental Notice of Proposed Rulemaking

Back to top

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.

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.

May 13, 2016

# HUD's Lean 232 Program

# Office of Residential Care Facilities (ORCF)

# Update as of May 13, 2016

## *May 13, 2016 Contents*


- Handbook 4232.1 Draft Revisions Posted on ORCF Policy Drafting Table


## Handbook 4232.1 Draft Revisions Posted on ORCF Policy Drafting Table

Since the publication and implementation of Handbook 4232.1 in September 2014, ORCF has been continually reviewing and considering areas that required further clarification or needed updates to reflect recently developed program policy. As a result, ORCF has proposed draft revisions that are now posted on ORCF's Policy Drafting Table (here). ORCF invites all industry partners to provide voluntary feedback by no later than June 1, 2016. Industry feedback has been a critical component to ORCF's highly successful administration of the Section 232 program to date. With feedback from our industry partners, ORCF will be better able to assess the possible effects of the proposed policies. 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 and will still need to go through full Departmental clearance before publication and implementation. Readers should not assume that the draft directives will indeed be pursued.

***Keywords:*** *Handbook 4232.1 Draft Revisions*

Back to top

April 27, 2016

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)

## Update as of April 27, 2016

*April 27, 2016 Contents*


- Sales History in the Appraisal
- ORCF Anticipates Risks to SNFs in Connecticut
- Quality Control Reviews Update
- ORCF Reminds Lenders of Required Reporting of State Survey Findings
- Training On the Submittal of Quarterly Operator Financial Statements Through the 232 Healthcare Portal
- ORCF Correspondence Should Continue to Use LeanThinking@hud.gov
- Document Links Included In This Blast


## Sales History in the Appraisal

A common issue with appraisal reports is that they are not compliant with the sales history reporting requirements found in Handbook 4232.1, Section II, Chapter 5.3.R.3. The Handbook states, "the sales price must be analyzed. If the property has sold within 3 years, or within the date range of the comparable sales, the price per unit/bed, capitalization rate, marketing time and market exposure must be provided." Depending on the details of the transaction is may also be necessary to comment on how the property was marketed, the volume of market interest, which assets were included/excluded from the transaction, and if there were any special conditions or terms. Many appraisals report the subject's most recent sale but fail to include all sales, agreements of sale, options, listings, within a three-year period. Under the Uniform Standards of Professional Appraisal Practice (USPAP) it is not sufficient to simply report the subject's sales history. USPAP requires that if the required information is not available, the efforts made to

obtain the information must be presented. When the information is irrelevant, its lack of relevance must be explained. Failure to meet to these requirements will require appraisal revisions which will increase the processing time.

***Keywords:*** *Appraisal, Sales History*
Back to top

## ORCF Anticipates Risks to SNFs in Connecticut

ORCF would like to make the industry aware that the 232 portfolio has been adversely impacted by the State of Connecticut's efforts to diversify and "right-size" skilled nursing facilities. ORCF anticipates Lenders will address the potential impacts on a facility resulting from the State's efforts to rebalance the provision of long-term care toward home and community based settings in their Lender Narrative. Lenders should discuss these risks under Other Risk Factors Identified by Lender or where the Lender Narrative states: "Discuss any departures from historical reimbursement, mix and trends here." Among the resources Lenders may use in addressing the long-term financial viability of a project in Connecticut is the *State of Connecticut Medicaid Long Term Care Demand Projections Databook* (here), last updated on August 12, 2014.

***Keywords:*** *State Risk, Connecticut*
Back to top

## Quality Control Reviews Update

Quality Control Plans and Reviews are a requirement of every lender participating in Section 232, per Handbook 4232.1, Section I, Chapter 2.9. ORCF will consider waiver requests to forego the 2015 QC Review from any Section 232 lenders with only one commitment/closing of a Section 232 project in 2015. If a lender wishes to pursue waiver consideration under this condition, the lender must send a completed HUD-2-ORCF waiver to Mary Walsh, Lender Relations Liaison by July 1, 2016.

***Keywords:*** *Quality Control Review*
Back to top

## ORCF Reminds Lenders of Required Reporting of State Survey Findings

ORCF would like to remind the industry of the reporting requirements for State Inspections of Section 232 FHA-Insured projects found at Handbook 4232.1, Section III, Chapter 3.10.5. As it pertains to Licensed Nursing Facility surveys, reporting is only required when a survey has any findings higher than a "G" level or any repetitive "G" level or higher findings from prior surveys. Lenders should anticipate a communication from the Operator within two business days of receipt of a notice, report, survey or other correspondence from the governmental entity (e.g.

Notice of Imposition from the Centers for Medicare & Medicaid Services (CMS)). Consistent with the Section 232 Handbook, ORCF anticipates that the Lender will notify the ORCF Account Executive of any finding that poses an immediate threat to licensure or funding, and that the Lender will notify the AE as soon as the facility is back in Substantial Compliance.

***Keywords:*** *State Inspections, CMS Oversight*
Back to top

## Training On the Submittal of Quarterly Operator Financial Statements Through the 232 Healthcare Portal

Servicing lenders began submitting quarterly operator financial statements to ORCF in May 2015. At that time, the servicing lender was required to submit 23 data elements (defined on ORCF's website) to the 232 Healthcare Portal, on each loan they serviced each quarter. Based on industry and ORCF collaboration, this amount has been drastically reduced to 8 key data elements. Consequently, HUD intends to provide training for lenders and operators in mid-May 2016 on the new 8 key data submission elements.

***Keywords:*** *Operator Financials Portal; 232 Healthcare Portal; Operator Financial Training*
Back to top

## ORCF Correspondence Should Continue to Use LeanThinking@hud.gov

As part of the Office of Multifamily Housing Transformation, various regional/state email boxes have been set up for industry questions. Although those mailboxes are for Multifamily questions, some Section 232 questions have also been submitted there. To avoid delays in getting your ORCF issues addressed, please be sure to use the ORCF mailbox, LeanThinking@hud.gov. If your question relates to a project in ORCF underwriting review or asset management, you should contact the assigned ORCF staff directly.

***Keywords:*** *Lean Thinking*
Back to top

## Document Links Included In This Blast

101. State of Connecticut Medicaid Long Term Care Demand Projections Databook

Back to top

April 27, 2016

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.

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.

February 29, 2016

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of February 29, 2016

*February 29, 2016 Contents*


Lean 241(a) Processing Resumes, Without Need For Independent Review Of Collateral Modifications
Historical Financial Performance In Lender Narrative and Decision Circuit Must Be Consistent with The Owner's Certified Operating Statements
Updated Lender's Architectural Reviewer and Cost Analyst's SOW – New Construction, Substantial Rehabilitation, and 241(a)
Updated Lender's Pre-Construction Conference Agenda
Updated ORCF Clarification on Describing State Regulatory and Funding Risk and Mitigation
Risk Management Programs
Hard Copy of Production Applications Not Required
New Optional Lender Submission Documents Posted To HUDClips
New Standards for Land Title Surveys
Guidance for Categorizing an Activity as Maintenance
FROM THE CLOSING CORNER
Executed Firm Commitment to be Sent to Closer Mailbox
Tool To Certify Insurance Coverage at Closing Now Available
Document Links Included In This Blast


## LEAN 241(A) PROCESSING RESUMES, WITHOUT NEED FOR INDEPENDENT REVIEW OF COLLATERAL MODIFICATIONS

A June 24, 2015 Email Blast article addressed an issue that GNMA had raised regarding collateral modifications of multifamily and healthcare loans in mortgage-backed securities that are included in GNMA REMIC Trusts. That article spoke to GNMA concerns and the fact that GNMA was conducting a transaction-by-transaction independent review of collateral modifications of each such loan, particularly each Section 241(a) loan.

In its 12/30/15 All Participants Memorandum and again in its 1/27/16 Multiclass Participants Memorandum, GNMA has now announced that it is ceasing this review, based on clarification the IRS had provided through a

"general information letter." In that letter (here), the IRS explained that collateral modifications of the multifamily and healthcare loans do not constitute modifications of the mortgage-backed security certificates that are included in Ginnie Mae REMICs. Thus, a change in the collateral for the underlying mortgage(s) is not a change in the mortgage-backed security that backs the REMIC.

In light of GNMA's determination to cease these reviews, ORCF is back to processing Section 241(a) loans through its Lean process, and stands ready to do so with an underwriting team concentrating on these and other healthcare loans that involve new construction, additions and improvements.

***Keywords:****241(a)*

Back to top

## HISTORICAL FINANCIAL PERFORMANCE IN LENDER NARRATIVE AND DECISION CIRCUIT MUST BE CONSISTENT WITH THE OWNER'S CERTIFIED OPERATING STATEMENTS

The historical financial performance summarized in the lender narrative and decision circuit must match the owner's certified operating statements. It is acceptable to combine categorized expenses and exclude depreciation, interest, debt service, income based taxes, and expenses similar thereto. Historical management expenses, real estate taxes, capital improvements, and reserve for replacement however must be reported based upon the certified operating statements without offset or change. The decision circuit will normalize some expenses, which is allowed. Otherwise the history will reflect actual operations without adjustment. Any income or expenses that are considered by the appraisal or underwriter to be atypical should be adequately described and supported in the appraisal and the decision circuit narrative.

***Keywords:****Historical Financial Performance, Owner's Certified Operating Statements*

Back to top

## UPDATED LENDER'S ARCHITECTURAL REVIEWER AND COST ANALYST'S SOW – NEW CONSTRUCTION, SUBSTANTIAL REHABILITATION, AND 241(A)

At the suggestion of ORCF's Appraisal team, the Lender's Architectural Reviewer and Cost Analyst's SOW – New Construction, Substantial

Rehabilitation, and 241(a), has been updated (here). Section IV.A.1. now includes language regarding existing or proposed Aboveground Storage Tanks (AST) containing hazardous substances of an explosive or fire prone nature, located on-site or directly visible from the site.

All Firm Commitment Applications submitted to HUD after February 29, 2016, must use this revised document dated December 16, 2015.

Any questions regarding AST's should be directed to Terry Bessette, ORCF Senior Appraiser, at (401) 277-8312, or Terry.L.Bessette@hud.gov.

***Keywords:****Statement of Work, Aboveground Storage Tanks*

Back to top

## UPDATED LENDER'S PRE-CONSTRUCTION CONFERENCE AGENDA

The Lender's Pre-Construction Conference Agenda has been revised, and is dated December 16, 2015 (here). Improvements have been made to the following topics: Initial Start Date, Inspection and Supervision by Project Architect, Change Orders, and As-Built Survey.

Remember, the Lender's Pre-Construction 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 or Early Commencement has been approved, and shall be no earlier than one week prior to Closing and the start of construction.

All Conferences conducted after February 29, 2016 shall use this new Agenda.

***Keywords:****Pre-Construction Conference, ORCF Construction Manager*

Back to top

## UPDATED ORCF CLARIFICATION ON DESCRIBING STATE REGULATORY AND FUNDING RISK AND MITIGATION

In the September 23, 2015 Email Blast (here), ORCF provided the industry with the State Risk Summary Grid to provide suggestions on how to address and mitigate funding and regulatory risks. The questions to consider contained in the grid drew attention to some potential risks and approaches to consider for a number of facility characteristics.

February 29, 2016

Over the last several months, ORCF has contacted Lenders and requested responses to these questions to consider when projects under firm application review exhibit the characteristic identified in the summary grid. Based on the responses provided and subsequent underwriting reviews of these projects, ORCF provides the following updated state risk summary 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, including but not limited to Medicaid reimbursement delays, as appropriate.

February 29, 2016

# Updated State Risk Summary Grid

(Print Version here)

| State Risk Category | Facility Characteristics | Questions to Consider |
|---|---|---|
| Medicaid Waivers – Final Home and Community-Based Services Rule - high Medicaid Census & combos including SNF beds | • Non-SNFs with Medicaid Waiver residents and either:<br>  ○ Concentrated MI/DD population (e.g., >=25%), or<br>  ○ Very high Medicaid Census (e.g., >=80%)<br>• Combined SNF/ALFs with Medicaid Waiver residents whose DSCR falls below 1.0 with a minimal decline in Medicaid Census or Rate<br>(NOTE: CMS will require combined SNF/ALF settings to undergo "heightened scrutiny") | Indicate whether facility is at risk of being unable to comply with the Rule.<br>• Refer to the Statewide Transition Plan (here), CMS responses to or approval of the Plan, State Regulatory language and State Medicaid Agency input, as applicable.<br>• If unable to determine from the above, discuss the facility's compliance with HCBS Settings requirements (here).<br>• If facility appears unable to comply, demonstrate ability to operate without Medicaid Waiver residents. |
| Money Follows the Person (MI/DD) | Concentration of MI/DD population (e.g., >=25%) in either:<br>• Combined SNF/ALFs<br>• Projects with any Board & Care, or<br>• Projects with ICF beds | • If MI/DD residents are primarily non-elderly, how might facility be impacted by MFP, Balancing Incentives Program and other state "rebalancing" efforts?<br>• Are there constraints on facility's ability to serve other types of residents?<br>• Is State Medicaid funding for MI/DD residents stable?* |
| Money Follows the Person (Non-Elderly, Physically Disabled & Elderly) | Projects with SNF beds whose DSCR falls below 1.0 with a minimal decline in Medicaid Census or Rate | • How might the facility be impacted by MFP, Balancing Incentives Program, nursing facility "right-sizing" initiatives and other state "rebalancing" efforts?<br>• If the subject facility may be impacted, are there any constraints on the facility's ability to serve other residents in these beds/units? |
| Olmstead Plans, Cases & Settlement Agreements | Projects with a concentrated MI/DD population (e.g., >=25%) | Consider pending or resolved Olmstead cases, Settlement Agreements, Olmstead Plans and initiatives in the state:<br>• Is the facility at risk of being unable to serve this population?<br>• What constraints would limit the facility's ability to serve other types of residents?<br>• What approaches would the facility employ to serve new residents if no longer able to serve an MI/DD population?* |

*NOTE: For SNFs, ORCF determines concentration of MI/DD residents using data from CMS Form 672 related to the Mental Status of residents. If the CMS Form 672 indicates a concentration of MI/DD residents, but the subject facility does not actually serve this population, please provide evidence of the number of residents with primary and/or secondary psychiatric diagnoses.

February 29, 2016

***Keywords:****State Risk, State Risk Summary Grid*

Back to top

## RISK MANAGEMENT PROGRAMS

Handbook 4232.1 and the current Operator Regulatory Agreement include a requirement that Operators must implement and maintain a risk management program. While the current versions of the Lender Narratives have not yet been updated to specifically include this discussion in the template, lenders are encouraged to discuss facility risk management programs, including appropriateness of the existing or proposed plan, with mitigation as necessary, in order to address the HB and Regulatory Agreement requirements. Loan defaults and claims have a high incidence of quality of care issues, and are therefore an important component of underwriting considered by Loan Committee. Section II, Production, 2.5 General Requirements, GG. Risk Management Program (here) as well as the Risk Management-Operator Regulatory Agreement Requirements Grid (here) provide guidance on the requirements and evaluation of risk management programs.

***Keywords:****Risk Management Program*

Back to top

## HARD COPY OF PRODUCTION APPLICATIONS NOT REQUIRED

As a reminder, ORCF does not require, nor encourage, the submission of hard copy files for the overall mortgage insurance application submissions. The September 10, 2013 (here) and February 27, 2014 (here) Federal Registers announced comment periods regarding "Documents Eligible for Electronic Submission", and in those announcements (where no public comments were received on this topic), ORCF submitted that all Section 232 mortgage insurance applications were required to be submitted electronically, and that there were only 13 legal closing documents that must also be submitted in hard copy format, with wet signatures. The publications also included a breakdown of estimated annual cost savings to HUD and lenders of $450,000 by no longer requiring the printing, shipping, processing and archiving of hard copy files, when electronic versions were already being required for review. We firmly believe this time and cost savings is beneficial to both HUD and the healthcare industry, and remind

you that hard copy application submissions do not need to be provided, outside of the required 13 documents. Please note that hard copies of all other types of applications, e.g. Asset Management applications, are still required and still must be submitted as detailed in the appropriate sections of Handbook 4232.1.

***Keywords:****Application Processing*

Back to top

## NEW OPTIONAL LENDER SUBMISSION DOCUMENTS POSTED TO HUDCLIPS

ORCF strives to communicate the publications and postings of ORCF documents to ensure that the industry is aware of the most current ORCF documents. For example, ORCF announced the May 28, 2014 Email Blast the publication of Handbook 4232.1 and the subsequent Scrivener Error and Minor Edits publication in the October 30, 2014 Email Blast.

As part of continuous improvement, ORCF has made additions to its Document Collection 2502-0605. Eight new documents have been added to the collection, via an official Change Request to the Office of Management and Budget (OMB). This type of Change Request is for those documents that are not changing the burden or requirements to a collection, but may be providing a new standardized method for collecting information that is already necessary for HUD to review and approve certain types of situations.

Below is a summary of those eight documents. Again, they do not change the burden or requirements, and are for optional use at this time. The documents may currently be found on HUDclips by their identified form numbers, and links to these documents are available on ORCF's Healthcare documents website (here).

### HUD-90030-ORCF – Lender Narrative, Capital Improvements

The Borrower Regulatory Agreement (form HUD-92466-ORCF), requires that prior HUD approval be granted before a Borrower may "remodel, add to, subtract from, construct, reconstruct or demolish any part of the Project…" This new standard format will provide participants with the ability to submit a Lender Narrative that describes any capital improvements requested for a project. The form addresses the information HUD has long relied upon to approve such improvements.

### HUD-92071-ORCF – Management Agreement Addendum

This new form is a standard format that may be added to Management Agreement, when submitted for HUD approval. The provisions in this form are already required in various other documents throughout the Section 232 Program Obligations (e.g. Borrower Regulatory Agreement HUD-92466-ORCF, Operator Regulatory Agreement HUD-92466A-ORCF and Management Certification HUD-9839-ORCF). However, Management Agreements are negotiated by the parties to each Section 232 Project, and are not standardized; therefore, having all of the required provisions culminated in one, succinct addendum, allows the parties, via this HUD Addendum, to efficiently include all necessary and required HUD provisions are included.

**HUD-92266-ORCF – Application for Transfer of Physical Assets (and Lender Narrative)**

Although a current form HUD-92266-ORCF, Application for Transfer of Physical Assets (TPA) is included in the Information Collection 2502-0605, the form did not contain all of the necessary information for HUD to review and approval such a transaction. The Borrower Regulatory Agreement, HUD-92466-ORCF, again requires prior HUD approval for a TPA (change in Borrower), and HUD reviews the new Borrower participants in the identical way it would review an initial underwriting application for these participants. Therefore, this updated format mirrors the information collected about a new Borrower during an initial application, and is in the format that ORCF participants are accustomed to submitting. The information provided is already required; only the format is revised. Applicants are not required to use the portions of the form 92266-ORCF beyond what was previously included, but since the information conveyed via those additions is information that the applicant would need to provide in any event, the applicant may find its use helpful.

**HUD-92266A-ORCF – Lender Narrative, Change of Operator/Lessee, and HUD-92266B-ORCF – Lender Narrative, Change of Management Agent**

Similar to a change in Borrower, the current Operator Regulatory Agreement (form HUD-92466A-ORCF) also requires prior HUD approval of a change in Operator or Management Agent. The information in these two new forms is again already required for HUD approval, and mirrors what would be reviewed regarding an Operator or Management Agent at the time of initial underwriting application; however, a standard format for this review was not included in the original Collection. Providing the information in the similar format to the initial application submission provides continuity in the Program, and consistency in the format of information collection.

**HUD-92435-ORCF – Lender's Certification, Insurance Coverage**

Per the Section 232 application requirements (e.g. Lender Narrative, Section 232/223(f) Refinance HUD-9002-ORCF), all Lenders are required to verify insurance coverages for a Project, prior to loan closing. This concise form allows for a streamlined certification that this verification has taken place. This standard certification reduces the additional submission of supporting material, and allows the Lender to more efficiently complete the loan closing process, while still meeting all required review criteria.

**HUD-93334-ORCF – Servicer's Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy**

Section 232 Program Obligations (e.g. Operator Regulatory Agreement HUD-92466A-ORCF), and in severe instances, HUD regulations such as 24 CFR 232.1015, already require Servicers/Lenders to notify ORCF when the FHA-insured facility is at risk (e.g. failure to file financial statements or make lease payments, threat of bankruptcy or abandonment of the facility, termination of insurance, etc.). When these risks arise, the Borrower and/or Operator and Servicer/Lender are expected to establish an action plan for remedy, and to notify HUD of the situation, circumstances and plan of improvement. This standardized form allows for ease of reporting such information, addressing what ORCF requires in understanding the situation, as well as the related action plans for improvement. Only the appropriate and applicable sections would be completed for a given situation.

**HUD-93335-ORCF – Operator's Notification to HUD of Threats to Permits and Approvals**

Similar to the above form, this document also allows for a standardized format in notifying ORCF of any threats to a Project's permits and approvals; however, this notification to ORCF is mandated by HUD regulation and Section 232 Program Obligations (24 CFR 232.1015 and Operator Regulatory Agreement HUD-92466A-ORCF, respectively), and is to occur within 2 business days of the threat. Having this format for reporting not only reduces the time necessary to report the information, but also allows for a narrative discussion of the circumstances and planned remedies, in a standardized ORCF document.

***Keywords:*** *Optional Lender Submission Documents*

Back to top

## NEW STANDARDS FOR LAND TITLE SURVEYS

Form HUD-91111-ORCF calls for surveys to be in compliance with Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys (Effective February 23, 2011). These standards have been replaced by Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys (Effective

February 23, 2016). HUD will be revising our form to reflect the changes. In the interim ORCF will accept Title Surveys prepared to either standard. If using the new standard during the interim the list of required "Table A - Optional Survey Responsibilities and Specifications" will remain the same except for the deletion of item 20a.

***Keywords:****Land Title Survey, ALTA*

Back to top

## GUIDANCE FOR CATEGORIZING AN ACTIVITY AS MAINTENANCE

Notice CPD-16-02, "Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58" was issued February 8, 2016 and available (here). Notice CPD-16-02 supersedes the March 28, 2006 CPD policy memorandum on this subject.

***Keywords:****Environmental*

Back to top

## FROM THE CLOSING CORNER

### Executed Firm Commitment to be Sent to Closer Mailbox

In the spirit of continuous improvement, an electronic copy of the executed Firm Commitments signed by the Lender/Borrower should now be sent to the Closer Mailbox at ORCFCloser@hud.gov. Original copies should be submitted with closing package to the assigned HUD Closer. This "one stop shop" will ensure all executed commitments get to the assigned Closing Coordinator and will expedite closings.

***Keywords:****Executed Firm Commitment, Closer Mailbox*

Back to top

### Tool To Certify Insurance Coverage at Closing Now Available

ORCF now has a tool to assist Lenders in Closing 232 loans. The **HUD-92435-ORCF – Lender's Certification, Insurance Coverage (See NEW OPTIONAL LENDER SUBMISSION DOCUMENTS POSTED TO HUDCLIPS above)** is now available to use to certify insurance coverage needed at closings. This certification will expedite the closing process by allowing Lenders to address Insurance Requirements without providing additional supporting material. The HUD-92435-ORCF will be accepted as the required

February 29, 2016

Proof of Insurances Exhibit in closing packages submitted to the ORCF Closer. This is just another tool available for use to expedite closing!

***Keywords:****92435, Lender's Certification, Insurance Coverage*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

102. All Participants Memorandum
103. Multiclass Participants Memorandum
104. IRS General Information Letter
105. Lender's Architectural Reviewer and Cost Analyst's SOW – New Construction, Substantial Rehabilitation, and 241(a)
106. Lender's Pre-Construction Conference Agenda
107. Updated State Risk Summary Grid
108. Home & Community Based Services Website
109. Handbook 4232.1, Section II, Chapter 2
110. Risk Management-Operator Regulatory Agreement Requirements Grid
111. September 10, 2013 - Federal Housing Administration (FHA) Healthcare Facility Documents: Notice of Information Collection—Proposed Documents Eligible for Electronic Submission
112. February 27, 2014 - Federal Housing Administration (FHA) Healthcare Facility Documents: Documents Eligible for Electronic Submission—30-Day Notice of Information Collection
113. ORCF's Healthcare Documents website
114. 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

December 16, 2015

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of December 16, 2015

*December 16, 2015 Contents*


Official Reference to Handbook 4232.1
Fiscal Year 2015 Lender Performance
FROM THE CLOSING CORNER
- ORCF Closer Assignments
- Communication of Closing Deadlines
- Firm Commitment Extensions for Projects Without a Closer Already Assigned

Document Links Included In This Blast


## OFFICIAL REFERENCE TO HANDBOOK 4232.1

In order to avoid confusion, please use the official reference to the Section 232 HUD Handbook as "Handbook 4232.1" when submitting documents to ORCF. References to other unofficial names such as "LEAN Handbook" and "LEAN Guide" may cause confusion and are not the official name.

***Keywords:****Handbook 4232.1*

Back to top

## FISCAL YEAR 2015 LENDER PERFORMANCE

Fiscal Year 2015 closed with 291 initial endorsements completed under Section 232. With regard to lender performance as assessed by the ORCF underwriting team, ORCF had a 13% error rate of all Firm Applications presented to Loan Committee, with Quality Control slightly surpassing the other performance metrics including Math Errors, Responsiveness, Due Diligence, Programmatic/Legal requirements and 3rd party reports. A review of all applications submitted revealed key patterns of issues identified below:

- Submitting the Firm Application with missing items, including necessary waivers, legal documents, flood plain information, SHPO letter, and Above Ground Storage Tank letter;
- Failing to consistently review and validate 3rd party report information to ensure it is accurate and supportable, especially regarding appraisals;
- Failing to fully address Risk Issues upfront, including declines (NOI, survey results) and 1-Star facilities.
- Weak quality review checks to verify internal consistency of numbers and documents.
- Failing to provide full and responsive replies during the deficiency period.

Please be advised ORCF is exploring ways to further enhance the Firm Application underwriting review process, to ensure incomplete or otherwise deficient deals are not prolonging processing of other lenders' deals waiting in the queue. Emphasis in the coming year will be placed on ensuring deals are ready for Firm Commitment and subsequent Endorsement, at the time they are submitted.

For more information on specific lender volumes for 2015, please see the "Queues, Reports, and Statistics" section on the Section 232 Program website (here).

***Keywords:****FY 2015 Lender Performance*

Back to top

## FROM THE CLOSING CORNER

### ORCF Closer Assignments

ORCF would like to reiterate the steps to request ORCF Closer assignments. After you have submitted your draft legal package to the assigned HUD attorney and you are ready to submit a complete closing package to the ORCF closer, please email ORCFCloser@hud.gov indicating the date that the legal package was sent. ORCFCloser@hud.gov will email you back (usually within 1-2 business days) with a Closer assignment.

***Keywords:****Closer Assignments*

### Communication of Closing Deadlines

In an effort to better communicate and accommodate closing deadlines, ORCF and OGC ask that any hard (known/existing) deadlines that would impact the closing date be communicated to both ORCF and the assigned HUD Attorney. When submitting the ORCF Closer assignment request (to ORCFCloser@hud.gov) and the legal closing package, please include in the email to ORCF and the cover letter to the HUD Attorney, these hard (known/existing) deadlines that would impact the closing date of the project. This information will assist HUD in workload management. The closing date will be set by the HUD Attorney after consultation with the ORCF Closer, but HUD will not close a transaction until all program and legal requirements have been fully satisfied.

***Keywords:****Closing Deadlines*

Back to top

**Firm Commitment Extensions for Projects Without a Closer Already Assigned**

As outlined in the January 28, 2014 Email Blast, for firm commitment extensions for projects that do **NOT** have an ORCF Closer already assigned, please send the request to extend on Lender letterhead to ORCFCloser@hud.gov.

The lender's request to amend the Firm Commitment to extend the deadline must include the reason for the delay and an explanation of how the delay can be resolved during the extension. Amendments extending the time of the Firm Commitment must also include the following Handbook 4232.1, Section II, Chapter 9.3.B.1 statement that there has been no material change in the project or the underwriting of the project: "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."

**Please Note**: *For amendment requests other than extensions, Lenders should wait until a closer has been assigned and then submit the amendment request to the closer. Please refer to the April 30, 2012 Email Blast for further guidance.*

*Keywords: Firm Commitment Extensions, Firm Commitment Amendments*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

115. Section 232 Program website

Back to top

October 30, 2015

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of October 30, 2015

*October 30, 2015 Contents*


Fiscal Year (FY) 2016 Mortgage Insurance Premiums
Implementation of Electronic Submission of Davis-Bacon Wage Rate Certifications
Inspection Fees on 223(f) Applications Using the Optional Process for Delegated Administration of the Non-Critical Repair Escrow
ORCF Expects Racial Covenants To Be Removed
Submission of Asset Management Requests and Transactions to ORCF
Financial Statement Filing Extension Announced for Owners with 6/30/15 FYE Date Applies to Section 232
FROM THE CLOSING CORNER
Reminder-- Maximum Threshold Deposit to Reserve for Replacement is $40,000
Post-Closing Documents- Transaccess CDs
Document Links Included In This Blast


## FISCAL YEAR (FY) 2016 MORTGAGE INSURANCE PREMIUMS

On October 2, 2015, the Office of Healthcare Programs and the Office of Multifamily Housing published a notice in the Federal Register (here) that announces no change in the Mortgage Insurance Premium rates (MIPs) for Federal Housing Administration (FHA) Multifamily, Health Care Facilities, and Hospital mortgage insurance programs that have commitments to be issued or reissued in FY 2016.

FY 2016 MIPs are the same as in FY 2015. This Notice does not apply to loans insured under the Risk Sharing programs of section 542(b) or 542(c) of the Housing and Community Development Act of 1992.

There are no changes to the rates, and therefore there is no comment period on this notice at this time.

***Keywords:****FY 2016 Mortgage Insurance Premiums, MIP*

Back to top

## IMPLEMENTATION OF ELECTRONIC SUBMISSION OF DAVIS-BACON WAGE RATE CERTIFICATIONS

On October 5 2015, Mortgagee Letter 2015-25 (here) and Housing Notice H 2015-09 (here) were published on HUDClips regarding the Implementation of Electronic Submission of Davis-Bacon Wage Rate Certifications. This Mortgagee Letter and Notice introduce an electronic means to submit the Davis-Bacon Prevailing Wage Payroll Certifications for federally funded and/or assisted construction projects receiving HUD grants, loans, loan guarantees and insurance.

The software and systems tool is intended to improve HUD's Davis-Bacon oversight and compliance by enabling the Office of Labor Standards and Enforcement (OLSE) to monitor and ensure compliance with Davis-Bacon wage rates for all HUD directly-administered projects (Multifamily, Hospitals, Residential Care Facilities, Rental Assistance Demonstration (RAD), Sections 202 and 811, and other assisted construction) that contain $2,000 or more in HUD funding or assistance. This web-based subscription service – called the Davis Bacon Electronic Certification Submission Program ("ECSP" and /or "Davis Bacon ESCP") will be used on all in-house contracts where staff performs the administration and enforcement of labor standards compliance.

The program will initially be implemented for new construction/substantial rehabilitation projects located in HUD regions VI (Southwest) and VII (Great Plains) that have yet to reach initial endorsement. (However, all program participants are invited to begin using the electronic submission of Davis-Bacon payroll certifications for the submission of Davis-Bacon wage reports submitted to HUD beginning on the first business day following 30 days after the date of publication of the Mortgagee Letter and Housing Notice. i.e. Wednesday, November 4, 2015.

Use of the Davis Bacon ECSP will be mandatory for all Davis Bacon Payroll certification submissions after March 30, 2016 for all projects that are less than 50% complete as of that date.

***Keywords:****Davis Bacon, Davis Bacon Electronic Certification Submission Program, ECSP*

Back to top

## INSPECTION FEES ON 223(F) APPLICATIONS USING THE OPTIONAL PROCESS FOR DELEGATED ADMINISTRATION OF THE NON-CRITICAL REPAIR ESCROW

If the Lender elects to take responsibility for the Non-Critical Repair Escrow administration on an application, HUD will refund the inspection fee. Because the fee can be refunded, it should not be included in the transaction costs on the Sources & Uses on the MILC. For the HUD Inspection Fee line item include $0, noting the election to administer the escrow. The fee to pay the PCNA provider for the inspection/report after the repairs/improvements are completed may be treated as an eligible mortgageable cost. As a reminder, the Lender's Firm Commitment application must specify that the Lender will assume noncritical repair escrow administration on that particular transaction, and the Firm Commitment must include a Special Condition acknowledging that the Lender has been approved to administer the NCRE.

Please review Chapter 3 of the Asset Management portion of Handbook 4232.1, 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

## ORCF EXPECTS RACIAL COVENANTS TO BE REMOVED

In ORCF, we have occasionally been presented with transactions in which some very antiquated and abhorrent covenant appears in the chain of title, restricting sale or occupancy of the property based on race, national origin or another characteristic protected by the Fair Housing Act. We recognize that procedures for removing such covenants vary widely among states; in some states the process may be considerably more complicated and prolonged than in others.

Nevertheless, ORCF expects covenants that run contrary to the Fair Housing Act or other civil rights laws to be removed. To avoid delays in closing, the parties should discern early whether such covenants exist and, if so, immediately commence necessary actions to remove them. Initiating this effort obviously involves having a title search conducted early in the

application process. In the event that, despite such timely and ardent effort, the parties are not able to timely obtain removal of the covenant, then, in order to avoid a closing delay, ORCF would expect those efforts to be clearly documented and would expect documents to be executed affirmatively acknowledging the unenforceability of such provisions and repudiating them.

***Keywords:****Racial Covenants, Fair Housing Act*

Back to top

## SUBMISSION OF ASSET MANAGEMENT REQUESTS AND TRANSACTIONS TO ORCF

In many cases the Handbook requires direct lender involvement (e.g, transactions involving ownership changes, Asset Management Chapter 7), while in all—or nearly all-- other cases, even though not mandated, it is clearly good practice and extremely helpful to all parties. In this regard, ORCF requests that Asset Management-related requests and transactions (including Non-Lender delegated R4R release requests) be reviewed and submitted by the Lender – not directly by the borrower, operator, or management agent.

***Keywords:****Asset Management*

Back to top

## FINANCIAL STATEMENT FILING EXTENSION ANNOUNCED FOR OWNERS WITH 6/30/15 FYE DATE APPLIES TO SECTION 232

The global extension for submitting financial statements posted on HUD's Real Estate Assessment Center (REAC) Financial Assessment of Multifamily Housing (FASS) system website (here) pertains to owners who have projects insured under Section 232. The posting pertains to **BOTH** Section 232 and Multifamily properties, even though Section 232 is not mentioned specifically in the posting.

Below is the language from the REAC FASS website:

***Global Extension for Owners with 6/30/15 Fiscal Year Ends***

> *A recent security breach at the U,S. Department of Census has caused the Federal Audit Clearinghouse (FAC) to be taken down. As a result, submissions of Data Collection Forms and reporting packages are not*

*able to be made.* ***FAC originally provided an extension until October 31, 2015, but they've since extended the due date to December 31, 2015****. Since the HUD Agreed-Upon procedures engagement performed on FASS submissions includes procedures comparing information in the Data Collection Form to the information submitted to HUD via FASS,* ***HUD is extending the due date for financial statements with fiscal year ending June 30, 2015, until December 31, 2015****. This is a global extension and will apply to all submissions including owner certified and audited.*

*This may also impact December 31, 2014 audit submissions facing the 9 month A-133 filing deadline which the* ***FAC extended to December 31, 2015****. If needed, those auditees should file for an extension electronically using the FASSUB.*

***Keywords:****REAC, FASSSUB, Financial Statements Extension*

Back to top

## FROM THE CLOSING CORNER

### Reminder -- Maximum Threshold Deposit to Reserve for Replacement is $40,000

As noted in the February 25, 2015 Email Blast, ORCF increased the Initial deposit/additional Deposit to Reserve for Replacements threshold to $40,000. The increase was to help avoid small mortgage reductions when refinance closing costs unexpectedly go down. As noted before, ***all amounts over $40,000 will be used to reduce the mortgage amount.***

Only on an exceptionally rare occasion, ORCF will consider allowing a further increase in this amount, on a discretionary basis, if the following criteria are met:

- The cost reduction could not be foreseen, was unexpected and unavoidable.
- The request is submitted in writing, *a minimum of five business days prior to the targeted closing date,* in order to allow the ORCF Workload Manager, Underwriter and Closer time to review and process the request.

For additional background, please see previously published Email Blasts on this subject originally published in the August 19, 2010 Email Blast and restated in December 19, 2013 Email Blast.

***Keywords:****Reserve for Replacement, Initial Deposit*

Back to top

**Post-Closing Documents- Transaccess CDs**

Please note that ORCF's electronic documents provider has changed from PSL Inc. to the Nolan Group. The HUD Attorney Closing Checklists have been updated (Refinances here, New Construction/Sub Rehab/Blended Rate here). Please pay special attention and continue to send in CDs or PDF copies per the checklist instructions.

***Keywords:****Transaccess CD*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

116. Fiscal Year (FY) 2016 Mortgage Insurance Premiums
117. Mortgagee Letter 2015-25
118. Housing Notice H 2015-09
119. Request for Optional Lender Delegated Review and Approval Process
120. REAC FASS System Website
121. Handbook 4232.1
122. Management Certification (Form 9839-ORCF)
123. HUD Attorney Closing Checklist – Refinances
124. HUD Attorney Closing Checklist – NC/SR/BR

Back to top

September 23, 2015

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of September 23, 2015

*September 23, 2015 Contents*

ORCF Provides Clarification on Describing State Regulatory and Funding Risk and How It Will Be Mitigated
Document Links Included In This Blast

## ORCF PROVIDES CLARIFICATION ON DESCRIBING STATE REGULATORY AND FUNDING RISK AND HOW IT WILL BE MITIGATED

As the industry is well aware, key risks in the context of residential care facilities (facilities which are regulated by and heavily funded by states) are risks of state funding and regulatory changes. These concerns were addressed in the May 31, 2012 and October 31 Email Blasts. Then the concerns were fully addressed in revisions to the Lender Narratives during the extensive ORCF Paperwork Reduction Act document revision process.

The Lender Narratives now set forth the Lender's obligation to describe risks and to identify appropriate mitigation to those risks. In this regard, the 223(f) Lender Narrative (here) states, for example, on page 16 of 84, under Other Risk Factors Identified by Lender, "*Provide discussion on other risk factors identified by the lender and how they are mitigated.*" Additionally, pages 26 and 27 of 84 require the Lender to "Discuss any departures from historical reimbursements, mix, and trends here", to further "Identify any anticipated changes to the reimbursement rate…Provide narrative discussion of conclusion" and "Provide narrative discussion of the state's reimbursement system and how the subject's or tenant's rate is determined…Identify any anticipated changes to the reimbursement rate…"(Please note that Lender Narratives for other 232 programs have analogous language. See for example, pages 43-47 and 57-58, of the Blended Rate, single stage Lender Narrative (here).)

Lenders have in recent months sought advice from HUD about ways to address, in the Lender Narrative, state funding and regulatory risks, in light of recent and ongoing regulatory and funding changes. Such changes include, for example, state government budgetary constraints and related concerns about government provider payments. Additionally, continuing efforts by the Centers for Medicare and Medicaid Services (CMS) and State Medicaid Agencies to "rebalance" the provision of long-term supports and services toward home and community-based settings consistent with the Olmstead decision (through, for example, the Home and Community-Based Settings Final Rule and the Money Follows the Person Program) have, in some cases, contributed to growing uncertainty about the viability of some residential care facilities.

In this regulatory and funding environment, and in response to industry requests for further clarification on how to address and mitigate funding and regulatory risks, ORCF is offering, in the State Risk Summary Grid below, suggestions on how to address funding and regulatory risks associated with various characteristics. These are merely suggestions of potential risks and approaches to consider; a Lender may know that in a particular case such an approach/mitigant would be insufficient, or that alternative, preferable mitigants exist. What is vital is that the Lender appropriately addresses risks as directed in the Lender Narrative. If the Lender Narrative discussion is not thorough, then extensive subsequent communication with the HUD reviewer may be necessary, thus slowing the review process.

While every deal presents its own unique strengths and risks, certain state regulatory and funding risk environments may warrant substantial mitigation when the long-term viability of a residential care facility is still in question. Possible mitigants that the Lender *may* want to consider in such extreme cases may include: reduced mortgage amount/ increased debt service coverage, long-term debt service escrow, demonstrated market and capacity for serving different resident mix (e.g., non-MI/DD population), demonstrated ability to reduce reliance on Medicaid or Medicaid Waivers and demonstrated ability to maintain healthy debt service coverage with fewer beds.

**State Risk Summary Grid**

| State Risk Category | Facility Characteristics | Questions to Consider |
|---|---|---|

| | | |
|---|---|---|
| Medicaid Waivers – Final Home and Community-Based Services Rule & high Medicaid Census | Non-SNFs or Combos including SNF beds with Medicaid Waiver residents and either: 1) concentrated MI/DD population (>=25%) or 2) very high Medicaid Census (>=80%) | Does the subject facility's State Transition Plan (found here) address the state's compliance and/or the state's efforts to comply with the Final Home and Community-Based Services Rule? Is it anticipated that the subject facility and/or the subject facility type will be compliant with the state's plan? Is the long term viability of the Medicaid Waiver Program at risk for such facilities? Does the subject facility exhibit the ability to operate without Medicaid Waiver residents? |
| | | |
| Medicaid Reimbursement Delays | Projects with SNF beds in states with a pattern of extensive reimbursement delays without AR Financing | Does the project demonstrate the ability to handle delayed payments without AR Financing? |
| State Budgetary Constraints | Projects with SNF beds that have Medicaid Census of 80% or more, or whose DSCR falls below 1.0 with a decline of 5% or less in Medicaid Census or Rate | Does the owner/operator have a plan for working through rate reductions, rate freezes or changes in eligibility? Does the facility demonstrate an ability to remain viable, as evidenced by a Sensitivity Analysis showing how income, expenses and NOI would be impacted by the above changes? |

| | | |
|---|---|---|
| Money Follows the Person (MI/DD) | Concentration of MI/DD population (>=25%) in either: 1) Board & Care, 2) SNF/ALF combos, or 3) combo including B&C beds; projects with ICF beds | If MI/DD residents are predominantly non-elderly, how might the facility be impacted by MFP, Balancing Incentives Program and other state "rebalancing" efforts? Are there any constraints on facility's ability to serve other types of residents in these beds/units? Is State Medicaid funding for MI/DD residents stable? |
| Money Follows the Person (Non-Elderly, Physically Disabled & Elderly) | Projects with SNF beds whose DSCR falls below 1.0 with a decline of 5% or less in Medicaid Census or Rate | How might the facility be impacted by MFP, Balancing Incentives Program, nursing facility "right-sizing" initiatives and other state "rebalancing" efforts? If the subject facility may be impacted, are there any constraints on the facility's ability to serve other residents in these beds/units? |
| | | |
| Olmstead Plans, Cases & Settlement Agreements | Projects with a concentrated MI/DD population (>=25%) | Are there any pending Olmstead cases, Settlement Agreements or Olmstead Plans or initiatives that could impact the facility? If the subject facility may be impacted, are there any constraints that would limit the facility's ability to serve other types of residents? |
| Other | | |

***Keywords:****State Risk, State Risk Summary Grid*

Back to top

September 23, 2015

## DOCUMENT LINKS INCLUDED IN THIS BLAST

125. 223(f) Lender Narrative
126. Blended Rate, Single Stage Lender Narrative
127. Statewide Transition Plans (STP)

Back to top

August 28, 2015

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of August 28, 2015

## *August 28, 2015 Contents*


Industry Conference Call for Proposed Rule FR-5850-P-01 Retrospective Review – Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Program Participants
Final Rule Published – FR-5632-F-02--"Federal Housing Administration (FHA): Updating Regulations Governing HUD Fees and the Financing of the Purchase and Installation of Fire Safety Equipment in FHA-Insured Healthcare Facilities"
Cash Equity In New Construction/Substantial Rehabiliation Projects
The Green Lane and Environmental Checklist
Firm Commitment and Checklist Update Involving Property Insurance Attachment
Reminder on Borrower Requirements
Important update for the Mortgage Termination (Pre-Payment) Process
Asset Management: New Sample Documents for Notifying ORCF of Action Plans
ORCF Reserve For Replacement (R4R) Specialized Team
ORCF Valuable Tools and Resources
Document Links Included In This Blast


## INDUSTRY CONFERENCE CALL FOR PROPOSED RULE FR-5850-P-01 RETROSPECTIVE REVIEW – IMPROVING THE PREVIOUS PARTICIPATION REVIEWS OF PROSPECTIVE MULTIFAMILY HOUSING AND HEALTHCARE PROGRAM PARTICIPANTS

As announced in the August 10, 2015 Email Blast, HUD published the proposed rule: FR-5850-P-01 Retrospective Review – Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Program Participants (available here). The written comment period will close on October 9, 2015. HUD will hold a conference call to provide an overview of the proposed rule and to provide an opportunity for all interested parties

to ask questions and offer industry viewpoints. *Please note that formal comments for consideration in the record must be submitted to regulations.gov.* Below, are the details for the conference call:

Date: Wednesday, September 16, 2015
Time: 11:30am-1pm Eastern Standard Time

Please register (here) if you plan to participate.

Conference call information will be provided to meeting attendees via e-mail after you register.

***Keywords:****2530, Previous Participation, APPS*

Back to top

## FINAL RULE PUBLISHED – FR-5632-F-02--"FEDERAL HOUSING ADMINISTRATION (FHA): UPDATING REGULATIONS GOVERNING HUD FEES AND THE FINANCING OF THE PURCHASE AND INSTALLATION OF FIRE SAFETY EQUIPMENT IN FHA-INSURED HEALTHCARE FACILITIES"

On August 11, 2015, HUD published the Final Rule on Fees and Financing Fire Safety Equipment (here). Through this rule, HUD gains flexibility in raising or lowering program fees. The Final Rule also streamlines the Section 232 program regulations that govern the financing of the purchase and installation of fire safety equipment in the insured healthcare facilities. These changes to the residential care facilities program streamline the fire safety equipment loan application process by eliminating unnecessary requirements, conforming needed requirements to current industry practices, and allowing for HUD to centralize the loan application process.

***Keywords:****Fire Safety Equipment Installation*

Back to top

## CASH EQUITY IN NEW CONSTRUCTION/SUBSTANTIAL REHABILIATION PROJECTS

During the recent Lender Dialogue, held in Jacksonville, FL, ORCF received inquiries regarding what could be counted toward equity in a Section 232 New Construction/Substantial Rehabilitation transaction. ORCF expects that New Construction and Substantial Rehabilitation projects will have sufficient cash equity in the project in the form of reserves (e.g. initial operating

deficit reserve, debt service escrow, working capital escrow) to be available to support the project through opening, lease-up and stabilization. ORCF does not dispute that there is value in a project's land or CON. Certainly these other forms of project contributions would be seen as enhancements, but they are not cash.

***Keywords:****Equity Contribution*

Back to top

## THE GREEN LANE AND ENVIRONMENTAL CHECKLIST

As mentioned in the June 24, 2015 Email Blast, one of the criteria for consideration in Green Lane processing is an initial screening for environmental concern. ORCF is seeing many applications pass both the loan size and appraisal tests only to be disqualified for environmental reasons. Some have asked what the initial environmental screening entails. The elements of this review are contained in the Environmental Checklist found in the 223(f) documents (here). We encourage lenders to fill out the checklist with each application in order to increase the number of applications eligible for Green Lane processing.

***Keywords:****Green Lane, Environmental Checklist*

Back to top

## APPRAISAL INCOME CAPITALIZATION RATE DERIVATION

When deriving capitalization rates from comparable sales, the sale's analyzed income must be consistent with the appraised property's income being capitalized. Handbook 4232.1, Section II, Chapter 5.3.R.4.m:

> *Under the direct capitalization method, the appraiser extracts the overall capitalization rate from sales comparables. The methodology for estimating the comparables NOI should match the methodology used in developing the subject NOI.*

If the comparable sales' capitalized income is not consistent with appraised property's income, the appraiser must analyze the impact of the sale's income on the capitalization rate. The capitalization rate support must describe and analyze how the sale's risk and potential for income fluctuations impacts the capitalization rate. The utilization of a trailing capitalization rate will not be considered acceptable unless the appraiser provides adequate support that the stated capitalization rate is consistent with the property appraised's income. Special care and consideration should

be given to those sales where the buyer anticipates major changes in income.

***Keywords:*** *Appraisal, Capitalization Rates*

Back to top

## FIRM COMMITMENT AND CHECKLIST UPDATE INVOLVING PROPERTY INSURANCE ATTACHMENT

To streamline Firm Commitment documents, all templates have been updated to eliminate the need to attach the ORCF Insurance Requirements document to the Firm Commitment. Language has been incorporated into the property insurance sections of the templates that prior to closing, the Borrower must provide evidence of all required insurance in conformance with current program requirements. By virtue of signing and accepting the firm commitment, there will no longer be the need to attach the ORCF Insurance Requirements document as an attachment since the same document is already included in Handbook 4232.1, Section II, Chapter 14 as program requirements. All related checklists have also been revised to reflect this update.

***Keywords:****Firm Commitment, Property Insurance Requirements*

Back to top

## REMINDER ON BORROWER REQUIREMENTS

Recently there has been some confusion related to two Section 232 requirements: the Borrower's level of experience with similar healthcare facilities, and the citizenship requirements for principals of the Borrower.

As a reminder, Handbook 4232.1, Section II, Production, Chapter 2.5.EE provides that the Borrower's experience is to be at the level of a Borrower's principal. Paragraph 2.5.EE also explains that the experience of the Management Agent or Operator is generally not an acceptable mitigant to offset the Borrower's lack of experience.

In addition, please note that the citizenship requirements for the principals of the Borrower set forth in Section II, Production, Chapter 6.1.D. That paragraph provides that the single-asset borrower entity must be registered in the United States in the state where its corporate office is located, and at least one principal, with operational decision-making authority, must be a United States citizen.

***Keywords***:*Eligibility, Borrower Requirements, Handbook*

Back to top

## IMPORTANT UPDATE FOR THE MORTGAGE TERMINATION (PRE-PAYMENT) PROCESS

Longtime Multifamily Insurance Branch expert, Mary Deschenes, has recently retired. Mary was the primary contact for prepayment submissions. Due to this staffing change, Please submit all requests to: MFIOBTerminationApprovals@hud.gov. *Please do not send any future requests to Mary Deschenes' HUD email address.*

Additionally, if you need assistance or follow-up information (for ORCF prepayments and/or the form HUD-9807 only), please contact ORCF's liaison, Rachel Miller, at Rachel.E.Miller@hud.gov.

***Keywords:*** *9807, Mortgage Termination, Pre-Payment*

Back to top

## ASSET MANAGEMENT: NEW SAMPLE DOCUMENTS FOR NOTIFYING ORCF OF ACTION PLANS

The Strengthening Accountability Rule, published September 7, 2012 (here), and Section III, Asset Management of the Section 232 Handbook 4232.1 prescribes that a project is required to notify both HUD and the Lender when there are threats to the project's permits and approvals.

Based on feedback from the industry during past Asset Management Kaizens, ORCF has posted some sample formats that can be used to notify HUD of certain risk conditions, and detail the proposed action plan to remedy threats to the project's permits and approvals. Use of these sample notification formats is not mandatory; however the content provided under each category is required. Therefore, if a Lender chooses not to utilize these sample formats, it is required to provide the information required by ORCF in Handbook 4232.1, Section III, Chapter 3.10.5 and Chapter 4.4.

The Operator's Notification to HUD of threats to Permits and Approval may be found on our Section 232 Program website, (here). The Servicer's Notification to HUD of the Risks to Healthcare Projects and Action Plan for Remedy may be found (here).

***Keywords:****Asset Management, Documents, Lender Performance Measures*

August 28, 2015

Back to top

## ORCF RESERVE FOR REPLACEMENT (R4R) SPECIALIZED TEAM

The ORCF R4R Specialized Team is up and running. Servicing lenders should familiarize themselves with the related R4R documents posted on ORCF's website (see Section 232 Program website for R4R here). Please review the documents, in particular the R4R ORCF Lender Checklist, on the website before making any R4R requests as appropriate.

I. Work of Specialized R4R Team for ORCF. The lender performs their review of the R4R submission for the following requests (with the exception of troubled/high risk facilities or facilities in lease-up) and sends to 232R4Rrequest@hud.gov where the Specialized Team will process:
   - Standard R4R requests for release for reimbursements;
   - R4R requests for advances/installment releases for capital improvement projects that have been approved by the assigned ORCF Account Executive.

II. Involvement of AEs on R4Rs. The lender performs their review and ensures any of the following R4R related requests falling outside the scope of I. above are sent directly to the assigned AE for more detailed review/processing:
   - Suspensions or Adjustments to R4R deposits;
   - Projects serviced by ORCF Risk Mitigation Team;
   - 232 NC/SR/241a Projects still in Lease-Up;
   - Mortgage payments, Short term loans;
   - Requests for pre-approval of large capital improvements projects that will require advances or installments of R4R draws.

III. Lender Delegation for R4R Processing per HB 4232.1. If you have not done so, we encourage you to submit for **R4R Lender Delegated** approval; the instructions are also posted at the same link (here). Please contact Mary Walsh at: mary.v.walsh@hud.gov should you have any questions or need further guidance when preparing the delegated lender submission. Once approval is received and you begin to process R4Rs eligible for lender delegation, Mary will work with you, giving you feedback and answering questions you may have to give ongoing support and added assurance in taking on this role for enhanced processing and customer service for your borrowers.

August 28, 2015

***Keywords:****R4R, Lender Delegation*

Back to top

## ORCF VALUABLE TOOLS AND RESOURCES

ORCF would like to remind our partners of ORCF tools and resources that are available anytime you may have a question or need clarification. The following tools are available on ORCF's program website:

1. Program Question and Answers ()
2. Current and archived Email Blasts (here).
3. Handbook 4232.1 (here)

Please take advantage of these tools and resources since answers to many of the questions we receive are contained here. If you cannot find the answers you need or need further clarification, ORCF's Lean Thinking email box is an additional resource available at LeanThinking@hud.gov.

***Keywords:****Resources, Question and Answers, Email Blasts, Handbook*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

128. FR-5850-P-01--"Retrospective Review – Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Program Participants"
129. FR-5632-F-02--"Federal Housing Administration (FHA): Updating Regulations Governing HUD Fees and the Financing of Purchase and Installation of Fire Safety Equipment In FHA-Insured Healthcare Facilities"
130. ORCF Environmental Checklist
131. Strengthening Accountability Rule
132. Operator's Notification to HUD of threats to Permits and Approval
133. Servicer's Notification to HUD of the Risks to Healthcare Projects and Action Plan for Remedy

Back to top

August 12, 2015

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of August 12, 2015

*August 12, 2015 Contents*

Underwriter Approval Delegation Mortgagee Letter and Housing Notice
Document Links Included In This Blast

## UNDERWRITER APPROVAL DELEGATION MORTGAGEE LETTER AND HOUSING NOTICE

Today, Mortgagee Letter 2015-16 (here) and companion Housing Notice H-2015-08 (here) were published on HUDClips on a new delegated underwriter approval process. This initiative will greatly reduce the time required to approve new and experienced underwriters. Through this initiative, HUD has realigned the underwriter approval process which will result in eligible MAP and LEAN Lenders designating a Chief Underwriter, and through their Chief Underwriter, approving and designating MAP and LEAN underwriters. For participating lenders, HUD will not undertake such reviews, and will instead rely upon the certifications from the MAP/LEAN Lender and its Chief Underwriter that the individual MAP/LEAN Underwriter is a qualified underwriter per MAP Guide and/or LEAN Processing Guide requirements. The MAP/LEAN Lender and Chief Underwriter will evaluate the prospective underwriter and ensure underwriters have completed the lender's approved training plan and HUD's requirements.

Any questions regarding this policy should be directed to Terry Clark at 202-402-2663.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

134. Mortgagee Letter 2015-16
135. Housing Notice H-2015-08

August 12, 2015

Back to top

August 10, 2015

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of August 10, 2015

## *August 10, 2015 Contents*

Proposed Rule is Published to Improve Previous Participation Reviews
Document Links Included In This Blast

## PROPOSED RULE IS PUBLISHED TO IMPROVE PREVIOUS PARTICIPATION REVIEWS

Today we achieved one of our Policy Priorities by publishing the proposed rule for our 2530/Active Partners Performance System (Transforming APPS) initiative in the Federal Register. The docket number and title of the publication is FR-5850-P-01 Retrospective Review – Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Program Participants (aka Transforming APPS). Please use this link to view the Proposed Rule and to comment electronically. The comment period will close on October 9, 2015.

With this change, we will reflect a 21st century approach to HUD projects to maintain adequate risk controls when checking background of participants, and we will address longstanding industry concerns regarding efficiency of the process. The attached memo from Multifamily Programs and Healthcare Programs provides you with guidance and a point of contact for this initiative.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

136. FR-5850-P-01 Retrospective Review – Improving the Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Program Participants

Back to top

August 10, 2015

June 24, 2015

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of June 24, 2015

## *June 24, 2015 Contents*


Reserve for Replacement Release (R4R) Requests and Non-Critical Repair Escrow (NCRE) Administration:
Account Receivable Financing – Aging Governmental Receivables
Consideration of Proposed Work By Environmental Consultants and Appraisers
Trailing 12 (T-12) Data
More Clarification on Medicaid Upper Payment Limit (UPL) Revenues
Status of 241(a) Transactions
ORCF Creating a Green Lane Queue for 223(f) applications
Instructions for Completing Form HUD-2-ORCF Waiver Request
Reminder – When Submitting an Application, Please Assure That It is Complete
Interest Rate Reduction Legal Punch list
FROM THE CLOSING CORNER
Communication of Closing Deadlines
Document Links Included In This Blast


## RESERVE FOR REPLACEMENT RELEASE (R4R) REQUESTS AND NON-CRITICAL REPAIR ESCROW (NCRE) ADMINISTRATION:

ORCF is establishing specialized teams to process/administer Reserve for Replacement Release Requests (R4R) and Non-Critical Repair Escrow Requests (NCRE). Such teams will be devoted to efficient, consistent processing and monitoring.

**R4R Release Requests (R4R):** Prior to submission to ORCF for processing/approval, lenders must review all R4R requests for accuracy, completeness and eligibility as set forth in Handbook 4232.1, Section III – Asset Management, Chapter 3.2. All R4R release requests (except on projects that are serviced by ORCF's Risk Mitigation Branch or requests to use R4R funds to pay mortgage payments) submitted to HUD on or after

July 20, 2015 shall be submitted electronically by lenders to the following email box: 232R4Rrequest@hud.gov. The R4R requests submitted to the dedicated email box will be processed by an ORCF Asset Management team led by Mary Walsh. However, R4R requests on projects currently serviced by ORCF's Risk Mitigation (Troubled Property) Branch or requests to use R4R funds to pay mortgage payments shall continue to be submitted directly to the assigned ORCF Account Executive.

**NCRE administration:** Administration of the NCRE 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. Submissions to HUD related to the NCRE on such loans shall be submitted electronically to the following email box: 232NCRrequest@hud.gov. Submissions to HUD related to the NCRE on loans closed before July 20, 2015, shall be submitted directly to the project's assigned Account Executive.

If you have any questions related to this or Lender Delegated processing (see Section 232 Program website for R4R here and NCRE here), please email one of the above email addresses.

***Keywords:****Reserve for Replacement, R4R, Non-Critical Repair Escrow, NCRE*

Back to top

## ACCOUNT RECEIVABLE FINANCING – AGING GOVERNMENTAL RECEIVABLES

As a reminder, as stated in Handbook 4232.1, Section II, Chapter 15.3.D (here), aging Governmental Receivables may be accepted by ORCF if aged between 120 days and up to 180 days if there are extenuating circumstances and ORCF determines the delay does not jeopardize the financial viability of the project. For Account Receivable financing loans that have Governmental Receivables aged **over** 180 days, lenders will need to address the issue without requesting a waiver. No waivers will be issued for Governmental Receivables aged over 180 days.

***Keywords:****AR Financing, Governmental Receivables*

Back to top

## CONSIDERATION OF PROPOSED WORK BY ENVIRONMENTAL CONSULTANTS AND APPRAISERS

For applications where a new FHA Insured loan will be generated (including Section 223(a)(7)), lenders should consider proposed work by environmental

consultants and appraisers. The type of work that is proposed at a project has an impact on the scope of the environmental review requirements as described in HUD Handbook 4232.1 Section II Chapter 7. Depending on the nature of the proposed activities, specific review requirements may apply pertaining to floodplain management, protection of wetlands, historic preservation, hazardous operations, endangered species, sole source aquifers, toxic hazards, and other environmental factors. ORCF has seen a number of cases where the third-party environmental reviewer was not made aware of proposed work. The environmental consultant must be informed of the proposed repairs, improvements, alterations, site work, and any demolition that is planned in order to adequately address the appropriate environmental review requirements. For example, 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. To avoid processing delays due to insufficient environmental submissions, lenders should ensure that the environmental consultant is provided with a detailed description of the proposed work, and also that the work is appropriately recognized in the environmental exhibits that are submitted to HUD.

Lenders should also keep in mind that the third-party appraiser must be informed of the scope of the repair work in order to produce a reliable appraisal.

***Keywords:****Environmental Reviews, Third-Party Consultants, Third-Party Appraisers*

Back to top

## TRAILING 12 (T-12) DATA

ORCF has long emphasized the importance of actual trailing twelve (T-12) month data (as in, for example, Email Blasts of May 7, 2014, June 26, 2013, September 1, 2011, and May 4, 2010). This was again pointed out in the Section 232 Handbook. See, for example, Section II, Chapter 2, including the following:

- 2.9.N (dealing with 223(f) transactions): Review of the Project's Financial Performance. The Lender 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. The Lender must use the project-specific expense for underwritten reserve for replacement, taxes and management fee.

- 2.10.P (dealing with 223(a)7 transactions: Review of the Project's Financial Performance. The Lender must review the trailing 12 month financial statements to assess the project's financial performance, and must base underwritten income and expenses on the recent trailing 12 month performance. The Lender must use the project specific expense for underwritten reserve for replacement, taxes and management fee.

The Loan Committee is not willing to rely on annualized data—the actual trailing-12 month data is necessary. ORCF urges lenders to include this trailing twelve month NOI information early in the process, and to update it as appropriate, so that the Loan Committee can readily review the most recent actual historical data. This will allow for fair consideration of the application and will help avoid unanticipated delays.

***Keywords:****Trailing 12, T-12*

Back to top

## MORE CLARIFICATION ON MEDICAID UPPER PAYMENT LIMIT (UPL) REVENUES

This is a follow up to the June 27, 2012 Email Blast in which ORCF cautioned against relying on Medicaid UPL supplemental payments when underwriting a skilled nursing facility (SNF) transaction. Medicaid policies are developed by each state; some states utilize a financing mechanism allowing for a supplemental payment being made to non-state, government entity (e.g., county hospital) licensed skilled nursing facilities. The payment is calculated with consideration of the difference between the Medicaid payment and amount which Medicare would pay for the same service, also called the Upper Payment Limit (UPL). This availability of UPL revenue in some SNF settings has led to relationships in which a hospital not previously associated with a particular SNF becomes its licensed operator, often contracting with the former operator to be the management agent. These supplemental payments rely not only on continued programmatic availability, but also on the continued viability of the particular operator/management agent relationship.

ORCF does endeavor to accommodate transactions for SNFs which receive UPL income, despite their complexities, as ORCF recognizes that UPL revenue is beneficial to a facility, at least in the near-term. However, in order to minimize the risk associated with this financing mechanism, ORCF

has taken several precautionary measures. First, ORCF has not been relying on the UPL income stream to meet minimum debt service coverage ratios. Additionally, to the extent that any UPL revenue has been utilized for valuation purposes, ORCF has applied a very high capitalization rate to that UPL revenue. Moreover, additional scrutiny is applied as the percentage of NOI derived from UPL increases. Finally, as comparable sales of facilities receiving UPL income become available, they will need to be reviewed and taken into consideration.

This approach is allowing some flexibility, while helping to mitigate the risk associated with UPL revenue.

***Keywords:*** *Upper Payment Limit, UPL*

Back to top

## STATUS OF 241(A) TRANSACTIONS

As lenders with pending 241(a) loans are aware, the lender must assure that its 241(a) transaction comports with requirements related to the Real Estate Mortgage Investment Conduit (REMIC) created in connection with the underlying GNMA-securitized loan in order to obtain the requisite GNMA approval. GNMA is in the process of developing uniform guidance in this area. In the interim, we wanted to share information we gleaned from GNMA's review of certain pending 241(a) loans. We emphasize that ORCF cannot speak for GNMA, therefore this information should not be interpreted as uniformly applicable to every 241(a) loan application.

FHA and GNMA have been working to resolve the issue of tax reviews on 241(a) loans, which are supplemental loans to existing project loans typically pooled to back GNMA-guaranteed REMICs. Collateral modifications on REMIC'd loans must be reviewed to insure they comport with the IRS rules, or the REMIC risks having its favorable tax treatment disallowed.

Recently, Ginnie Mae signed off on 13 transactions that were determined not to require full tax review and approval. In each instance (1) there was no collateral modification that required a change to the legal description in the deed of trust or mortgage on the existing loan, and (2) there was no cross-default provision between the 241 loan and the existing loan that would require a default on the 241(a) loan to result in a default on the REMIC's loan. The lender was required to certify to these facts.

Ginnie Mae approved these transactions because the deals already had FHA firm commitments or firm commitment application pending with HUD, but there is no guarantee that its final guidance will reflect these conditions.

If a tax review and approval are required, lenders should recognize that there is a significant time factor involved and favorable outcome is not guaranteed. Moreover, the borrower must agree in writing to payment of all legal fees for the review.

ORCF is continuing to accept and process Section 241(a) mortgage insurance applications, though in each ORCF 241(a) firm commitment, ORCF is now including the following special condition:

> HUD's issuance of this firm commitment in no way ensures that the 241(a) transaction will comply with the Ginnie Mae requirements for a collateral modification of the existing 232 insured loan that is in a REMIC . It is the lender's responsibility to obtain Ginnie Mae review and approval of the transaction before closing the 241(a) loan that is the subject of this firm commitment.

Thus, a lender proceeds on a 241(a) loan at all stages at its own (and its borrower's own) risk.

***Keywords:****241(a), Real Estate Mortgage Investment Conduit, REMIC*

## ORCF CREATING A GREEN LANE QUEUE FOR 223(F) APPLICATIONS

Due to the increase in volume of 223(f) applications and queue numbers increasing, ORCF is creating a separate green lane queue for 223(f) applications meeting all of the following criteria:

1) Loan amount is less than $25 million;
2) Loan metrics pass the ORCF's internal decision circuit review (if the loan is part of a portfolio submittal, then all loans must pass the decision circuit to be eligible for the green lane); and
3) Pass ORCF's initial screening for environmental concerns.

If an application passes all 3 criteria, it will be placed in the 223(f) green lane for expedited processing. (Note: a Lender's Environmental Checklist tool is available on the 223(f) Underwriting webpage (here) that may assist you in prescreening your application for potential environmental concerns.)

***Keywords:****Green Lane Queue, 223f, Application Submission*

June 24, 2015

Back to top

## INSTRUCTIONS FOR COMPLETING FORM HUD-2-ORCF WAIVER REQUEST

In order to avoid processing delays, waivers should be submitted with the application whenever possible. It is the lender's responsibility to request any required waivers.

Below are instructions for submitting waivers to ORCF.

1. Word Format: Please submit the waiver request in word format.
2. Section 1: Insert the Lender Contact Person's Name and Company
3. Section 2: Include the Project Name, FHA Number, City and State
4. Section 3: Include the specific reference you wish to waive, not the general concept (e.g. Handbook 4232.1, Production Chapter 3.10, ML 2014-12, H Notice 13-12, etc). In most cases the waiver will be of a specific handbook reference. Please do not request a waiver of a notice or other directive that the handbook superseded.
5. Section 4: Provide a detailed justification, and supporting documentation, if needed, as to why this waiver should be granted for this specific project. Simply stating that the waiver has been previously approved on another project is not sufficient justification for a waiver on your project.
6. Sections 5, 6, 7, 8 and 9: These sections are for HUD use only. Please leave them blank.
7. Professional Liability Insurance (PLI) Waivers: When submitting Form HUD-2-ORCF for waivers relating to Professional Liability Insurance:

    a. Provide all required PLI exhibits in the firm application.
    b. Provide (large) loss runs in Excel format, if possible.
    c. Provide a six-year loss history in annual summary form (based on the loss incident date) as described in Handbook 4232.1, Production Chapter 14 Appendix 14.1 VII (D).
    d. Provide written quotes for HUD compliant insurance to demonstrate the cost burden as outlined in Production Chapter 14 Appendix 14.1, IV (2).
    e. If the project was purchased or operated by another operator during the prior six-year period, please observe Appendix 14.1 VII (H); if purchased and an indemnity is provided from the seller/prior operator, please provide evidence of such indemnity.
    f. Lenders are encouraged to submit the PLI waiver request template (here) with the Form HUD-2.

8. Accounts Receivable Financing (AR) Waivers:

a. The waiver request must be supported by a borrowing base analysis and an explanation of the impact of the request on the project. For example, it is not sufficient to simply say that "X" state is slow with payments.
b. When requesting an extension of the eligibility period, explain the various receivable components (e.g. private pay, Medicare, Medicaid, etc.). Please be specific about what payment sources require an extension of the eligibility period.

***Keywords:*** *Waivers, HUD-2*

Back to top

## REMINDER – WHEN SUBMITTING AN APPLICATION, PLEASE ASSURE THAT IT IS COMPLETE

In order for ORCF to process your application in a more efficient manner, please remember to submit an entire and complete application. As a reminder, please pay attention to the following:

- A complete application is required when you submit an application into the queue. This helps greatly speed up processing and underwriting time.
- Please remember to use Pay.gov and do not send hard copy checks.
- Remember to limit documents to 50 MB or less; our system can't handle documents larger than that.
- Third-party reports should be included, final and not expired.

***Keywords:****Application submission*

Back to top

## INTEREST RATE REDUCTION LEGAL PUNCH LIST

The Office of General Counsel has drafted a legal punch list to assist HUD field attorneys with their reviews of expedited interest rate reduction transactions (here). Although the punch list is intended as guidance for the HUD attorney, all parties may use the punch list in preparing the required documents. ORCF anticipates that the punch list will save time and address noted inconsistencies in drafting the allonge and/or note modification.

***Keywords:****Interest Rate Reduction, IRR, Punch list*

Back to top

June 24, 2015

# FROM THE CLOSING CORNER

## Communication of Closing Deadlines

In an effort to better communicate and accommodate closing deadlines, ORCF and OGC ask that any hard (known/existing) deadlines that would impact the closing date be communicated to both ORCF and the assigned HUD Attorney. When submitting the ORCF Closer assignment (to ORCFCloser@hud.gov) and the legal closing package, please include in the email to ORCF and the cover letter to the HUD Attorney, these hard (known/existing) deadlines that would impact the closing date of the project. This information will assist HUD in workload management. The closing date will be set by the HUD Attorney after consultation with the ORCF Closer, but HUD will not close a transaction until all program and legal requirements have been fully satisfied.

***Keywords:****Closing Deadlines*

# DOCUMENT LINKS INCLUDED IN THIS BLAST

137. Section 232 Program Website, Asset Management – R4R Request for Optional Lender Delegated Review and Approval Process
138. Section 232 Program Website, Asset Management – NCRE Request for Optional Lender Delegated Review and Approval Process
139. Handbook 4232.1, Section III- Asset Management, Chapter 15 - Accounts Receivable Financing
140. Lender's Environmental Checklist
141. Professional Liability Insurance Waiver Request Template

Back to top

April 30, 2015

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of April 30, 2015

## *April 30, 2015 Contents*


The Section 232 Healthcare Portal is Operational
ORCF Policy Drafting Table
Delay in Government Receivables
Asset Management Monitoring of Projects That Have New Units in Lease-Up
Optional Lender Review and Delegated Approval of Reserve for Replacement (R4R) Requests and Non-Critical Repair Escrow Adminstration
Further Streamlining of Interest Rate Reduction Submissions
More Clarification on Quality Control Plans
Lender Input on Consolidated Certifications
TEAM TSI Portal Access and Training
Corrections Made to ORCF Documents
Underwriting and Closing File Submission in Accordion Folders
FROM THE CLOSING CORNER
Reminder Regarding Mortgage Note Endorsement Panel
Document Links Included In This Blast


## THE SECTION 232 HEALTHCARE PORTAL IS OPERATIONAL

The Section 232 Healthcare Portal is operational as of April 21, 2015. Instructions for accessing and using the 232 Healthcare Portal are available on the Section 232 Program website (click here). Operator financial information can be transmitted to ORCF by a data input form or through batch upload using ORCF's formatted Excel template. Please email hhcp@hud.gov if you have any questions.

***Keywords:*** *Operator Financials Portal*

Back to top

## ORCF POLICY DRAFTING TABLE

ORCF is pleased to announce the ORCF Policy Drafting Table (here). At times ORCF may find it helpful to post draft policy to the ORCF Policy Drafting Table for industry consideration. The Policy Drafting Table will make it easier for industry partners to do business with ORCF by providing an opportunity for voluntary feedback to ORCF on certain policy or protocol when they are in development. ORCF will post links to certain draft policy changes on the ORCF Policy Drafting Table and will receive feedback through the public's submissions. ORCF values the industry feedback and looks forward to utilizing this resource as a policy development tool.

***Keywords:****Policy Drafting Table*

Back to top

## DELAY IN GOVERNMENT RECEIVABLES

Please ensure that Section 232 loan application packages for facilities in states experiencing extraordinarily long delays in receiving payment on government receivables (primarily Medicaid) fully address this issue---whether by assuring that accounts receivable financing is structured to address this, or by other means.

***Keywords:****Government Receivables*

Back to top

## ASSET MANAGEMENT MONITORING OF PROJECTS THAT HAVE NEW UNITS IN LEASE-UP

The September 1, 2011 Email Blast (here) discussed procedures related to projects that have new units that require lease-up. HUD Form 91128 (Initial Operating Deficit Escrow Calculation Template (here) is used on these projects to calculate the Initial Operating Deficit (IOD) Escrow (if applicable) in Production/Underwriting and to monitor the project's lease-up (and if needed, to process requests for releases from the IOD). In the next few weeks, ORCF will be concentrating the Asset Management monitoring of projects with new units that require lease-up (and that haven't yet reached sustaining occupancy) with a smaller group of Account Executives. This team will be reaching out to the servicing lenders on these loans to ensure we have standardized reporting – including receipt of HUD Form 91128 during the lease-up. We intend to automate this process when Phase II of the 232 Healthcare Portal is released (anticipated to be released later this year).

***Keywords:****Lease-Up, Initial Operating Deficit Escrow Calculation, 91128*

Back to top

## OPTIONAL LENDER REVIEW AND DELEGATED APPROVAL OF RESERVE FOR REPLACEMENT (R4R) REQUESTS AND NON-CRITICAL REPAIR ESCROW ADMINSTRATION

Chapter 3 of the Asset Management portion of the Section 232 Handbook (Reserve for Replacement - Chapter 3.2.2. I. 5 and Non-Critical Repair Escrow – Chapter 3.2.4.G ), describes the optional lender review and delegated approval of certain R4R requests and Non-Critical Repair Escrow Administration. The logistics of requesting lender approval are posted on HUD.GOV at the below links:

**For Reserve for Replacement Requests (R4R):**
Request for Optional Lender Delegated Review and Approval Process (here)

**For Non-Critical Repair Escrow Administration:**
Request for Optional Lender Delegated Review and Approval Process (here)

***Keywords:****Reserve for Replacement, RfR, Non-Critical Repair Escrow Administration, Optional Lender Review, Delegation*

Back to top

## FURTHER STREAMLINING OF INTEREST RATE REDUCTION SUBMISSIONS

ORCF has hit record levels in performing over 260 Interest Rate Reduction (IRR) reviews to date! Consistent with past procedures, a two-stage review is still conducted for IRRs: a preliminary programmatic review using the ORCF IRR Checklist and a second final/legal review using the OGC Checklist. ORCF has further streamlined the ORCF IRR Checklist and Lender Analysis Template to help promote efficiency in reviews and avoid redundancy in document submission by lenders in the final/legal review. Please see our updated ORCF Interest Rate Reduction Loan Modification Checklist (here) and updated Sample Format for Lender Analysis and Recommendation (here) in preparing IRR submissions to ORCF.

***Keywords:****Interest Rate Reduction, IRR, Checklist, Sample Format for Lender Analysis and Recommendation, Lender Analysis Template*

Back to top

## MORE CLARIFICATION ON QUALITY CONTROL PLANS

In accordance with the Section 232 Handbook 4232.1, Section I, Chapter 2.9, Lender Quality Control Plans and Reviews went into effect in 2014 for Section 232 as have been previously required under MAP. As stated in the Handbook, the Lender may submit the Section 232 QC Plan as part of the overall QC Plan that incorporates MAP Activity. The Office of Multifamily Asset Management Counterparty Oversight Division (which encompasses the former LQMD office) is responsible for the promulgation of guidance and review of the QC Plans as with MAP. We encourage all lenders to confirm that they have an up-to-date Section 232 QC Plan on file with the Office of Multifamily Housing.

For Section 232, if a lender believes that their volume of commitments for calendar year 2014 is low (e.g. less than 5 deals) and wishes to request a waiver for the QC Reviews for 2014 only, with the understanding that they must comply beginning in 2015, ORCF will review a waiver request for QC Reviews and determine reasonableness. Such waiver requests should be sent on a completed form HUD-2 to Mary Walsh – National Lender Relations Liaison.

***Keywords:****Quality Control Plans, QC Plans*

Back to top

## LENDER INPUT ON CONSOLIDATED CERTIFICATIONS

ORCF is looking for lenders to provide feedback on the Previous Participation portion of the Consolidated Certifications. The time commitment would involve one to two conference calls in June. Please submit your name to Mary Walsh, National Lender Relations Liaison at Mary.V.Walsh@hud.gov by May 15th if you are interested in participating.

***Keywords:****Previous Participation, Consolidated Certifications*

Back to top

## TEAM TSI PORTAL ACCESS AND TRAINING

The TEAM TSI Portal provides lenders with the ability to look up current survey information on FHA insured skilled nursing facilities. Information available through the TEAM TSI Portal includes: actual citations, Special Focus, Standard, Complaint and Life Safety Inspections along with other facility related information.

To request access to the TEAM TSI Portal:

Please send email to: Kelley.L.Mason@hud.gov
Subject line: TEAM TSI Portal Access

Please include the following in your email:

Name
Address
Company Name
Contact Phone number
Email Address

Once you are a confirmed lender, your information will be submitted to TSI and then you will be given access via email.

Once access is achieved each lender will be able to access TEAM TSI and their lender's specific FHA insured property reports. Information available through the TEAM TSI Portal includes actual citations, Special Focus, Standard, Complaint and Life Safety Inspections along with other facility related information.

Due to budgetary constraints, TEAM TSI Portal training is currently not available. ORCF will work to make training available when feasible. We will send out an email blast when training is available.

***Keywords:****TEAM TSI*

Back to top

## CORRECTIONS MADE TO ORCF DOCUMENTS

Recently, a few errors/inconsistencies were discovered in the ORCF document collection. These edits have now being corrected in the documents published on HUDclips as well as those document links to HUDclips that are found on the ORCF website. Because small Scrivener's Errors like these are made from time to time, it is always important to pull a document directly from the HUD website for each new usage, and to never use previous versions you may have saved to your personal computer. A description of each correction is provided below.

1. Paragraph 11(d) in the **Guide for Opinion of Borrower's Counsel** (HUD-91725-ORCF), found on page 11, removed the words "the Property" in two locations. This is not a defined term in the document, and the property is encompassed in the definition of "Project", which states "The Healthcare Facility, together with the Land, the

improvements located thereon or to be constructed thereon, and certain other property more particularly described in the Security Instrument (defined herein) is included in the "Project" as that term is used herein and in the Loan Documents."

2. Paragraph MM of the **Guide for Opinion of Operator's Counsel** (HUD-92325-ORCF) was modified to add a bracketed sentence necessary to avoid a potential conflict between the Intercreditor Agreement and this document. The new sentence now reads: "Each of the Operator HUD Documents is governed by the laws of the Property Jurisdiction [{ADD IF APPLICABLE:} (except the Intercreditor, which is governed by the laws of the Organizational Jurisdiction)] and the laws of the United States of America."

3. Paragraph H4 of the **Management Certification – Residential Care Facility** (HUD-9839-ORCF) was corrected to allow *thirty (30)* calendar days from the effective date of termination, for a Management Agent to give the Borrower (or Operator, if applicable) all of the real and personal property in the Agent's possession or control, including without limitation any of the Project's cash, trust accounts, investments, books and/or records. This requirement had previously stated *ten (10)* calendar days, which was inconsistent with the Section 232 Handbook, as well as Multifamily requirements.

Additional clarification was also added to this same sentence, by inserting the word "Project" to make it clear that all of the "Project's" real and personal property in the Agent's possession or control are what's to be turned over.

4. The **Firm Commitments** have had a minor modification to now include a standard condition that identifies if the project is for-profit, non-profit with distributions allowed or non-profit with distributions not allowed. Since this information is required for the Borrower Regulatory Agreement, it was always to be added as a Special Condition; therefore building it into the main conditions of the Commitment will streamline the process and reduce the number of Special Conditions needed.

***Keywords:****Documents*

Back to top

## UNDERWRITING AND CLOSING FILE SUBMISSION IN ACCORDION FOLDERS

ORCF strongly prefers underwriting and closing files to be submitted in accordion folders rather than in binders. ORCF must submit all underwriting and closing files with a transmittal sheet to Headquarters in the described method below. To the extent possible, lenders are encouraged to follow the same process which will expedite the processing and submission of your files.

- Ensure that all papers are unbound, loose and filed in an accordion-style, five inch, legal-sized folder.
- Only one file can be placed in each folder.
- The FHA number should be affixed to the upper right hand corner of the folder.

***Keywords:*** *Underwriting Files, Closing Files, Accordion Folder, Transmittal Sheet*

Back to top

## FROM THE CLOSING CORNER

**Reminder Regarding Mortgage Note Endorsement Panel**

Due to a change in how GNMA custodians handle mortgage notes, ORCF will accept insertion of the title ("Authorized Agent") and printed name of the HUD signatory under the HUD signature line in the endorsement panel of the Mortgage Note.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

142. Section 232 Asset Management Program Website Guidance for Operator Financial Statements
143. ORCF Policy Drafting Table
144. HUD Form 91128, Initial Operating Deficit Escrow Calculation Template
145. Reserve for Replacement Requests (R4R) - Request for Optional Lender Delegated Review and Approval Process
146. Non-Critical Repair Escrow Administration - Request for Optional Lender Delegated Review and Approval Process
147. ORCF Interest Rate Reduction Loan Modification Checklist
148. Sample Format for Lender Analysis and Recommendation

Back to top

April 30, 2015

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.

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.

February 25, 2015

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of February 25, 2015

## *February 25, 2015 Contents*


Insurance Requirements for All New Applications Received on or After November 1, 2014
Calculation of Estimated Replacement Cost and Sample Lender Narrative Language For Property Insurance
Property Insurance
Upcoming Implementation of Submittal of Quarterly Operator Financial Statements Through the Section 232 Healthcare Portal
Project Coordinators on Mortgagor Audited Financials Submitted Through FASS
Operator Financial Statements Generally Need Not Be Audited
Clarification on Quality Control Plans
Issue Resolution Process
Updated Firm Application Checklists and Firm Commitments
Update on Regulatory Agreement Releases
Updated Lender's PreConstruction Conference Agenda
Updated Statements of Work: Lender's Architectural Reviewer and Cost Analyst's Statement of Work, Project Capital Needs Assessment (PCNA) Statement of Work – 223(f), and Project Capital Needs Assessment (PCNA) Statement of Work – 223(a)7
Tips -- Maximum Insurable Loan Calculation (MILC) - form HUD-92264A-ORCF
CMS Changes to Five-Star Rating System
ORCF Presentation on Webinar - April 1, 2015, Focusing Primarily on Owner/Operator Compliance Issues
FROM THE CLOSING CORNER
Increases to Reserve for Replacement Deposits - Firm Commitment Amendments and Reserve Account Balances - 232/223(f) & 223(a)(7)
Reminder for 232 New Construction Contracts
Document Links Included In This Blast

February 25, 2015

## INSURANCE REQUIREMENTS FOR ALL NEW APPLICATIONS RECEIVED ON OR AFTER NOVEMBER 1, 2014

As set forth in the Email Blast of October 30, 2014, June 26, 2014 and September 5, 2014, new applications received on or after November 1, 2014 will be required to comply with the new insurance requirements set forth in the handbook, Section II, Production, Chapter 14; new applications submitted prior to that date have the option to comply with these requirements. The new requirements apply to new applications (whether a first or second mortgage).

A new column indicating which projects are subject to the new insurance requirements has been added to the "**Account Executive Facility Assignments - Contact Listing"** (here). This listing is updated monthly.

***Keywords:****Property Insurance*

Back to top

## CALCULATION OF ESTIMATED REPLACEMENT COST AND SAMPLE LENDER NARRATIVE LANGUAGE FOR PROPERTY INSURANCE

As stated in Handbook 4232.1, Section II, Chapter 14.5, the amount of coverage required for property insurance coverage is 90% of Estimated Replacement Cost (as defined by the Insurable Value Calculation contained in the 3rd party Project Capital Needs Assessment). Although the Property Insurance Schedule (form HUD-92329) is no longer required for new applications received on or after November 1, 2014, the Estimated Replacement Cost should still be found in the PCNA (identified as Insurable Value or Replacement Cost).

Please note that "Replacement Cost New," a value sometimes found on the appraisal, should **not** be used for the purpose of the Estimated Replacement Cost calculation because "Replacement Cost New" may include uninsurable items. If the Estimated Replacement Cost is not provided in the PCNA, a report using valuation software such as Marshall and Swift or similar industry recognized software may be submitted to provide the Estimated Replacement Cost.

The following sample language may be used in the Lender Narrative until the Lender Narrative is revised:

**Property Insurance**

*<<Provide narrative discussion of review. For example: "Hazard and Liability insurance will be provided by XX. The current insurance policy reflects property insurance with the limit of $XX and $XX deductible. The minimum HUD requirement for property insurance as defined at HB 4232.1, 14.5.A. is $XX, with a maximum deductible of $XX. The underwriter has confirmed the insurance coverage complies with HUD requirements, and will re-verify this information prior to closing. " If not sufficient, recommend commitment condition.>>*

***Keywords:****Insurance, Estimated Replacement Cost*

Back to top

## UPCOMING IMPLEMENTATION OF SUBMITTAL OF QUARTERLY OPERATOR FINANCIAL STATEMENTS THROUGH THE SECTION 232 HEALTHCARE PORTAL

The Accountability Rule (click here) that was published on September 7, 2012 established the requirement for quarterly operator financials on Section 232 properties. This rule stated that operators would be required to comply with the operator financial statement provisions of the rule for project fiscal years commencing on or after the date that was 60 calendar days after the date on which HUD announced through Federal Register notice that it had issued guidance on the manner in which these reports will be transmitted to HUD. On October 3, 2014, HUD issued another Federal Register Notice (click here). This Federal Register Notice addressed the commencement of the requirement for quarterly operator financials and announced that HUD had issued guidance on the manner in which these reports will be transmitted to HUD (via ORCF's website here). In accordance with this Federal Register Notice, the requirement for quarterly financial reporting begins for project fiscal years commencing on or after December 2, 2014.

For the great majority of Section 232 projects (that are on a calendar year fiscal year), this reporting requirement begins with the first quarter of calendar year 2015. For these projects, the first quarter financials will be due at the end of May, 2015 (60 days from the 1st quarter end).

HUD is implementing this Final Rule in the following manner:

- Servicing lenders will establish a system for receiving quarterly operator financials on the projects they service. PDF's of such financial statements will be uploaded to the HUD Healthcare Portal by servicing lenders or the operators (at the lender's option).

- If the operator uploads the financial statements to the HUD Healthcare Portal, the servicing lender will receive a notification via email and via the portal that a financial statement has been submitted on a project that they service.
- Servicing lenders will enter 23 key data elements (defined on ORCF's website) on each loan they service each quarter into the HUD Healthcare Portal.
- The HUD Healthcare Portal will calculate five ratios based on this information – defined in Asset Management, Chapter four of HUD Handbook 4232.1. After entering the key data elements, servicing lenders will immediately be able to view the ratios for the project.
- Further information will be available on ORCF's website soon on the procedure for addressing projects that are exhibiting problematic ratios.

Please note the following:

- This requirement will apply to all Section 232 projects. Operators are defined as Mortgagors on projects with no operating lease and as Lessees on projects with an operating lease.
- This Notice does not alter the long standing requirement of audited annual financial statements by Mortgagors.
- There will be another beta test of the portal in early March. If you would like to participate in this (can be done virtually) please email hhcp@hud.gov.
- HUD intends to provide several training sessions for lenders and operators in mid-March.
- HUD is working on communicating this requirement as well as logistics of the training sessions to mortgagors and operators via email and letters. The training sessions will also be announced via Email Blast.

***Keywords:*** *Operator Financials Portal*

Back to top

February 25, 2015

## PROJECT COORDINATORS ON MORTGAGOR AUDITED FINANCIALS SUBMITTED THROUGH FASS

Project Coordinators are responsible for interaction with HUD regarding the HUD secure systems for various purposes. With the upcoming financial statement filing season due March 31, 2015, owners need to be aware that it is important to have more than one person as a coordinator. A project can have more than one and should have a minimum of two. The importance of this is that the coordinator is the individual that receives the electronic letters that are sent out by HUD's Financial Accounting Sub System (FASS) regarding any findings or concerns HUD may have. There can be multiple emails input and it is recommended that not only the coordinator(s) email address be input but also an owner email address. This will help with HUD's notification purposes making the owner aware of any issues.

***Keywords:****Project Coordinators*

Back to top

## OPERATOR FINANCIAL STATEMENTS GENERALLY NEED NOT BE AUDITED

The requirement of operator financial statement submissions was set forth in the Accountability Rule (FR–5465–F–03), and the requirement is now at 24 CFR 5801(c)(4). That provision states that generally (with some exceptions) such statements may be operator-certified rather than audited. However, some operator regulatory agreements that were executed before this Accountability Rule provision's effective date contain provisions also requiring operator financial statements—but stating that those statements must be *audited*. Please be advised that, even as to the projects with such regulatory agreement language, HUD does not intend to require audited operator financial statements except in a manner consistent with the Accountability Rule. Only operator-certified, rather than audited, operator financial statements are being routinely required.

***Keywords:****Operator Financial Statements*

Back to top

## CLARIFICATION ON QUALITY CONTROL PLANS

In accordance with the Section 232 Handbook 4232.1, Section I Chapter 2.9. Lender Quality Control Plans and Reviews went into effect in 2014 for Section 232 as has been previously required under MAP. As stated in the Handbook, the Lender may submit the Section 232 QC Plan as part of the overall QC Plan that incorporates MAP Activity. The Asset Management

Counterparty Oversight Division (which encompasses the former LQMD office) is responsible for the promulgation of guidance and review of the QC Plans as with MAP. For Section 232, if a lender believes that their volume of commitments/closings for calendar year 2014 is low (e.g. less than 5 deals) and wishes to request a waiver for the QC Plan for 2014 only, with the understanding that they must comply beginning in 2015, ORCF will review a waiver request and determine reasonableness. Such waiver request should be sent to Mary Walsh – National Lender Relations Liaison.

***Keywords:****Quality Control Plans*

Back to top

## ISSUE RESOLUTION PROCESS

In an effort to get applications to loan committee more quickly, we are changing our internal process for addressing outstanding issues. Under the new process, after the initial review, any unresolved deficiencies will be taken to an Issue Resolution Committee for resolution. The committee will review the HUD underwriter summary of concerns as well as the lender's responses and determine a resolution. These meetings will occur as needed in order to process the transactions timely.

***Keywords:*** *Issue Resolution*

Back to top

## UPDATED FIRM APPLICATION CHECKLISTS AND FIRM COMMITMENTS

ORCF has recently made minor edits, and posted updated versions of the Firm Application Checklists and Firm Commitment documents on our Section 232 Program website. The Firm Commitment edits involve updating the list of attachments to address our revised insurance requirements that were effective November 1, 2014. There has also been added language to specify the property insurance coverage minimum amount (which is at least 90% of Estimated Replacement Cost Value), as well as the amount of the deductible. The Firm Application Checklists were generally updated to: change references to submitting "checks" to now reference "payments" (specifically Pay.gov); update the FEMA form number for the Standard Flood Hazard Determination Form; remove references to the form HUD-91708-ORCF, Agreement for Payment of Real Property Taxes; and to provide additional detail regarding the Risk Management Program requirement.

***Keywords:****Documents, Firm Application Checklist, Firm Commitments*

Back to top

## UPDATE ON REGULATORY AGREEMENT RELEASES

Effective immediately, all requests for releases of Regulatory Agreements for Nursing Homes, Board and Care and Assisted-Living Facilities subject to mortgages insured under Section 232 must be sent to OGCReleaseandSatisfaction@hud.gov for processing and/or response. Please contact Keisha L. Brooks, Deputy Assistant General Counsel, Office of General Counsel, Multifamily Division at (202) 402-5225 for additional information.

Please note HUD will not release the regulatory agreement until the mortgage insurance is terminated. Insurance termination occurs after the HUD-insured mortgage has been paid in full.

The release request should be submitted only after: (A) the loan is paid in full; and (b) HUD has terminated the mortgage insurance. Each request for the release of a FHA-insured regulatory agreement must include a copy of the recorded regulatory agreement(s) (including any amendments) and, if available, the approved HUD 9807 confirming that the mortgage insurance has been terminated. Please ensure that the recordation stamp(s), dates, and signatures are legible. Failure to provide a legible copy of the recorded regulatory agreement will result in delays—resubmissions are treated as new requests. Please note processing typically takes 4-6 weeks following receipt of legible copies of all necessary documents by HUD.

Please note the above instructions do not apply to HUD-Held Mortgages/Deeds of Trust formerly insured under Section 232. All requests for satisfactions of such HUD-held mortgages/deeds of trust, and releases of associated regulatory agreements, must be sent to the Multifamily Notes Servicing Branch in HUD Headquarters, ATTN: Peggy Russo.

***Keywords:****Regulatory Agreement Releases*

Back to top

## UPDATED LENDER'S PRECONSTRUCTION CONFERENCE AGENDA

The Lender's PreConstruction Conference Agenda (here) has been updated to more clearly point out applicable HUD Handbook 4232.1 references. In addition, reoccurring topics from previous Conferences have been added, resulting in a more comprehensive Agenda. The Agenda shall be used from the date of this Email Blast going forward.

The related Lender PreConstruction Conference Duties document, unchanged and still dated May 30, 2014, is located on the Section 232 Program website (here).

***Keywords:****Preconstruction Conference Agenda*

Back to top

## UPDATED STATEMENTS OF WORK: LENDER'S ARCHITECTURAL REVIEWER AND COST ANALYST'S STATEMENT OF WORK, PROJECT CAPITAL NEEDS ASSESSMENT (PCNA) STATEMENT OF WORK – 223(F), AND PROJECT CAPITAL NEEDS ASSESSMENT (PCNA) STATEMENT OF WORK – 223(A)7

The following Statements of Work have been updated to reference the most current HUD Handbooks, Guidelines, and Standards for the Section 232 program, as well as revise the section on Property Insurance:

- Lender's Architectural Reviewer and Cost Analyst's Statement of Work (here),
- Project Capital Needs Assessment (PCNA) Statement of Work – 223(f) (here), and
- Project Capital Needs Assessment (PCNA) Statement of Work – 223(a)7 (here)

Of note in the two PCNA Statements of Work, is the requirement that the Condition Assessment & Proposed Replacement and Cost Schedule tables be legible on 8 ½ x 11 paper.

The Statements of Work shall be used from the date of this Email Blast going forward.

***Keywords:****Statement of Work, PCNA, Lender's Architectural Reviewer and Cost Analyst's Statement of Work*

Back to top

## TIPS -- MAXIMUM INSURABLE LOAN CALCULATION (MILC) - FORM HUD-92264A-ORCF

February 25, 2015

The following are tips for submitting the Maximum Insurable Loan Calculation (MILC) - form HUD-92264A-ORCF:

- On the Instruction tab, Instructions #11 and #12 should be read as *only* applicable pages should be provided. For example, Section 232/223f forms should *only* include the Sources and Uses page and the Maximum Insurable Loan Calculation page.

- Projects with existing reserve for replacement accounts should include that balance as both a Source and a Use on the Sources and Uses page. It should then be included in the Maximum Insurable Loan Calculation page on line G.b. for acquisitions or H.b. for refinance transactions.

- The form should be signed and provided in both Excel and pdf format.

- For 232/223f applications use Section G for acquisitions and Section H for refinance transactions.

- Verify that none of the criteria is lower than the requested mortgage amount, and that the Maximum Insurable Loan cell on Page 2 of the MILC is completed.

***Keywords:****Maximum Insurable Loan Calculation, MILC, 92264A*

Back to top

## CMS CHANGES TO FIVE-STAR RATING SYSTEM

The Centers for Medicare and Medicaid Services (CMS) has announced several changes to the Five-Star Rating System to improve consumer information about individual nursing homes' quality. More information on CMS changes is available on the CMS webpage (here).

***Keywords:****CMS, Five-Star Rating System*

Back to top

February 25, 2015

## ORCF PRESENTATION ON WEBINAR - APRIL 1, 2015, FOCUSING PRIMARILY ON OWNER/OPERATOR COMPLIANCE ISSUES

ORCF will make a presentation on a webinar on April 1, 2015. The webinar will run from 2:00pm to approximately 3:00pm 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.

The HUD presentation topics will include:

- Overview of Section 232 Mortgage Insurance Program
- Operator Financial Statement Requirement—all projects, overview, reason for, etc.
- Details on Operator Financial Statement Submission
    - Portal—Part One
    - Operator Role
    - Lender Role
- Operator working capital requirement
- Borrower Surplus Cash—Old approach (applicable to most projects)
- Borrower Surplus Cash—New approach
- Future state—Portal Two—Electronic submission of asset management requests

Registration for this webinar is available (here).

***Keywords:*** *Webinar*

Back to top

## FROM THE CLOSING CORNER

### Increases to Reserve for Replacement Deposits - Firm Commitment Amendments and Reserve Account Balances - 232/223(f) & 223(a)(7)

ORCF is increasing the previously stated $10,000 threshold for increases to the initial deposits to the reserve for replacement account to avoid small mortgage reductions as a result of cost certification/closing statement (originally published in the August 19, 2010 Email Blast and restated in December 19, 2013 Email Blast.) The new threshold will now allow $40,000 for increased initial deposit amounts. All amounts over $40,000 will be used to reduce the mortgage amount. Requests for increases should be

submitted to the assigned ORCF Closer and to avoid delay must be made at least 5 days prior to the targeted closing date.

***Keywords:*** *Reserve for Replacement, Deposit*

Back to top

**Reminder for 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 our new Handbook 4232.1, Section II – Production, 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 Multifamily Housing policy. Multifamily Housing Riders will not be accepted.

***Keywords:*** *Retainage Reduction Rider*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

149. Account Executive Facility Assignments - Contact Listing

150. Strengthening Accountability Rule

151. Healthcare Facility Insurance Program—Submission of Operator Financial Reports in Accordance With HUD's Uniform Financial Reporting Standards: Commencement of Compliance

152. Section 232 Program Website – Operator Financial Statements

153. Lender's PreConstruction Conference Agenda

154. Lender PreConstruction Conference Duties

155. Lender's Architectural Reviewer and Cost Analyst's Statement of Work

156. Project Capital Needs Assessment (PCNA) Statement of Work – 223(f)

157. Project Capital Needs Assessment (PCNA) Statement of Work – 223(a)7

158. CMS Website for Changes to Five-Star Rating System

159. ORCF Webinar Focusing on Owner/Operator Compliance Issues

Back to top

---

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.

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.

February 4, 2015

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of February 4, 2015

## *February 4, 2015 Contents*


Proposed Rule Published –FR-5632-P-01--"Federal Housing Administration (FHA): Updating Regulations Governing HUD Fees and the Financing of the Purchase and Installation of Fire Safety Equipment in FHA-Insured Healthcare Facilities

Document Links Included In This Blast


## PROPOSED RULE PUBLISHED –FR-5632-P-01--"FEDERAL HOUSING ADMINISTRATION (FHA): UPDATING REGULATIONS GOVERNING HUD FEES AND THE FINANCING OF THE PURCHASE AND INSTALLATION OF FIRE SAFETY EQUIPMENT IN FHA-INSURED HEALTHCARE FACILITIES

On January 14, 2015, HUD published a Proposed Rule on Fees and Financing Fire Safety Equipment. Through this rule, HUD proposes to update HUD fees for multifamily housing and residential healthcare facilities. The proposed changes in this respect would give HUD flexibility in raising or lowering fees. Through this rule, HUD also proposes to update and streamline the Section 232 program regulations that govern the financing of the purchase and installation of fire safety equipment in the insured healthcare facilities. These proposed changes to the residential care facilities program would streamline the fire safety equipment loan application process by eliminating unnecessary requirements, conforming needed requirements to current industry practices, and allowing for HUD to centralize the loan application process.

Public comments are invited on this Proposed Rule. Please see the Proposed Rule itself for more details (here). Comments are due by March 16, 2015.

***Keywords:****Fire Safety Equipment*

February 4, 2015

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

160. Proposed Rule - FR-5632-P-01--"Federal Housing Administration (FHA): Updating Regulations Governing HUD Fees and the Financing of the Purchase and Installation of Fire Safety Equipment in FHA-Insured Healthcare Facilities

Back to top

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.

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.

December 30, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of December 30, 2014

## *December 30, 2014 Contents*


Final Rule Published – "Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program – Aligning Operator Financial Reports with HUD's Uniform Financial Reporting Standards"
Early Start and Early Commencement Updated Instructions and Checklist
Completing Management Certifications
Update on Interest Rate Reductions
Lender Performance in Underwriting FY 14
Revised "Save the Date" For Lender Dialog Meetings
Reminder - Section 232 Program Fees Paid Through Pay.gov
FROM THE CLOSING CORNER
Document Links Included In This Blast


## FINAL RULE PUBLISHED – "FEDERAL HOUSING ADMINISTRATION (FHA): SECTION 232 HEALTHCARE FACILITY INSURANCE PROGRAM – ALIGNING OPERATOR FINANCIAL REPORTS WITH HUD'S UNIFORM FINANCIAL REPORTING STANDARDS"

The Final Rule - "Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program – Aligning Operator Financial Reports with HUD's Uniform Financial Reporting Standards", containing the same provisions as the Interim Rule, was published on December 16, 2014, and is available here. During the Interim Rule comment period, no public comments were received.

As stated in the September 22, 2014 Email Blast, the Interim Rule was published on September 16, 2014 with an effective date of October 16, 2014. The Interim Rule provided that operators will have an additional 30 calendar days to comply with the financial statement reporting requirements. Specifically, operators will now have 60 calendar days following the end of a fiscal quarter and 90 calendar days following the end

of the fiscal-year-end quarter to comply with HUD's financial statement reporting requirements.

***Keywords:*** *Operator Financial Reports*

Back to top

## EARLY START AND EARLY COMMENCEMENT UPDATED INSTRUCTIONS AND CHECKLIST

In response to Lender feedback and in an effort to improve processing times, ORCF has updated the Early Start and Early Commencement Instructions and Checklist. They can be found on the Section 232 Program website for Early Start and Early Commencement of Construction Documents (here).

***Keywords:*** *Early Start and Early Commencement of Construction*

Back to top

## COMPLETING MANAGEMENT CERTIFICATIONS

As a reminder, the services and compensation details of Management Fees presented in Management Certifications (HUD-9839-ORCF) should be clearly spelled out. Statements such as "See Management Agreement" are not acceptable, as they do not provide the detail necessary to be able to complete the ORCF approval. The form should memorialize the approval of the specific details presented, and generic references to the Management Agreement could appear to allow changes in that underlying document, without getting ORCF's approval of those changes. It is also not appropriate to copy and paste pages from the Management Agreement into the Management Certification to provide the detail. The information should be provided in a clear, succinct manner that gives the ORCF reviewer sufficient information to understand the level of compensation and services provided.

***Keywords:****Management Certifications*

Back to top

## UPDATE ON INTEREST RATE REDUCTIONS

We are pleased to report tremendous success in our Interest Rate Reduction (IRR) Program in ORCF. We have received over 120 IRR submissions to date, already realizing well over $6 million in annual savings. Our

preliminary reviews are being processed by a specialized team in ORCF generally within 2-3 weeks, allowing for timely interest rate lock-in to respond to market conditions.

**Additional IRR Guidance/Clarification**: Once the Preliminary Review is completed by the ORCF Team, ORCF notifies the lender by letter. The lender is instructed to submit final modification documents reflecting the locked-in interest rate to ORCF and OGC for approval within 30 days in order to proceed to effectuate the IRR.

- **OGC Checklist**: An OGC checklist has been developed that identifies documents needed to complete the expedited legal review of streamlined IRR for lenders' and lender counsels' use.
- **Title Policy/Lender Certification**: As a general matter, HUD will not require a title endorsement in connection with an IRR. It is up to the Lender to determine what diligence it needs in order to provide the required Certification to HUD. OGC will accept title endorsement if the Lender chooses to submit one in lieu of the Certification. OGC has developed a Lender Certification showing continued first lien priority for use in these types of transactions.
- **Modification of Mortgage**: The mortgage/security instrument must be modified only if the form of that document or an addendum thereto identifies the interest rate.
- **Signatories**: IRR submissions (see Sample Lender Analysis) must be reviewed and approved by a Section 232 HUD-approved UW. We want to ensure consistent, accurate submissions by the Lender and ensure a quality review check at the lender level, to facilitate expedient processing by ORCF.

Please see the Section 232 Program website for Loan Servicing and Asset Management (here) for instructions and sample formats for IRR submissions, along with the above-referenced OGC documents.
Reminder: IRRs are for streamlined processing only: the purpose of an IRR submission is to propose to reduce the interest rate on Section 232 loans that are out of prepay lockout along with proposing a new prepayment premium schedule as part of the modification. Our ORCF team ensures there are no other asset management concerns that need lender attention but strives to turn requests around quickly. Therefore, other substantive changes (e.g. TPA, change of operator/agent, changes to A/R Lines) must be processed as part of a normal asset management and legal review. Please consult your assigned Account Executive for changes other than streamlined

interest rate reductions. Please submit any general questions on ORCF's IRR process to Leanthinking@hud.gov.

***Keywords:****Interest Rate Reductions, IRR*

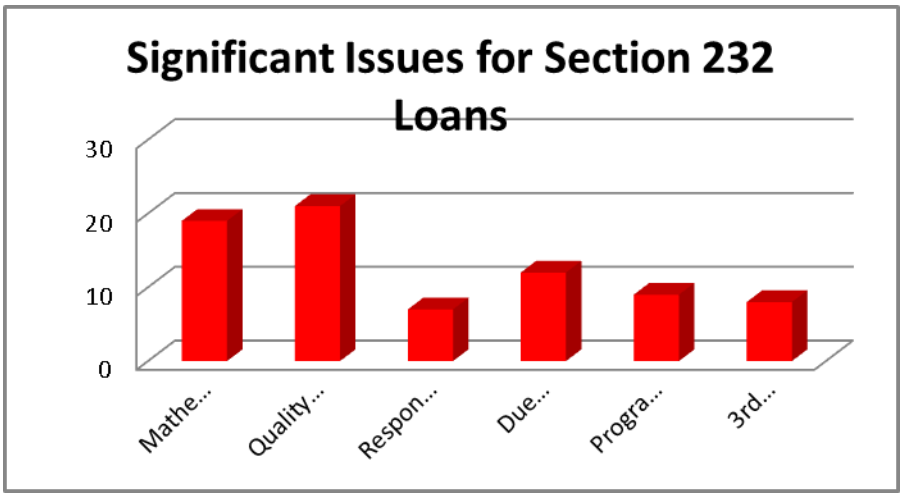
Back to top

## LENDER PERFORMANCE IN UNDERWRITING FY 14

The individual ORCF Lender Performance Profiles have been sent to each lender participating in Section 232 underwriting in FY 14. The profiles reflect ORCF feedback on underwriting deals brought to Loan Committee from October 2013-September 2014. Specifically, ORCF underwriters, workload managers and appraisers provide feedback on issues causing significant delays with lender performance based on six metrics: math calculations, quality control, responsiveness, due diligence, program/legal requirements and lender assessment of 3rd party reports. The feedback is compiled and quantified to determine any patterns of problems and then shared with lenders in the spirit of continuous improvement.

In summary, for all deals submitted in FY 14, ORCF staff identified significant issues for 10% of the deals submitted, a marked improvement from a 19% error rate in FY 13 and a 25% error rate in FY 12. In addition, 18 of the 39 lenders that participated in Section 232 underwriting activity in FY 14 had NO issues identified with their Firm Application submissions. Quality control and math calculations topped the list of issues that ORCF communicated as contributing to delays in underwriting. As communicated in Underwriting Training in July 2014, prospective underwriting was a common issue of concern observed at Loan Committee. However, we continued to see improvement throughout FY 14, which ended with a 7% error rate in the last quarter. We truly appreciate the great efforts which Section 232 lenders are clearly taking to focus and improve the accuracy, quality and responsiveness in their Firm Application submissions.

Any lender wishing to further discuss ORCF metrics or their specific profile should contact Mary Walsh, Lender Relations Liaison at mary.v.walsh@hud.gov.




***Keywords:****Lender Performance*

Back to top

## REVISED "SAVE THE DATE" FOR LENDER DIALOG MEETINGS

At the Fall MBA Roundtable, ORCF announced a save the date for potential (subject to funding) lender dialog meetings with ORCF staff in downtown Jacksonville, Florida in mid-February. Please note that due to a conflict with another conference, we have moved these possible dates to February 25 and February 26, 2015. If we are able to offer this dialog, further details will be provided in a future Email Blast.

***Keywords:****Lender Dialog Meetings*

Back to top

## REMINDER - SECTION 232 PROGRAM FEES PAID THROUGH PAY.GOV

As mentioned in the September 22, 2014 and October 30, 2014 Email Blasts, on November 1, 2014, all Section 232 Program fees must be paid electronically by the Lender directly to Pay.gov, a secure website operated by the U.S. Department of Treasury. See Mortgagee Letter 2014–20 (here). If you are experiencing technical difficulties with Pay.gov, you may reach Pay.gov Customer Service at: (800) 624-1373. In addition, you may email ORCF at 232FHAPayment@hud.gov.

***Keywords:****Pay.gov*

Back to top

## FROM THE CLOSING CORNER

### Now Available…Optional Fast-Track Signing of Regulatory Agreements and Note!

Effective immediately, the HUD Closer may permit early execution of the Regulatory Agreement and Note ***ONLY IF*** **all of the following have occurred**:

1. Draft closing packages have been received by the HUD Attorney and HUD Closer. [Note: HUD reserves the right to withhold permission for early execution if the draft closing packages have serious omissions or defects.]

2. Lender represents to ORCF that:
    a. There are no known impediments to close;
    b. Interest rate is locked; and
    c. Loan amount is finalized.

3. HUD Attorney has reviewed and approved the Regulatory Agreements and Note

4. HUD Closer has reviewed and approved the Regulatory Agreements and Note

***This fast track is optional and is an incentive for projects to finalize all details in order to avoid a last minute rush to sign closing documents.***

A Closer's permission to send in documents for signature is NOT express permission to record or close. Closing will still be contingent upon full program and legal approval. The Regulatory Agreement will not be recorded until the HUD Attorney expressly authorizes the title company to record. **The HUD Attorney will authorize recording only if there is program and legal approval**.

HUD will continue to sign last, only after documents are fully executed by other parties.

Back to top

December 30, 2014

## DOCUMENT LINKS INCLUDED IN THIS BLAST

161. Final Rule – "Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program – Aligning Operator Financial Reports with HUD'S Uniform Financial Reporting Standards"
162. Early Start and Early Commencement of Construction Documents Webpage
163. ORCF Loan Servicing and Asset Management Webpage – Interest Rate Reduction
164. Pay.gov Mortgagee Letter 2014–20

Back to top

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.

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.

October 30, 2014

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of October 30, 2014

*October 30, 2014 Contents*


New Handbook 4232.1 Webpage
Handbook 4232.1 Scrivener and Minor Error Corrections
Pay.gov and ACH Blocks
New HUD Attorney Closing Punchlist and Checklists for 223(f), 223(a)(7) and Initial 232 Closings
Limited Guaranty and Security Agreement in Lieu of Master Lease
Clarification on ORCF's View of Appraisals for Non-Profit Owners and Operators
Standard Work for New Construction Appraisal Review
Sample Covenant for Floodplain and Wetland
Flood Zone Designations Matrix
Reminder Regarding Calculation of Debt Seasoning Period
Reminder Regarding Treatment of Existing Reserves Established as Collateral of Current Loan
Extension of Timeframes for Filing Operator and Master Tenant Financial Statements; Amendment of Earlier Agreements Unnecessary
July 2014 Section 232 Lender Trainings - Parking Lot Follow-Up
Document Links Included In This Blast


## NEW HANDBOOK 4232.1 WEBPAGE

A new HUD webpage has been created for Handbook 4232.1. The new webpage now allows for individual chapters of the handbook to be downloaded separately. The webpage continues to offer the option of downloading the entire handbook as one document. The entire handbook and individual chapters are available here. Note: For easier navigation, click on the "Bookmarks" icon on the left side of the viewer. This will expand an index of all chapters as bookmarks which will provide a link directly to the chapter.

***Keywords:****Section 232 Handbook, Handbook 4232.1, Handbook Webpage*

Back to top

## HANDBOOK 4232.1 SCRIVENER AND MINOR ERROR CORRECTIONS

Since the May 22, 2014 publication of Handbook 4232.1, Scrivener and other minor errors have been identified and corrected. These corrections are reflected in the handbook posted on the new Handbook 4232.1 webpage. For a list of Scrivener and other minor error corrections, please refer to Transmittal 10-17-2014 on the handbook webpage.

***Keywords:****Section 232 Handbook, Scrivener Errors*

Back to top

## PAY.GOV AND ACH BLOCKS

Some lenders using Pay.gov to pay their Section 232 Program Fees have been unable to process their payments. The cause may be that automatic debit to business accounts may be blocked by a security feature called an ACH Debit Block, ACH Positive Pay or ACH Fraud Prevention Filters. ACH Debit Block works by having an allowed list of ACH Company IDs. This list enables allowable debits. The agency identification for the Section 232 Healthcare Fees Form is:

| | |
|---|---|
| Agency ID: | 8609030027 |
| Form Name: | Healthcare Fees |

If you have any questions, Pay.gov Customer Service may be reached at: (800) 624-1373

***Keywords:****Pay.gov*

Back to top

## NEW HUD ATTORNEY CLOSING PUNCHLIST AND CHECKLISTS FOR 223(F), 223(A)(7) AND INITIAL 232 CLOSINGS

New HUD Attorney Closing Punchlists and Checklists have been drafted for 223(f), 223(a)(7), and initial 232 closings. The updated Punchlists reference the 06/2014 version of the documents and include closing requirements from the new 232 Handbook. The updated Punchlists and Checklists have

been posted on the Section 232 Program website by the respective loan type and are available for immediate use.

***Keywords:****Closing Punchlist, Closing Checklists*

Back to top

## LIMITED GUARANTY AND SECURITY AGREEMENT IN LIEU OF MASTER LEASE

Under certain circumstances where a portfolio of properties do not have 100% same ownership nor do they have any leases, a traditional master lease is not possible. As an alternative to the Master Lease, a Limited Guaranty and Security Agreement (here) may be an appropriate alternative. The key principal(s) will pledge their distributions (made to them within 180 days prior to the default) to cure defaults on any of the properties. The key principal(s) will be providing a guaranty as well as security interest in the above mentioned cash distributions. (See Handbook 4232.1, Section II, Chapter 13.3.E.1)

***Keywords:****Limited Guaranty and Security Agreement*

Back to top

## CLARIFICATION ON ORCF'S VIEW OF APPRAISALS FOR NON-PROFIT OWNERS AND OPERATORS

It has become apparent that there is confusion related to the proper valuation of a healthcare facility operated by a non-profit organization. As always, the Department's goal is to obtain a market value as defined within USPAP for the property. Said plainly, the market value is what such a facility would sell for as of the effective date of the appraisal.

It is not always the mission of non-profit organizations to maximize cash flows. Potential for-profit buyers would likely modify the operations with the goal of improving cash flows in mind. Potential differences between non-profit and for profit operators include but are not limited to staffing ratios, employee benefits packages, higher level food service, even potentially higher occupancy rates, reputational differences, etc. It is appropriate for an appraiser to adjust these and other revenues and expenses to reflect a true market rate operation (both on the revenue and expense side) in determining the value. If the appraiser believes that the operations would materially change with a market rate sale, the appraiser must factor into their analysis the additional costs and risks associated with converting a facility from the current non-profit operation to a for profit operation (Please

see Handbook 4232.1, Section II, Chapter 5.3.G). The method for factoring in the additional costs and risks is up to the appraiser but could conceivably take the form of an increased cap rate or a reduction to value based on a discounted cash flow analysis to support the value or other methods as the appraiser deems appropriate.

***Keywords:****Valuation, Appraisals, Non-Profit*

Back to top

## STANDARD WORK FOR NEW CONSTRUCTION APPRAISAL REVIEW

At the lender trainings this summer in Seattle, WA and Minneapolis, MN, ORCF outlined what HUD does when reviewing a new construction appraisal. The document that outlines our standard work has been added to our Section 232 Program website. These best practices were developed with input from appraisers, lenders, buyers, and underwriters. This is not a form anyone will need to fill out but we encourage our third party appraisers to incorporate similar steps into their own trip work. The HUD Appraisal Review Form for New Construction can be found here.

***Keywords:****Appraisals, New Construction*

Back to top

## SAMPLE COVENANT FOR FLOODPLAIN AND WETLAND

For projects where an incidental, undeveloped portion of the site is located in a floodplain or wetland, an exception from 24 CFR 55, Floodplain Management and Protection of Wetlands, is allowed under 24 CFR 55.12(c)(7). In order to qualify for the exception, a covenant or comparable restriction must be placed on the property's continued use to preserve the floodplain and/or wetland area. HUD has issued a Sample Covenant for Floodplain and Wetland (here) that can be used as the template for a covenant that complies with 24 CFR 55.12(c)(7)(iii): HUD Sample Covenant For Floodplain or Wetland.

***Keywords:*** *Environmental, Floodplain, Wetland, Sample Covenant*

Back to top

## FLOOD ZONE DESIGNATIONS MATRIX

HUD's floodplain management regulations refer to the 100-year and 500-year floodplains as floodplains of concern. FEMA Flood Insurance Rate Maps

use a variety of different labels to identify the 100-year and 500-year floodplains and areas of minimal flood hazard. To help lenders correlate the flood zone designations, a table depicting the FEMA flood zone designations for 100-year and 500-year floodplains and for areas of minimal flood hazard has been posted in the Lender Tools on the 232 Program website (here).

***Keywords:*** *Flood Zone Matrix*

Back to top

## REMINDER REGARDING CALCULATION OF DEBT SEASONING PERIOD

The Section 232 Program Handbook, at Production Chapter 3.13.C, defines "debt seasoning." Please note the way in which the debt seasoning period is calculated. In particular, the debt seasoning period must be completed before the Section 232 application is submitted. In that regard, the provision states:

> …ORCF requires a 2-year waiting period from the time the existing debt was generated (loan closing) and the date the firm application for FHA-insured financing is submitted to HUD.

***Keywords:****Debt Seasoning*

Back to top

## REMINDER REGARDING TREATMENT OF EXISTING RESERVES ESTABLISHED AS COLLATERAL OF CURRENT LOAN

ORCF occasionally encounters a reserve account that was required as collateral for an existing loan to be refinanced. The Section 232 Handbook addresses how the sum required to be placed in that reserve account is to be treated during the Section 223(f)/232 refinance. Each element of the language cited below is separately required to be met. In particular, Production Section 3.13.B.4 states:

> 4. **Reserves held by Current Lender**. Escrows and reserves comprising any additional property-related collateral held by the current Lender against the loan, but then released at some point after initial funding of the loan will only be considered eligible if:
>
> a. The loan comprising the existing indebtedness meets eligible debt and debt seasoning requirements,

b. The release provisions for the funding of the current loan were clear and pre-defined at the time the original loan was made, and
c. The escrow is released before the FHA Lender makes application to HUD for the loan.

Any reserves not meeting these criteria will be treated like R4R on deposit and subtracted from the Total HUD Eligible Costs pursuant to MILC Criterion H.

***Keywords:*** *Eligible Debt, Reserves, Collateral*

Back to top

## EXTENSION OF TIMEFRAMES FOR FILING OPERATOR AND MASTER TENANT FINANCIAL STATEMENTS; AMENDMENT OF EARLIER AGREEMENTS UNNECESSARY

In the October 6, 2014 Email Blast, we pointed out that HUD had published the Interim Rule (here, effective October 16) extending the timeframe for submitting quarterly and annual operator and master tenant financial statements (from 30 to 60 days for quarterly/YTD statements and from 60 to 90 days for year-end statements). We also pointed out that, for projects that close on or after October 16, the operator and master tenant regulatory agreements should be revised before closing to reflect the more favorable financial statement submission time frames.
Please note the more favorable submission timeframes for these particular financial statements also apply to projects that closed before October 16, 2014. It is not, however, necessary to amend the earlier regulatory agreements to reflect those revised timeframes; the timeframes of the Interim Rule control over conflicting timeframes in those earlier regulatory agreements.

***Keywords:*** *Operator Financial Statements, Uniform Financial Reporting Standards, 92466A*

Back to top

## JULY 2014 SECTION 232 LENDER TRAININGS - PARKING LOT FOLLOW-UP

As a follow-up to ORCF's July lender trainings in Seattle, WA and Minneapolis, MN, we are pleased to provide the following response to the Parking Lot items that were generated through our discussions with lenders at these training.

| Issue | ORCF Response |
|---|---|
| **New Construction Criteria Template:** Post the New Construction Criteria Template to hud.gov | New Construction Criteria Template has been posted to hud.gov under Training Presentations, #16. |
| **Risk Management-Operator Regulatory Agreement Requirements Grid:** Post the Risk Management-Operator Regulatory Agreement Requirements Grid to hud.gov | Risk Management-Operator Regulatory Agreement Requirements Grid has been posted to hud.gov, under Training Presentations, #17. |
| **Early Starts:** Will ORCF permit an Early Start after the initial firm commitment is issued? | Because Final Application reviews typically have a fairly short turnaround time, ORCF recommends that lenders consider the timing impact of such an approach. **As a reminder, in all Early Starts, the construction is at the full risk of the borrower.**<br><br>Early Start requests enable construction to start once the Firm Commitment has been issued, but prior to initial closing. In the case of a Two-Stage application, there is no prohibition against an Early Start request after the Initial Firm Commitment is issued, however the request does require construction documents to be submitted. These documents, such as permits, construction contracts and cost estimates, plans and specifications, are also required as exhibits for the Final Submission application package. The key consideration in submitting a Two-Stage application versus a Single Stage application is generally to save the time and expense of developing full construction documents. Submission of an Early Start request between the two |

| | |
|---|---|
| | stages adds another review stage to the process, including documents that will be submitted and reviewed at the Final Application stage, and could minimize the efficiency of the application review process. |
| **OGC Reviews on Small Portfolios:** Can the OGC attorney who reviewed the Master Lease or AR Financing Documents also complete the closing and other projects in the portfolio? | ORCF attempts to identify related projects on the front end. Due to projects being located in different states and differing workloads we cannot guarantee that the same OGC attorney that reviews the Master Lease and AR Financing Documents will also complete the Closing Review. We have set up an internal document sharing system for OGC attorneys to improve communications across offices. |
| **Post Limited Guarantee & Pledge Agreement example document** | See article in this Email Blast. |
| **Third Party Appraiser Inspections:** Is there a minimum number of units the Third Party Appraiser must inspect? | Unlike Multifamily, ORCF does not indicate a percentage of units that must be inspected. ORCF does however expect that the selected appraiser, having the qualifications stated in ORCF Handbook, Production, Chapter 5.2, will inspect the exterior, all floors of the interior, the common areas, and a representative example of each unit type. |
| **New Construction Appraisal Review Worksheet:** Please post this to hud.gov. | See article in this Email Blast. |
| **Two Stage Submissions:** Are Initial Submission applications submitted before September 1, 2014 subject to the new Section 232 Handbook for the Final Submission if the Final Submission is submitted after September 1, 2014? | The lender should use the guidance that was in place at the time of the initial submission application. |

| | |
|---|---|
| **Clearance for Non-Profits:** 2530 clearance should be added as a requirement for Executive Directors on Non-Profits as they are decision makers. | In most situations the Executive Director of a Non-Profit is considered to be a Corporate Officer and must file a Form-HUD 2530 or APPS Submission. |
| **Align 100/500 year references to FEMA flood zones:** | See article in this Email Blast. |
| **Borrower Experience:** Is there a required percentage of ownership (the borrower) that must have experience (experience of similar scope/size, with HUD, 3 years, etc.). | In order to protect FHA risk, ORCF requires that ownership demonstrate experience in addition to the experience of the operator and/or management agent. In particular, for new construction, please refer to the New Construction Criteria Template. |
| **HUD as Loss Payee:** Can we affirmatively state in HB that HUD no longer needs to be named loss payee (according to lender some OGC still requiring this). | This is in the process of being corrected in the handbook. |
| **FAQs:** Check the FAQ on the Working Capital Requirement to assure that it is consistent with the increase to 4% Working Capital. | ORCF is in the process of scrubbing the FAQs to ensure that, in light of the new Handbook, we have removed those FAQs that are no longer relevant or necessary. The working capital questions (of which there are 3 (1 in Eligibility and 2 in Loan Sizing) are among those we plan to remove. |
| **Working Capital Escrow Release Provisions:** Release Provisions for working capital escrow seem to be stricter than previously. Have they been intentionally increased? | This is not a new requirement, and though our language is slightly reworded and specific to 6 months of break-even occupancy, it is very much in line with previous guidance. The Old Map Guide states, in Chapter 13 (Section 13.15.C.3.a):<br>***3. Final Release of Escrow.***<br>*a. The Lender may release any balance of the working capital escrow to the mortgagor one year after substantial completion where the project is not in default.* |

| | |
|---|---|
| **Clarify Debt counted in 92.5% of Loan-to-Value test** | This is being considered for future handbook updates. In the meantime, lenders with specific questions should contact LEANThinking@hud.gov. |
| **Management Certifications:** Lenders aren't always receiving a copy of the executed Management Certification from the ORCF Underwriter. | The ORCF Underwriter punchlists have been updated to ensure a copy of the executed certification will be provided prior to loan committee. |
| **Handbook Comments:** How will ORCF be handling responses to handbook comments that are sent to LEANThinking@hud.gov. | LEANThinking@hud.gov is responding directly to the person who submitted the comments. Additionally, if the comments point to a need for a clarification, ORCF will do so by Email Blast or, where appropriate, will include in a future set of Handbook edits. |
| **Property Insurance:** How is the 90% of Replacement Cost defined for property insurance purposes. | The 90% of Estimated Replacement Cost Value (as defined by the Insurable Value Calculation contained in the 3rd party Project Capital Needs Assessment)<br><br>This will be clarified in the upcoming revision of the Section 232 handbook. |
| **Insurance:** How will the new insurance requirements in Handbook Part 1, Chapter 14 be addressed for existing projects? | As set forth in the Email Blast of June 26, 2014 and September 5, 2014, new applications received on or after November 1, 2014 will be required to comply with the new insurance requirements set forth in the handbook, 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 requirements; however, if a Project should choose to implement the changes at the time of insurance renewal, that is a |

| | |
|---|---|
| | business decision available to them, provided that the new property and general liability insurance requirements are then met in their entirety. |
| **Accounts Receivable Financing Review:** A/R review-2.7G not approved during Part 1 review, falling through cracks between UW and Closing Coordinator assignment. Should be the UW, maybe look at clarifying the A/R PL. | The ORCF underwriter should review this. We are updating our A/R punchlist to address this. |
| **DACA/DAISA Standard Forms:** Is there a possibility to have standard required forms for DACA/DAISAs forms rather than samples? | HUD has explored this option in the past, but the feedback we received was that the industry participants would not be amenable to standard forms. |
| **Section 223(f) Cost Certifications:** Would it be possible to submit 223f costs certifications only a few weeks before closing so the lender would not have to submit multiple versions of the cost certification? | The draft 223(f) cost certification needs to be completed in the draft closing package and we understand that the cost certification will be submitted later with backup documentation. It helps us review the final cost certification package more quickly. |
| **223a7 Survey Affidavit:** Allow use of the survey affidavit for situations where there are minor exceptions such as a "Shuffleboard Court" to be permitted so a brand new survey is not required. | The requirements for when a new survey is not required are laid out in the borrower's survey certification. Anything that falls outside of that scope needs to be reviewed by OGC and ORCF on a case by case basis. |
| **Two Sided Copying for Closing Documents:** Accept two sided copying for closing documents that are not to be recorded. | ORCF does not object to double-sided printing and cutting down on printing and shipping costs, however, it is up to the individual OGC attorney to determine whether this is acceptable. |
| **Increased Reserve for Replacement Deposits at Closing:** The suggestion was made to allow a higher threshold for depositing additional funds into the | In response to industry concern, ORCF is reviewing this issue and plans to publish a decision in a future Email Blast. |

| | |
|---|---|
| Reserve for Replacement at closing when the costs are lower than anticipated. Currently Closers can automatically approve up to an additional $10,000 being deposited into the Reserve for Replacement at closing without needing to have the loan amount reduced. | |
| **Section 241(a) Loan Sizing:** Can Criterion D for 241(a) projects be waived? | ORCF cannot waive that loan criterion because it is a statutory requirement (12 USC 1715z-6) |

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

165. Handbook 4232.1 Webpage
166. Limited Guaranty and Security Agreement
167. HUD Appraisal Review Form for New Construction
168. HUD Sample Covenant for Floodplain or Wetland
169. Flood Zone Designation Matrix
170. Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program—Aligning Operator Financial Reports With HUD's Uniform Financial Reporting Standards

Back to top

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.

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.

October 6, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of October 6, 2014

## *October 6, 2014 Contents*

Commencement of Operator Reporting of Financial Statement
Changes to Regulatory Agreements to Reflect Extended Reporting Periods
Document Links Included In This Blast

## COMMENCEMENT OF OPERATOR REPORTING OF FINANCIAL STATEMENT

On October 3, 2014, HUD issued Federal Notice No. FR--5794-N-02 - Submission of Operator Financial Reports in Accordance with HUD's Uniform Financial Reporting Standards: Commencement of Compliance. (Click here for the Federal Register Notice). Accordingly, Operators must submit their operator financial reports to the lender that services the FHA insured mortgage for the project for fiscal years commencing on or after December 2, 2014.

***Keywords:*** *Operator Financial Reports, Uniform Financial Reporting Standards*

Back to top

## CHANGES TO REGULATORY AGREEMENTS TO REFLECT EXTENDED REPORTING PERIODS

HUD published Interim Rule "Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program – Aligning Operator Financial Reports with HUD's Uniform Financial Reporting Standards" (click here for Interim Rule) on September 16, 2014, with an effective date of October 16, 2014. The rule extends the timeframe for providing quarterly and annual financial statements.

As a result of this change, for projects that close on or after October 16, 2014, the existing regulatory agreement language should be revised to

reflect the more favorable reporting timeframes. The proposed changes are as follows:

**HUD Form 92466A Healthcare Regulatory Agreement - Operator:**
Page 13 (Operator Reg. Agreement)
Unless otherwise specified by HUD, Operator shall submit to HUD and Lender, on a quarterly and year-to-date basis (or more frequently if specified by HUD), prepared and certified by an authorized representative or agent of Operator, such financial reports relating to the operation of the Healthcare Facility (including, but not limited to, financial statements, accounts receivable/payable aging reports and occupancy reports) in the formats and at such times as may be approved by HUD in accordance with Program Obligations. Such reports must be submitted no later than sixty 60 days after the period covered by the reports, except for reports relating to the final quarter of each year, which shall be submitted no later than ninety 90 days after end of the fiscal year. Such reports are subject to the sanctions contained in 18 U.S.C. Sections 1001, 1010, and 1012.

**HUD Form 92466A Healthcare Regulatory Agreement – Master Tenant:**
Page 10-11
Master Tenant shall submit, or cause to be submitted, to HUD and Lender, on a quarterly and year-to-date basis (or more frequently if specified by HUD), prepared and certified by an authorized representative or agent of Master Tenant, such financial reports relating to the Healthcare Facility (including, but not limited to, financial statements, accounts receivable, aging reports and occupancy reports) in the formats and at such times as may be required by HUD, including without limitation any consolidated statements if required by HUD. Such reports must be submitted no later than sixty 60 days after the period covered by the reports, except for reports relating to the final quarter of each year, which shall be submitted no later than ninety 90 days after end of the fiscal year.

***Keywords:*** *Regulatory Agreement, Operator Financial Statements, Uniform Financial Reporting Standards, 92466A*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

171. Federal Notice No. FR-- 5794-N-02 -Submission of Operator Financial Reports in Accordance with HUD's Uniform Financial Reporting Standards: Commencement of Compliance

172. The Interim Rule - "Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program – Aligning Operator Financial Reports with HUD's Uniform Financial Reporting Standards"

Back to top

---

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.

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.

September 22, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of September 22, 2014

## *September 22, 2014 Contents*

Operator Financial Statements
Section 232 Program Fee Pay.gov Training
Document Links Included In This Blast

## OPERATOR FINANCIAL STATEMENTS

The Interim Rule entitled "Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program – Aligning Operator Financial Reports with HUD's Uniform Financial Reporting Standards" (click here for Interim Rule) was published September 16, 2014 and will become effective October 16, 2014. The Interim Rule provides that operators will have an additional 30 calendar days to comply with the financial statement reporting requirements. Operators will now have 60 calendar days following the end of a fiscal quarter and 90 calendar days following the end of the fiscal-year-end quarter to comply with HUD's financial statement reporting requirements.

Additionally, guidance is now available on how operators are to submit their financial statements to HUD. Operators should follow the instructions provided under the "Operator Financial Statements" header on the Section 232 Program website (here). The financial statement reporting requirements for operators were first set forth in the Final Rule entitled "Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program-Strengthening Accountability and Regulatory Revisions Update" (the "Accountability Rule," Federal Register, Vol. 77, No. 174, pp. 55120-55138). The Accountability Rule specified that guidance would be issued on the manner in which such financial reports will be submitted.

***Keywords:*** *Operator Financial Statements, Uniform Financial Reporting Standards*

Back to top

## SECTION 232 PROGRAM FEE PAY.GOV TRAINING

Mortgagee Letter 2014–20 (here) issued on September 18, 2014 announced the requirement that Section 232 Program Fees must now be paid to HUD through Pay.gov. ORCF has scheduled a "Live Meeting" training on the Pay.gov form that will be used to pay the Section 232 fees. The "Live Meeting" training will be held on September 30, 2014 at 10:00 a.m. EST. Section 232 Lenders interested in this training should email their email addresses to 232FHAPayments@hud.gov no later than September 26, 2014. The list will be used to generate the "Live Meeting" training announcement.

***Keywords:*** *Section 232 Program Fee, Pay.gov, Training, Mortgagee Letter 2014-20*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

173. The Interim Rule - "Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program – Aligning Operator Financial Reports with HUD's Uniform Financial Reporting Standards"

174. Operators Financial Reporting Guidance

175. Mortgagee Letter 2014-20

176. Pay.gov

Back to top

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.

September 22, 2014

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.

September 5, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of September 5, 2014

## *September 5, 2014 Contents*


Section 232 Handbook 4232.1 Effective September 1, 2014
Pre-Construction Conference Agenda and Lender's Pre-Construction Conference Duties Documents Updated
General Contractor's Requisition for an Initial Draw on Loans with Early Commencement or Early Start Approval
FHA Number Request Submission Email Change
Reminder on HUD Firm Application Instructions
Initial Operating Deficit Calculations
FROM THE CLOSING CORNER
Updated ORCF Closer Checklists for 223(f) and 223(a)(7) Projects
READY..SET..GO! Let's Close These Projects!
Document Links Included In This Blast


## SECTION 232 HANDBOOK 4232.1 EFFECTIVE SEPTEMBER 1, 2014

As mentioned in the May 28, 2014 and June 26, 2014 Email Blast, the Section 232 Handbook is effective as of September 1, 2014. The handbook provisions apply to all projects in the 232 portfolio and all lender/underwriter approval requests on September 1, 2014 and thereafter.

Insurance requirements (including property and general liability insurance, but excluding professional liability insurance) will not be effective until November 1, 2014. Please see June 26, 2014 Email Blast for more details. As stated in the June 26, 2014 Email Blast, existing Section 232 projects will not be required to implement these new insurance requirements; however, if a Project should choose to implement the changes at the time of insurance renewal, that is a business decision available to them, provided that the new property and general liability insurance requirements are then met in their entirety.

Additionally, Section III – Asset Management, Chapter 4 – Financial Operations, Section 4.5 - Financial Risk Metrics of Operator, Subsections A-F related to Operator financial reports, will not be effective until 60 days after the requirements are announced in the Federal Register.

***Keyword:*** *Section 232 Handbook 4232.1, Operator Financial Reports, Financial Operations*

Back to top

## PRE-CONSTRUCTION CONFERENCE AGENDA AND LENDER'S PRE-CONSTRUCTION CONFERENCE DUTIES DOCUMENTS UPDATED

With the recent publication of the new Section 232 Handbook 4232.1, the "Lender's Pre-construction Conference Agenda," (here) and "Lender's Pre-construction Conference Duties," (here) documents have been updated.

All conferences held on or after the date of this Email Blast shall use these new documents.

***Keywords:*** *Pre-construction, Documents*

Back to top

## GENERAL CONTRACTOR'S REQUISITION FOR AN INITIAL DRAW ON LOANS WITH EARLY COMMENCEMENT OR EARLY START APPROVAL

On loans given Early Commencement or Early Start approval, if construction proceeds are being requested when the Lender submits Initial Endorsement documents, the Initial Draw, form HUD-92403, Application for Insurance of Advance of Mortgage Proceeds, must reference and attach a single form HUD-92448, Contractor's Requisition. The amount claimed in line item #1, of form HUD-92403, must match the net amount of the requisition on page 2 of the attached form HUD-92448.

The above form HUD-92448, must include signatures by the General Contractor, Architect, and HUD Contract Inspector. However, since construction draws are not conducted during Early Commencement or Early Start, communication among the Lender, ORCF's Construction Manager, Michael Peeler, and the HUD Contract Inspector, is key to obtaining the necessary inspection and signatures related to the HUD-92448.

Therefore, prior to submitting the Initial Draw to HUD, the Lender must contact the ORCF Construction Manager, Michael Peeler, at Mike.Peeler@hud.gov. That email will state Initial Endorsement is anticipated, and form HUD-92448 needs to be signed in the field, to include with the Initial Draw documents. Michael Peeler shall then contact the assigned Contract Inspector, advising them to coordinate their first Draw Inspection at the job site, with the General Contractor and Architect, and to sign the single form HUD-92448.

After the HUD-92448 is signed by the General Contractor, Architect, and HUD Contract Inspector, it will be given to the Borrower, who will transmit it immediately to the Lender, with the other Initial Draw documents.

The Lender shall then transmit the complete Initial Draw to the assigned ORCF Closer for final review and approval.

As a reminder, Early Commencement does not imply a firm commitment will be issued.

***Keywords:*** *Initial Draw, Early Commencement, Early Start*

Back to top

## FHA NUMBER REQUEST SUBMISSION EMAIL CHANGE

Effective immediately, ORCF has a new email address for lenders to send in their FHA Number Requests and FHA Number inquiries. The new email address is 232FHARequests@hud.gov and lenders can start using the new address now. The format for requesting FHA numbers has not changed and Rasheedah Dix will continue to process the FHA requests. Also, any request that was sent before this email blast will be processed, but all future submissions should be sent to the new FHA mailbox for processing.

***Keywords:*** *FHA Number Requests*

Back to top

## REMINDER ON HUD FIRM APPLICATION INSTRUCTIONS

Please remember to read our Firm Application Instructions (here) and make sure application submissions are in agreement with ORCF limitations. Examples of things to keep in mind:

- All electronic documents are less than 50 megabytes in size. Double check your third party reports and plans/specs when applicable.
- Please use only letters, numbers and underscores when naming files. Avoid using special characters \ / : * ? " < > | # { } % ~ & as part

of the file name (the software used by ORCF will not accept special characters) and punctuations. Please pay particular attention to the Asbestos Operations and Maintenance Plans.
- When completing the Common ownership (section 5a and b) of the Form HUD-90022-ORCF, include projects from past 18 months AND older than 18 months.

Also, since the Check Transmittal Letter was merged with the Certification for Submission of Electronic Firm Application (Form HUD-90022-ORCF), it no longer needs to be submitted as a separate letter.

By paying attention to the instructions detailed on the Firm Application Instructions document, you can better assure that applications will be received and processed in a more timely fashion, without the applications being sent back due to the system not being able to receive them.

***Keywords:*** *Application Processing*

Back to top

## INITIAL OPERATING DEFICIT CALCULATIONS

When we created our standardized template for calculating initial operating deficits (Form 91228-ORCF) we anticipated there would be delayed reimbursement payments from government sources such as Medicare and Medicaid. Many of our new construction projects are private-pay (e.g. many Assisted Living Facilities and Board and Care Facilities) and delaying the time for reimbursements by two months results in an exaggerated deficit. We have posted the Initial Operating Deficit Escrow Calculation Template – Private Pay Sample (here) that calculates the initial operating deficit without the assumption that there will be a delay in governmental source receipts. This version may be used at the lender's option – instead of revising the formulas on Form 91228-ORCF. However, it is only to be used for projects that are anticipated to be entirely private pay. It is a temporary solution. At some point we hope to have a version that works across a wide range of contingencies such as blends of payor types, or projects with existing cash flows. The "Details & Draw Requests" tab of the Initial Operating Deficit Escrow Calculation Template – Private Pay Sample is not locked for editing. If you need to edit the formulas further, please explain the revisions you have made in the lender narrative of your Firm Application submittal.

***Keywords:*** *Initial Operating Deficits Calculations, Form 91228-ORCF*

Back to top

September 5, 2014

# FROM THE CLOSING CORNER

## Updated ORCF Closer Checklists for 223(f) and 223(a)(7) Projects

Updated ORCF Closer Checklists for 223(f) (here) and 223(a)(7) (here, revisions dated 5/12/14) projects are now posted on the Section 232 program website.

The updates include referencing the Borrower's Certification - No Adverse Actions (as required by the Firm Commitment) and noting that the draft closing statement should be from the Sources & Uses page of the HUD-92264a-ORCF.

***These checklists are effective immediately.***

## READY..SET..GO! Let's Close These Projects!

The ORCF Closing team invites you to submit your complete closing packages to the assigned HUD Attorney and HUD Closer *as soon as they are ready.* ORCF Closers will work closely with HUD Attorneys to try and meet any closing deadlines set forth *before the end of HUD's fiscal year.*

**How do I get a HUD Attorney assignment?**
Along with your Firm Commitment, your HUD Underwriter should have emailed you the contact name and address of the assigned HUD Attorney. Please check your inbox for that email, and if one was never sent to you, please email ORCFCloser@hud.gov.

**How do I get a HUD Closer assignment?**
When you've submitted your draft legal package, email ORCFCloser@hud.gov indicating that the legal package has been sent. ORCFCloser@hud.gov will email you back (usually within 1-2 business days) with a Closer assignment.

**Do I email ORCFCloser@hud.gov for a CONTRACT Closing?**

No. If your project was underwritten by a contract Underwriter, please expect a contract Closer to be in touch.

**IMPORTANT:** Clean, accurate, and complete closing packages will ensure a smooth and efficient closing.

**Thank you and we look forward to closing these projects with you!**

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

177. Lender's Pre-construction Conference Agenda
178. Lender's PreConstruction Conference Duties
179. Firm Application Instructions
180. Initial Operating Deficit Escrow Calculation Template – Private Pay Sample
181. 223(f) ORCF Closer Checklist
182. 223(a)7 ORCF Closer Checklist

Back to top

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.

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.

July 23, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of July 23, 2014

## *July 23, 2014 Contents*

OMB Approved 232 Documents Are Available On HUDClips
Document Links Included In This Blast

## OMB APPROVED 232 DOCUMENTS ARE AVAILABLE ON HUDCLIPS

On February 27, 2014, HUD posted a 30-day Paperwork Reduction Act Notice requesting comments related to the Section 232 documents (FR-5752-N-22). The Notice provided for and solicited comment on: the possibility of electronic submission, changes made to the Intercreditor Agreement, and to the entire proposed collection of information. In response HUD received comments from several commenters. All responses were considered by HUD and many suggested revisions were adopted. The suggested revisions included some substantive changes which are summarized below. The documents were then sent to Office of Management and Budget (OMB) for review and approval. OMB has now approved the entire collection. Accordingly, HUD has posted the revised Section 232 documents, which also include edits resolving scrivener's errors and updated OMB form information, onto HUDClips for immediate use.

Inasmuch as the changes made are responsive to industry concerns and are also in many cases clarifying changes, HUD does not perceive the immediate effectiveness of the documents to be burdensome. Accordingly, the documents are to be used immediately in any instance in which the documents published on March 14, 2013 would otherwise have been required. HUD does recognize, however, that in some instances substituting the newly published documents for those published in March 2013 could present logistical difficulties. To help address this, HUD will permit parties to use the March 2013 version of any such documents submitted prior to August 31, 2014. The revised documents have now been substituted for the former documents both on HUDClips and also on ORCF's website

links. Redline versions of the nine documents are also available on ORCF's website, for comparison purposes.

ORCF will hold a conference call for all lenders to provide an overview of the Section 232 document changes and provide an opportunity for questions and answers. All participants for this conference call are required to identify themselves by stating their full name during the conference call prompt prior to entering the conference.

Date: August 1, 2014
Time: 12pm-1pm Eastern Standard Time
Dial-In #: 877-336-1280
Passcode: 6521346#

Summary of Section 232 documents substantive changes:

1. **Master Lease Subordination, Non-Disturbance and Attornment Agreement** (Master Lease SNDA) (HUD-92333-ORCF)

The following changes were made:

- **Section 3, "Project Operating Deficiencies,"** HUD has revised what constitutes a Project Operating Deficiency giving rise to the need to retain a consultant. In that regard, HUD has substituted a debt service coverage ratio for several other financial indicators. HUD has also added language to explicitly limit the circumstances in which a denial of payments or a proposed termination of Permits and Approvals would constitute a Project Operating Deficiency, thus clarifying that an operator diligently and adequately addressing such matters would have some reasonable time to resolve them.

- **Section 3**, HUD has also clarified that a Project Operating Deficiency is not necessarily an Event of Default, and will not be considered an Event of Default unless such circumstance meets the requirements for an Event of Default pursuant to the relevant Loan Document.

- In **Section 4, "Master Tenant and/or Operator Rights to Cure,"** HUD has clarified that the defaults being referenced are those of the borrower. HUD has also stricken the requirement that an operator or master tenant seeking to cure a borrower default can only do so if no Project Operating Deficiency exists.

- In **Section 10 "Miscellaneous,"** HUD has revised the definition of "Material Risk of Termination" to make it consistent with the definition used in the Regulatory Agreements.

2. Operator Security Agreement and Rider (HUD-92323-ORCF)

- In **Section 2 "Representations; General Covenants,"** HUD has revised subsection (c) to recognize that Books and Records might be located off site.

- In **Section 8**, HUD has revised subsection (g) to clarify that "Permitted Liens" would not be a circumstance constituting an Event of Default.

- In **Section 23 "Miscellaneous,"** HUD has revised subsection (b). That subsection generally provides that where Lender consent, approval or determination is required, the Lender provides or withholds it in the Lender's sole discretion. Recognizing that certain other provisions of this document impose a reasonableness standard on certain specific decisions of a Lender, HUD has inserted "except as may be otherwise specifically provided herein" into this subsection.

- HUD has also added **Section 25**, which will be used to indicate whether the Security Agreement includes a Rider.

- Finally, HUD has added a final paragraph to the Rider, so as to include a definition of Material Risk of Termination consistent with the definition used in the other Section 232 documents.

3. Master Tenant Security Agreement (HUD-92340-ORCF)

- HUD made conforming and clarifying changes as discussed above with respect to the Security Agreement, and HUD also added a Rider to the Master Tenant Security Agreement, in a form analogous to that already used with the Operator Security Agreement.
- In **Section 3 "Representations; General Covenants,"** HUD edited subsection (j) to clarify how a Master Tenant might receive Government Payments due the Operator.

- In **Section 16 "Operations Transfer/Cooperation in Event of Sublease Termination,"** HUD added language to clarify that the required cooperation encompasses addressing Provider Agreement issues.

4. Healthcare Regulatory Agreement – Operator (HUD 92466A-ORCF

- In **Section 6 "Consultants,"** HUD edited the definition of **"Project Operating Deficiency"** consistent with the edits discussed above with respect to the Master Lease SNDA.

- In **Section 8 "Notice of Violation and Event of Default,"** HUD edited subsection (a) to clarify that, in the case of a non-Identity-of-Interest Operator, the payment obligations being referenced therein are those of the Operator.

- In **Section 20 "Books, Accounts, Financial Reports, Financial Covenants,"** HUD edited subsection (h) to clarify that if HUD directs that a required reports be sent not to the Lender and/or another third party, it is so that the party can review such reports at HUD direction.

5. Healthcare Regulatory Agreement – Master Tenant (HUD-92337-ORCF)
HUD made conforming changes that were discussed above with respect to the Master Lease SNDA and the Operator Regulatory Agreement.

- **Section 2 "Approved Use; Permits and Approvals,"** HUD edited subsection (c) to clarify that the civil money penalties referenced are those of the Healthcare Facility.

6. Healthcare Regulatory Agreement – Borrower (HUD-92466-ORCF)

- **Section 13 "Reserve for Replacement,"** HUD edited subsection (e) to make clear that, upon Borrower's satisfaction of all of its obligations under the Loan Documents, the account balance may be distributed either to the Borrower *or the Borrower's designee*.

- HUD edited **Section 23** to clarify that goods and services referenced therein are those, if any, that the borrower purchase or acquires in connection with the Project.

- In **Section 26 "Operator; Cooperation in Change of Operator,"** HUD edited subsection (e) make clear that arms-length negotiated purchase options in a lease are not categorically impermissible.

7. Security Instrument/Mortgage/Deed of Trust (HUD-94000-ORCF)

- In **Section 1 "Definitions,"** HUD clarified the definition of "Event of Default." HUD also clarified the definition of "Mortgaged Property" as it applies to security deposits.

- In **Section 4 "Assignment of Leases; Leases Affecting Mortgaged Property,"** HUD modified subsection (b) to clarify that a Borrower's right to collect right to collect rent, which ceases upon an Event of Default, will be reinstated should the Event of Default be subsequently cured.

- HUD made various edits (e.g., in Section 7(a)) in instances where the document directs the *Borrower* to take an action. As edited, the language, instead of directing the Borrower itself to take action, directs the Borrower to take "or cause the Operator to take" the action.

- In **Section 19 "Property and Liability Insurance,"** HUD modified subsection (c) to explicitly set forth a "reasonableness" standard in the language allowing a lender to impose various requirements for the maintenance of insurance.

- In Section 22, HUD revised subsection (b)(3) to more clearly address extensions of Borrower's cure period.

8. Intercreditor Agreement (HUD-92322-ORCF)

In the February 27, 2014, PRA Notice, HUD provided various revisions to this document based on industry input. Based on further industry comments, HUD has further edited **Section 2.3(a) (the "standstill provision")**. HUD has now added language to make it clear that the FHA Lender could not contact account debtors or seek to change the remittance instructions as to where proceeds of accounts receivable should be paid prior to the AR Lender's loan being paid in full. Also, HUD has added language to provide comfort to the FHA Lender and HUD that the standstill provision would not in any way hamper the FHA Lender's abilities to exercise remedies to which it may be entitled or to transition the operation of the facility to a new operator or to seek all related licenses, permits and provider agreements. HUD has also made a minor corrective change to reflect the concept that there will be ONE agreement for EACH facility, rather than MULTIPLE facilities referenced in ONE agreement.

9. Guide for Opinion of Operator's Counsel, and Certification (HUD-92325-ORCF)

After considering comments on this document, HUD determined that the document language contained three items that were problematic for opinion writers.

First, the narrowing of references to the laws of the UCC Filing Office to the UCC itself is in the Lessee Opinion form and should be carried over and permitted on the laws of the Organizational Jurisdiction, above.

Second, the Property Jurisdiction counsel, for example, if able to narrow the review of the laws of the Control Collateral State to only Section 9-304 thereof, will be much more likely to include this provision of the Control Collateral State as among the laws considered in rendering their opinions.

Third, the definition of "Transaction Documents" inappropriately included the accounts receivable documents, and that reference to the accounts receivable documents has now been removed.

These matters have been addressed in the revised document.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

183. ORCF's Revised Document Website

Back to top

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of June 26, 2014

## *June 26, 2014 Contents*

Section 232 Handbook Transition
Revised Firm Commitments
241(a) HUD Attorney Closing Checklist Clarification
232/223(f) Lender's Environmental Checklist
Construction Contract, Major Movable, Borrower Other Fee Clarification
Flood Insurance Requirement Policy Renewals
Section 232 REAC Skilled Nursing Facility Inspections for Projects with Additional Loans where the Section 232 Loan is Paid Off
FROM THE CLOSING CORNER
Closing Statements- Sources and Uses Page for 223(f) and 223(a)7 Closings
Need to Amend the Firm Commitment? Things to Remember -
Document Links Included In This Blast

## SECTION 232 HANDBOOK TRANSITION

Handbook 4232.1 (here) sets forth various Section 232 policies and protocols, including those reflected in the Final Rule of September 7, 2012 (the "Accountability Rule"), in various documents published through the Paperwork Reduction Act process, in mortgagee letters, and in other publications. The 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 September 1, 2014. Additionally, the handbook provisions will apply to all projects in the 232 portfolio and all lender/underwriter approval requests on September 1, 2014 and thereafter, with the following exception:

- **Insurance** (including property and general liability insurance, but excluding professional liability insurance): New applications received on or after *November 1, 2014* will be required to comply with the new insurance requirements set forth in the handbook, 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 requirements; however, if a Project should choose to implement the changes at the time of insurance renewal, that is a business decision available to them, provided that the new property and general liability insurance requirements are then met in their entirety.

***Keywords:*** *Handbook Transition, Insurance*

Back to top

## REVISED FIRM COMMITMENTS

Firm Commitments have been revised and posted on the ORCF website (on their respective loan document webpages) for the loan types listed below.

- Section 232 pursuant to 223(a)(7)
- Section 232 pursuant to 223(f)
- Section 241
- Section 232 NC/SR/BR Single Stage
- Section 232 NC/SR/BR Two-Stage (Initial and Final)

ORCF has revised all its firm commitments to reflect policy changes that were not previously captured in the firm, as well as update the names of the documents referenced. Revisions that apply to all of the Firms are summarized as follows: corrected references to the Security Instrument and Note throughout; corrected statutory references; changed the parties name to reflect the new 232 documents, such as Borrower, Operator and Management Agent; changed 'Secretary' to 'HUD' throughout; updated ALTA Form citations; added instruction with respect to Paragraph 38 of the Borrower Regulatory Agreement; simplified the condition relevant to Management Agents; used the term 'Program Obligations' to replace detailed references to specific requirements within the Firm Commitments; and added language whereby HUD reserves the right to suspend processing or terminate the Commitment in the event a material adverse change, as defined, occurs prior to Endorsement.

Additional revisions were made to the New Construction/Substantial Rehabilitation/Blended Rate Firm Commitments, including: specification regarding when the DACA and insurance must be submitted during the process; specification of any short-term debt service reserve escrows; requirements to notify HUD of any historical sites, human remains or cultural resources of tribal interest that may be discovered during construction. Additionally, the Section 241 Firm Commitment has revised language to include references to the 241 Supplemental Loan documents.

***Keywords:*** *Firm Commitment*

Back to top

## 241(A) HUD ATTORNEY CLOSING CHECKLIST CLARIFICATION

The May 7, 2014 Email Blast referenced the use of the HUD Attorney Closing Checklist for 241(a) projects. That article has been revised and updated online to clarify that, in 241(a) transactions, the HUD Attorney Closing Checklist specifically for 241(a) transactions should be used (rather than the more general Section 232 HUD Attorney Closing Checklist). The 241(a) HUD Attorney Closing Checklist is available here. One way to distinguish between the 241(a) HUD Attorney Closing Checklist and other HUD Attorney Closing Checklist is to check for "241(a)" label in the document title as well as a "241(a)" text box in the document.

***Keywords:*** *241(a) HUD Attorney Closing Checklist*

Back to top

## 232/223(F) LENDER'S ENVIRONMENTAL CHECKLIST

A Lender's environmental review checklist for 232/223(f) loans has been posted on the Section 232 program website. This checklist will aid lenders in reviewing key environmental issues prior to submitting the firm commitment application. It can be found under Lender's Tools, fourth arrow down on the list of documents, or at this direct link: Lender's Environmental Checklist.

***Keywords:*** *Lender's Environmental Checklist, Lenders Tools*

Back to top

## CONSTRUCTION CONTRACT, MAJOR MOVABLE, BORROWER OTHER FEE CLARIFICATION

Please remember that all construction contract items must be correctly categorized and must include all non-movable building components to assure compliance with Davis Bacon (where applicable), to assure correct calculation of the annual reserve for replacement and remaining useful life for future PCNAs, and to assure that these items are covered by the general contractor's bond and contract latent defect provisions. These items should not be included in any of the other Replacement Cost Line items in the Replacement Cost tab of the HUD-92264A-ORCF.

Major Movable Equipment is defined in the Architecture and Cost Statement of Work here. These items should not be included in any of the other Replacement Cost line items.

Call systems may be either fixed building components (construction item) or major movable items depending on the system used. The lender narrative should identify where this cost can be found and the basis for that determination.

The lender narrative should clarify and explain the cost categories of other facility amenities (such as large artwork, fountains, etc.) that could be either fixed or movable items depending on the configuration of the facility.

"Borrower Other Fees" should not include any construction contract or major movable items.

***Keywords:*** *Construction Contract, Major Movable Equipment, Borrower Other Fee*

Back to top

## FLOOD INSURANCE REQUIREMENT POLICY RENEWALS

The existing security instrument/mortgage/deed of trust contains language addressing the amount of flood insurance required for Section 232 projects (when applicable). Most Section 232 existing projects require flood insurance coverage to be the maximum amount available under the National Flood Insurance Program (NFIP). The Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12) raised the maximum amount under NFIP to $500,000 effective June 1, 2014. ORCF borrowers should review their flood insurance policies during the time of renewal to ensure the flood insurance policy is in accordance with BW-12. For more specific guidance on BW-12, please see the Federal Emergency Management Agency memorandum here. Please note, the maximum amount available under NFIP on "Non-Residential Buildings" (one example of such is nursing homes) is not impacted – it was already at $500,000.

***Keywords:*** *Flood Insurance Requirements, Biggert-Waters Flood Insurance Reform Act of 2012, NFIP*

Back to top

June 26, 2014

## SECTION 232 REAC SKILLED NURSING FACILITY INSPECTIONS FOR PROJECTS WITH ADDITIONAL LOANS WHERE THE SECTION 232 LOAN IS PAID OFF

ORCF has received questions regarding REAC inspections when supplemental loans are surviving (active) after the primary Section 232 loan is paid off for Skilled Nursing Facilities (SNF). For example, a project has a primary Section 232 SNF loan and a Section 241 loan. The primary Section 232 SNF loan is paid off leaving only the Section 241 loan (there can also be additional loans remaining; a 241 loan is used here only for simplicity). Since the Section 241 loan is the only loan remaining, the question becomes whether the project falls out of the 24 CFR 200.855 guidelines for Section 232 Skilled Nursing Facilities and now requires the lender to schedule REAC inspections. The answer is no. ORCF has determined that if there are supplemental loans remaining after the Section 232 primary SNF loan has been paid off, the project will still be deemed a SNF and fall within the 24 CFR 200.855 guidelines for future REAC inspection purposes and a REAC inspection will not be required (as long as the facility's last REAC inspection scored a 60 or higher). As always, HUD reserves the right to require a REAC inspection if in its judgment one is necessary to protect HUD's interest.

***Keywords:*** *241(a), REAC, 24 CFR 200.855*

Back to top

## FROM THE CLOSING CORNER

### Closing Statements- Sources and Uses Page for 223(f) and 223(a)7 Closings

The February 24, 2014 Email Blast discussed the use of the **Sources and Uses** page from the form HUD-92264a-ORCF (Rev 03/13) as the loan closing statement required for 223(f) and 223 (a)7 closings. This was implemented to provide greater consistency in Lenders' submissions for the LEAN closing process and to expedite the ORCF Closers' review of closing statements and finalization of closing documents. ***The amounts used for the Sources and Uses/closing statement must be exact, final amounts carried out two decimal places.*** *Checks for MIP and inspection fee delivered at closing* must be for the **exact** amounts due HUD.

In the near future, the posted form HUD-92264a-ORCF will be re-formatted to the $0.00 format, except for the loan criteria conclusions which must round down to the nearest $100.

June 26, 2014

***Keywords:*** *Closing Statements, Sources and Uses*

**Need to Amend the Firm Commitment? Things to Remember -**

- ✓ Lenders are reminded to keep the number of amendments to a minimum, grouping requests if possible.
- ✓ The executed Firm Commitment must be amended with a signed amendment whenever there is a change to specific requirements set forth in the Firm.
- ✓ All amendments must be initiated by a written request submitted electronically on the Lender's letterhead.
- ✓ Any changes, including, but not limited to, changes to lease payment, critical and non-critical repairs, escrow amounts, Reserve for Replacements, loan amount, interest rate, and P & I., require an amendment to the Firm Commitment.
- ✓ Please contact the assigned Closer should you have any questions.

***Keywords:*** *Firm Commitment Amendments*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

184. Lender's Environmental Checklist
185. Architecture and Cost Statement of Work
186. Quality Assurance & Performance Improvement on CMS website
187. 241(A) HUD Attorney Checklist
188. FEMA Memorandum on Biggert-Waters Flood Insurance Act of 2012

Back to top

May 28, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of May 28, 2014

## *May 28, 2014 Contents*

Section 232 Handbook Published
Document Links Included In This Blast

## SECTION 232 HANDBOOK PUBLISHED

The Office of Residential Care Facilities is pleased to announce the publication of Handbook 4232.1 (link here), which covers the Section 232 Healthcare Mortgage Insurance Program. This handbook is intended to be a comprehensive guide to the Section 232 Program covering all aspects of production and asset management. The handbook sets forth various Section 232 policies and protocols, including those reflected in the Final Rule of September 7, 2012 (the "Accountability Rule"), in various documents published through the Paperwork Reduction Act process, in mortgagee letters, and in other publications.

Transition: The handbook provisions will apply to new applications and requests for ORCF action (in both Production and Asset Management) beginning September 1, 2014 and, to projects already in the Section 232 pipeline or the Section 232 portfolio as of that date. However, we also recognize that such an approach could in some instances be infeasible or unduly burdensome. Accordingly, we will examine specific situations in the coming weeks and address industry concerns with the publication of a transition matrix.

Please note that in the May 22, 2014 Email Blast (link here), ORCF announced upcoming lender underwriter training. That training will address many topics that are covered in the handbook and provide participants with an opportunity to ask any questions that they may have.

Back to top

May 28, 2014

## DOCUMENT LINKS INCLUDED IN THIS BLAST

189. Handbook 4232.1
190. May 22, 2014 Email Blast on Lender Underwriting Training

Back to top

May 22, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of May 22, 2014

## *May 22, 2014 Contents*

2014 Lender Underwriter Training Sessions
Document Links Included In This Blast

## 2014 LENDER UNDERWRITER TRAINING SESSIONS

ORCF will offer two duplicate training sessions for Section 232 Approved Underwriters and for Underwriter Trainees. Each session will include two full days of content. The content will be focused on the new Section 232 Handbook, guidance on issues that may cause delays in application reviews, and provide the opportunity for underwriters to ask questions of seasoned ORCF staff. Each of the sessions will have the same agenda and curriculum, so **please plan to attend only one**. Space is limited, so register early.

The lender underwriter training will be provided free of charge, however, attendees will be responsible for their own transportation, lodging, meals and snacks.

Please follow these links to register:

**Seattle, WA**
July 8-9, 2014
Registration link (here).

**Minneapolis, MN**
July 29-30, 2014
Registration link (here).

Further training information can be found here on ORCF's Training Presentations website.

May 22, 2014

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

191. Seattle, WA Registration Link

192. Minneapolis, MN Registration Link

193. ORCF Training Presentation Website

Back to top

May 7, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Revised Update as of May 7, 2014

## *May 7, 2014 Contents*


New Keyword Feature in Email Blasts
Director, Office of Residential Care Facilities, FHA Office of Healthcare Programs (OHP) Named
Update Regarding Paperwork Reduction Act (PRA) Process
Sample 241(a) Documents Posted Online
Use of New Documents in Application Submission
Updated Firm Application Checklist Posted Online
New Construction, Substantial Rehabilitation, Blended Rate and 241(a) Legal Documents
Modification in Contractor Processing:
Section 106 Historic Preservation Reviews
24 CFR 232.7 "Bathroom" Waiver
Loan Committee Relies on Trailing 12 (T-12) Data
Revision to New Document Implementation Matrix
Adoption of New Phase I Environmental Site Assessment Standard
Financial Statements
FROM THE CLOSING CORNER
- Executed Firm Commitments to HUD Underwriter and HUD Closer
- "NEW" ORCF Documents and ORCF Closings – Please Remember!
- Transaccess Mailbox

Document Links Included In This Blast


## NEW KEYWORD FEATURE IN EMAIL BLASTS

Beginning with this Email Blast (April 30, 2014) ORCF is adding a new Key Word feature at the end of every Email Blast article. This feature will make it easier to search ORCF Email Blasts as well as help with the indexing of Email Blasts on the newly updated ORCF Program website. The Email Blast index and past Email Blasts can all be found here.

***Keywords:*** *Index, Search, Past Email Blasts*

Back to top

## DIRECTOR, OFFICE OF RESIDENTIAL CARE FACILITIES, FHA OFFICE OF HEALTHCARE PROGRAMS (OHP) NAMED

Roger Lewis has now been named as the Director, Office of Residential Care Facilities (ORCF). Roger Lewis is a highly respected leader in OHP, most recently serving as Acting ORCF Director, overseeing sound underwriting and asset management for residential/healthcare facilities on behalf of ORCF's mortgage insurance program. Roger offers unique expertise, intelligence and keen insight in all of his efforts--- serving in FHA for over twenty-five years. Please join us in welcoming Roger to his new position in OHP.

***Keywords:*** *ORCF Management, Director*

Back to top

## UPDATE REGARDING PAPERWORK REDUCTION ACT (PRA) PROCESS

When HUD published the ORCF Document collection in March 2013, the initial expiration date listed under each document's OMB approval number was approximately just one year following the documents' effective date. This was a shorter effective term than the more typical three-year effective period for PRA-processed documents. The reason is that the Department had not yet worked through certain electronic document submission matters, and a decision was made to provide for a longer effective period *after* the electronic submission matters were addressed. Thus, on September 10, 2013, HUD published a Federal Register Notice specifically setting forth the proposed electronic submission policy and invited public comment. After the 60-day comment period elapsed, with no comments received, HUD then published its second Federal Register Notice on the collection on February 27, 2014. This second publication repeated the proposed electronic submission policy, and added the newly revised Intercreditor Agreement; it allowed for a 30-day public comment period. Public comments have been received and are being reviewed.

Some commenters addressed other documents among the 115 PRA documents--documents other than the Intercreditor Agreement--and HUD is endeavoring to respond to those comments as well. HUD appreciates all the formal comments, and the patience shown by the industry as both HUD and the industry acclimate to the use of new documents. The 2013 revisions represented the first comprehensive 232 program document update in a great many years, and involved many improvements. HUD anticipates that

the upcoming publication, with revisions suggested by commenters, will further improve the documents. Moreover, although PRA-approved documents cannot be continuously revised and republished, HUD also recognizes that there may be substantial unique circumstances in a particular transaction that make a PRA document unworkable, and HUD would in those circumstances address any essential edits. HUD anticipates republishing documents shortly, with the new OMB approval and inclusion of the revised electronic submission policy, and that the effective period will be for a full three years from the upcoming publication date.

***Keywords:*** *Paperwork Reduction Act, PRA, New Documents*

Back to top

## SAMPLE 241(A) DOCUMENTS POSTED ONLINE

Section 241(a) of the National Housing Act provides independent authority for mortgage loan insurance. ORCF historically has not had separate 241(a) documents and instead program participants would revise the Section 232 sample documents to fit the details of a transaction. Please note that ORCF has posted sample 241(a) loan documents to its website; the current sample documents were drafted for a situation involving different lenders for the original and supplemental loans. This will not be the situation for many 241(a) transactions, and therefore examples of additional scenarios may be added as sample documents in the future.

Since the 241(a) documents are sample documents (rather than PRA-approved documents), these documents are negotiable. ORCF is generally amenable to transaction-specific changes as well as changes to the Building Loan Agreement to reflect whether the work involves an addition or renovations. ORCF recognizes that other standard changes will also be necessary. These include: (a) changes to the Healthcare Regulatory Agreement – Borrower (HUD-92466-ORCF) to (i) permit combining the replacement reserve for the 241 loan and the replacement reserve for the first mortgage loan and (ii) to recognize that there would be only one residual receipts account for the project; (b) changes in the Operator Lease Addendum to reflect the existence of two loans; and (c) corresponding changes to the Lender's Certificate to reflect the changes made.

With the publication of the OMB-approved Section 232 documents, and requirements of the Strengthening Accountability Rule which state that the original transactional documents remain in place, Borrowers completing a Section 241(a) transaction will be subject to two different regulatory agreements. ORCF expects that a Borrower would comply with its

obligations under both regulatory agreements by meeting the requirement that is more stringent. As an example, although the most recent regulatory agreement may allow for the more frequent distribution of surplus cash, the original regulatory agreement may allow for only semi-annual distributions, and thus would prevail.

***Keywords:*** *Documents, Sample Documents, Application Processing, 241(a)*

Back to top

## USE OF NEW DOCUMENTS IN APPLICATION SUBMISSION

Lenders are advised to use the approved ORCF forms on the ORCF program document webpage (here) when submitting Firm Applications to ORCF. This includes the new HUD-92264a-ORCF, Maximum Insurable Loan Calculation. Lenders are not to change these forms. If there are items that are not applicable to a particular deal, then indicate "N/A" on the form template; do not delete or revise these forms. If the ORCF underwriter determines that the form template has been changed in the Firm Application submission, **the entire application will be returned and placed at the end of the queue.**

Additionally, the use of the OMB-approved new ORCF documents is also required for all new transactions (unless the New Document Implementation Matrix indicates otherwise), and Lenders are therefore reminded to use those new documents whether they are submitting applications for refinance, new construction, TPAs, reserve draws, Exigent Health and Safety Certifications, etc. It is not acceptable to mix old and new documents in an application (except in circumstances where existing AR financing or master lease transactions are being modified, as indicated by the New Document Implementation Matrix).

We are striving for high quality, consistent reviews. Reviewing documents that have been altered from the standardized template requires additional time will slow down movement of Firm Applications through the queue.

***Keywords:*** *Documents, Application Processing, 92264a*

Back to top

## UPDATED FIRM APPLICATION CHECKLIST POSTED ONLINE

ORCF has made edits to the Firm Application Checklists posted on the Section 232 Program website. The edits are predominately Scrivener's

Errors, but there are also some corrections and clarifications included, to ensure consistency with other documents and policies.

***Keywords:*** *Documents, New Documents, Application Processing*

Back to top

## NEW CONSTRUCTION, SUBSTANTIAL REHABILITATION, BLENDED RATE AND 241(A) LEGAL DOCUMENTS

A comprehensive legal punchlist and checklist for 232 new construction, substantial rehabilitation, and blended rate transactions have been posted on ORCF's website. For ease of reference, we have provided a hyperlink to the HUD Attorney Closing Checklist here and to the Attorney Closing Punchlist here. Section 241(a) projects should use the HUD Attorney Closing Checklist here. The updated legal punchlist and checklist should be used for projects receiving firm commitments dated on or after May 11, 2014.

Effective immediately (and similar to Section 223(f) and 223(a)(7) projects), OGC will complete their legal review after issuance of the firm commitment for New Construction, Substantial Rehabilitation, Blended Rate and 241(a) projects. OGC will only complete an "up front" legal review on projects with a master lease and/or accounts receivable financing. The instructions on the first page of the punchlist include a list of documents to be submitted for up front legal review. Please note that the ORCF underwriter may request an "up front" legal review in situations where a preliminary legal review would assist with a Loan Committee decision.

***Keywords:*** *Legal Punchlist, Legal Checklist, New Construction, Substantial Rehabilitation, Blended Rate, 241(a)*

Back to top

## MODIFICATION IN CONTRACTOR PROCESSING:

ORCF has modified the process of assigning loan applications to the underwriting contractor to address certain tracking and timing concerns. Previously, the application was assigned to the contractor and held in a pool until ORCF completed the appraisal and environmental review. The contractor would then assign the application to a contract underwriter. Going forward, ORCF will continue to assign the application to the contractor, but the contractor will proceed to assign the application immediately to the underwriter without waiting for the appraisal and environmental review to be completed. By eliminating this holding pool, the

contract underwriter will become the single point of contact and lenders will be able to track the application more easily.

***Keywords:*** *Contract Underwriter, Application Processing*

Back to top

## SECTION 106 HISTORIC PRESERVATION REVIEWS

Lenders and Third Party Phase 1 preparers 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 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, Historic Preservation, SHPO*

Back to top

## 24 CFR 232.7 "BATHROOM" WAIVER

In an Email Blast dated November 12, 2013, ORCF indicated that it would endeavor to provide expedited processing of requests for waivers of 24 CFR 232.7 that met certain criteria. HUD has found that we are not able to make a full and fair determination prior to the full underwriting of the mortgage insurance application packages. Accordingly, the Bathroom Waiver request will be reviewed by the HUD Underwriter concurrent with the mortgage insurance application review process. This procedural adjustment is being made in light of the fluidity of the residential care market that includes, but is not limited to, States' implementation of the Olmstead Act, the Centers of Medicare and Medicaid's new rule affecting eligibility for Medicaid waivers (here), and the project's future marketability. Requests for waivers of 24 CFR 232.7 "Bathroom" will only be approved in unique and exceptional circumstances.

HUD previously articulated criteria that would facilitate expedited processing. Although ORCF can no longer offer expedited processing, the criteria previously articulated are still relevant in ORCF's consideration of a request. Those criteria are:

1. The request is for Memory Care residents who are located in a separate, secured, and locked area,
2. The Memory Care residents need full assistance and/or supervision while bathing,
3. Each resident's room contains a half bathroom,
4. For every six residents there is at least one full bathroom,
5. The residents do not reside in 3 or 4 bedroom wards, and
6. The residents will not access their bathroom through a public corridor

Lenders and borrowers that present mortgage insurance application packages that are not in compliance with the regulation accept the full financial risk of processing and submitting the loan applications. Lenders and borrowers must take into consideration that the waiver request (even if it fits within the criteria articulated above) may not be approved and must be prepared to present a plan to ORCF that brings the facility into compliance with 24 CFR 232.7 "Bathroom."

***Keywords:*** *24 CFR 232.7, Bathroom waiver*

Back to top

## LOAN COMMITTEE RELIES ON TRAILING 12 (T-12) DATA

ORCF has long emphasized the importance of actual trailing twelve (T-12) month data (as in, for example, Email Blasts of June 26, 2013, September 1, 2011, and May 4, 2010). We urge lenders to include this trailing twelve month NOI information early in the process, and to update it as appropriate, so that the Loan Committee can readily review the most recent actual historical data. This will allow for fair consideration of the application and avoid unanticipated delays.

***Keywords:*** *Trailing Twelve, T-12, NOI*

Back to top

## REVISION TO NEW DOCUMENT IMPLEMENTATION MATRIX

ORCF published its New Document Implementation Matrix in the November 12, 2013 Email Blast. The AR Financing Transition Policy of the matrix,

starting at the bottom of page 1 (here), has been revised to clarify that "all new ***AR related*** documents" (rather than "all new documents") are required for all new accounts receivable lines submitted on or after July 12, 2013, and for previously approved accounts receivable lines that undergo a Substantial Change (as defined therein).

***Keywords:*** *Documents, AR Financing, New Document Implementation Matrix*

Back to top

## ADOPTION OF NEW PHASE I ENVIRONMENTAL SITE ASSESSMENT STANDARD

The Office of Housing – Federal Housing Administration has officially adopted ASTM E 1527-13 as the required standard for Phase I Environmental Site Assessments for all programs. A Federal Register Notice implementing the new standard was published on April 16, 2014 and is available here. As a result, wherever ASTM E 1527–05 is referenced in Office of Housing-FHA guidance, participants in Office of Residential Care Facilities programs must use ASTM E 1527–13. The effective date is May 16, 2014. Submissions before that date may use either the new standard or ASTM E 1527-05.

***Keywords:*** *Phase I, Environmental Site Assessment, ASTM E*

Back to top

## FINANCIAL STATEMENTS

**Borrower/Owner:**
ORCF has had a number of inquiries by owners of projects with Section 232 Insured mortgages asking if they are required to file an audited financial statement in light of the issuance of Notice H 2013-23. The answer is YES. All owners are required to file an audited financial statement in the REAC-FASS system. Notice H 2013-23 (here) sets forth an exception to filing audited financials for projects with less than $500,000 in combined federal financial assistance. Because Section 232 mortgage insurance is considered federal financial assistance and no Section 232 projects currently in ORCF's inventory had original FHA mortgages of less than $500,000, this exception thus does not apply to any existing Section 232 loan. Input of the financial statements are due into the REAC-FASS system 90 (ninety) days after the end of the fiscal year. For projects whose fiscal year ended on December 31, 2013, the Office of Housing gave a global extension to April 30, 2014.

**Lessee/Operators**
Currently, lessee/operators may or may not be required to file an annual financial statement – depending upon the language in the particular project's lessee/operator Regulatory Agreement. These financial statements have the same due date as the borrower/owner financials statements – including the 30-day extension for those with a fiscal year ending December 31, 2013. These statements cannot be filed through the REAC-FASS system electronically at this time. For FY 2013 financial statements only, if the required financial statement has not already been submitted to HUD, please send the financial statement to 232operatorfinancialsfy2013@hud.gov. Email submissions are preferred, but hard copies will be accepted. Please send hard copies to:

Jacob K. Javitz Federal Building
ATTN: Simon Kleinman
26 Federal Plaza, Room 32-116
New York, NY 10278

ORCF is developing a portal to accept quarterly operating financials (whether there is an operating lease or not). We expect to beta test this over the summer and our goal is to have this fully operational for the 1st quarter of calendar year 2015.

**Guidance**
REAC-FASS assistance for filing financial statements can be found here as well as in the Industry User Guide. If the accountant is having problems submitting the audited financial statement, please contact the Account Executive assigned to the project.

***Keywords:*** *Annual Financial Statements, AFS*

Back to top

## FROM THE CLOSING CORNER

### Executed Firm Commitments to HUD Underwriter and HUD Closer
Per the email from the HUD Underwriter with the newly issued firm commitment attached, please remember to sign and have Borrower sign the firm commitment within 10 days of receipt and to scan a copy back to the HUD Underwriter. Please retain the original and submit with the closing package to the assigned HUD Closer.

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

May 7, 2014

**"NEW" ORCF Documents and ORCF Closings – Please Remember!**

For **ALL** ORCF Closings, please ensure new ORCF documents are used when submitting closing packages as this will expedite the review process. Check out the link to the ORCF webpage for all new documents here.

This includes the new HUD-92264a-ORCF, Maximum Insurable Loan Calculation for firm commitment amendments, as needed. ***ORCF will not be able to process amendment requests without this new form.***

***Keywords:*** *ORCF Documents, HUD-92264a-ORCF*

**Transaccess Mailbox**

When mailing the Transaccess CD/ documents (see February 2013 email update), please notify the assigned Closer by email and copy Transaccess@hud.gov , indicating it has been sent. In the email subject line, please title the email "Transaccess CD for [NAME OF PROJECT, FHA # and closing date.]"

***Keywords:*** *Transaccess Mailbox*

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

194. ORCF Email Blast Archive and Index Page
195. HUD Attorney Closing Checklist
196. HUD Attorney Closing Punchlist
197. 241(a) HUD Attorney Closing Checklist
198. ORCF Program Documents Page
199. State Historic Preservation Office Website
200. CMS Rule: State Plan Home and Community-Based Services, 5-Year Period for Waivers, etc.
201. New Document Implementation Matrix

202. Adoption of Updated Standard ASTM E 1527–13 Standard Practice for Environmental Assessments: Phase I Environmental Site Assessment Process Notice

203. Notice H 2013-23- Change in Annual Financial Statement (AFS) Submission Requirements for Some Multifamily Housing Projects

204. Financial Assessment of Multifamily Housing (FASS-MF) Guidance

Back to top

April 25, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of April 25, 2014

## *April 25, 2014 Contents*

Mortgagee Letter on Section 232 Portfolios and Master Leases is Published
Document Links Included In This Blast

## MORTGAGEE LETTER ON SECTION 232 PORTFOLIOS AND MASTER LEASES IS PUBLISHED

Mortgagee Letter 14-06: "Portfolio and Master Lease Guidance," effective April 17, 2014, – is available here. This Mortgagee Letter provides an overview of HUD's policy with respect to portfolios - multiple projects with the same ownership and master leases. This mortgagee letter supersedes previous guidance in HUD Housing Notice H 01-03: "Review of Health Care Facility Portfolios and Changes to the Section 232 Programs" issued in 2001, and Mortgagee Letter 00-42: "Headquarters Review of Certain Applications for Section 232 Mortgage Insurance" issued in 2000. This mortgagee letter also represents HUD's formal guidance on the use of master leases.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

1. Mortgagee Letter 14-06: "Portfolio and Master Lease Guidance"

Back to top

February 27, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of February 27, 2014

## *February 27, 2014 Contents*


PRA Notice Addresses Intercreditor Agreement Revisions and Electronic Document Submission Issues
Multifamily Delinquency and Default Reporting System (MDDR)
Global 30-Day Extension to Submit Annual Financial Statements (AFS) For All Owners Whose Fiscal Years Ended 12/31/13
Submission of Borrower Financials to HUD and Lender
Valuation Tool for Solar Arrays
Change of Revision Dates in Footer of Some ORCF Documents
Clarification on Interest Rate Reduction Submission Process
FROM THE CLOSING CORNER
- Closing Statements- Sources and Uses Page for 223(f) and 223(a)7 Closings
- Litigation/Docket Searches
- Closing Queues
- REMINDER - LAST STEP – Transaccess Information Needed!

Document Links Included In This Blast


## PRA NOTICE ADDRESSES INTERCREDITOR AGREEMENT REVISIONS AND ELECTRONIC DOCUMENT SUBMISSION ISSUES

Proposed revisions to the currently approved Intercreditor Agreement (Form HUD-92322 ORCF) were published on 2/27/14 in the Federal Register, as part of a Paperwork Reduction Act (PRA) Notice that includes a request for comments on the proposed optional electronic submission of documents. A link to the Notice is available here and a link to the Intercreditor Agreement form is available here.

The proposed revisions to the Intercreditor Agreement are the result of concerns raised by accounts receivable lenders following the document's publication in March 2013. To address those concerns, a working group was formed that included HUD (ORCF and OGC), accounts receivable lenders and FHA lenders. We look forward to receiving (through the PRA process) comments on these proposed revisions.

Back to top

## MULTIFAMILY DELINQUENCY AND DEFAULT REPORTING SYSTEM (MDDR)

The Office of Multifamily Housing Programs sent a memo on 12/19/13 entitled "Guidance for Servicer Watchlist Process". It can be obtained on the right hand side of the webpage displayed using the link here.

Please note that when the update to the MDDR system becomes operational, when entering a loan (including Section 232's) into MDDR, the system will require that the loan be rated as Doubtful, Substandard, Special Mention, or Pass/Watch. The memo outlines certain characteristics that should be considered by the lender when determining which rating to assign to the project. ORCF intends to revise this language to fit the unique characteristics of Section 232 loans in the future – and to remove characteristics that are particular to Multifamily loans such as SOI/QAS, reference to OAHP, etc. In the meantime, please use the broad ratings and characteristics outlined in the 12/19/13 memo and work with the project's Account Executive if you have any questions related to the particular rating assigned.

An email was sent by the Office of Multifamily Housing Programs, Asset Management Division on 02/26/14 to all registered users in MDDR with more details on this change.

Please also note that as loans approach election to assign status, it is very important that the default has been timely entered into the MDDR system. Moreover, if the loan is in default (with the lender actively pursuing a workout) and the lender intends to obtain an extension on an election to assign, an email must be sent to the project's Account Executive and Tim Coon making that request. Moreover, if approval of the extension is obtained, the lender must enter that extension into the MDDR system. Such extensions must be requested monthly for as long as the project is in a default status. Tim's email is timothy.r.coon@hud.gov.

Back to top

February 27, 2014

## GLOBAL 30-DAY EXTENSION TO SUBMIT ANNUAL FINANCIAL STATEMENTS (AFS) FOR ALL OWNERS WHOSE FISCAL YEARS ENDED 12/31/13

The Office of Housing has authorized a global 30-day extension to all owners whose fiscal years ended 12/31/13. This extension is being offered to allow owners and auditors additional time to adapt to the requirements of Housing Notice H 2013-23, and the FASSUB system release on December 6, 2013, that implemented revisions to the HUD Consolidated Audit Guide, Handbook 2000.04. Submissions with fiscal years that ended 12/31/13 will now be due on **April 30, 2014**.

Back to top

## SUBMISSION OF BORROWER FINANCIALS TO HUD AND LENDER

HUD regulation 24 CFR § 5.801 published on September 7, 2012, requires Section 232 borrowers and operators to submit their financials not only to HUD but also to the lender. This provision became effective for existing loans as of October 2012 and was not tied to issuance of new firm commitments or other new transactions. Although HUD has not yet published the guidance on a new submission format for quarterly operator financial submissions, the requirements for borrower financial statements has not changed. Currently, borrowers submit their financials to HUD via an online (FASS) system, which does not currently facilitate submission to lenders. As a result, borrowers and Lessee/Operators may submit paper copies of the forms to the lenders, in the format we have long prescribed. If the borrower and lender prefer electronic copies, HUD has no objection.

Back to top

## VALUATION TOOL FOR SOLAR ARRAYS

Solar Power Electric and Sandia National Laboratories have developed a new tool that assists appraisers in establishing the value of a property's solar-powered features. The tool, called PV Value® (photovoltaic value), works in a Microsoft Excel spreadsheet and is endorsed by the Appraisal Institute. A link to the spreadsheet, instructions, and video can be found here. The tool estimates the value of all the income from power generation, not just the expense offset or surplus power. ORCF finds this method of valuation helpful as it simplifies and standardizes the approach while addressing complexities such as the life of the installation, ongoing maintenance costs, local rates, etc. Lenders who choose to use this tool should remember to include typical market expenses for electricity in the NOI development so as

not to double count the benefit. Because the appraiser will have accounted for normal electrical expenses in their value, the value from the PV Value spreadsheet can be added to the overall value when calculating the maximum loan size by loan to value. Similarly, because normal electrical expenses will be used in developing the NOI, the annual income from the solar array can be added to the NOI in your Debt Coverage Ratio test.

Back to top

## CHANGE OF REVISION DATES IN FOOTER OF SOME ORCF DOCUMENTS

In the September 26, 2013 Email Blast, ORCF announced the correction of scrivener's errors (minor corrections) to a number of the new ORCF forms. At that time, we also updated the footers of those documents so that the revision date was changed to "(Rev. 08/13)". It later came to our attention that since these were minor corrections, and the forms were not materially revised, this revision date should not have been changed. Therefore, all of the document footers have now been reverted back to their original dates "(Rev. 03/13)". No other language changes were made to any of the documents other than this footer correction. Please note that you should always pull documents directly from HUDclips or the ORCF website (which links to HUDclips), rather than saving versions to your personal files, so that you are always using the most current version of the form.

Back to top

## CLARIFICATION ON INTEREST RATE REDUCTION SUBMISSION PROCESS

Exhibits with guidance on ORCF's Loan Modification/Interest Rate Reductions are housed on the Loan Servicing Guidance page of HUD's ORCF program website (here). As noted on the webpage, the Loan Modification submission should follow the Loan Modification Checklist and include the information from the Lender Analysis exhibit. The entire submission is to be sent electronically via email to: ORCFLoanModification@hud.gov. Please do not send these electronically submitted packages to any *other* email box as it potentially causes delays. We have a specialized IRR team and the aforementioned email box assists us in streamlining processing.

Additionally, we are asking that lenders and/or lender counsel communicate with the ORCFLoanModification@hud.gov inbox at least 48 hours in advance of any "drop-dead" date for Final documents to be executed, e.g. if there are strict timelines that need to be adhered to in order to effectuate the IRR

transaction. Final execution generally occurs out of our Washington, DC office. ORCF will work with you to have the modification documents executed by HUD in a timely manner; however, we ask that we have this advance notice to ensure a signatory is available, especially if the documents are being hand-delivered for execution on the spot. Some lender counsel make requests for execution of documents within the same day, which has presented problems given our other workload demands. We appreciate you working with us in planning for document execution while still meeting critical deadlines for the IRR.

Back to top

## FROM THE CLOSING CORNER

### Closing Statements- Sources and Uses Page for 223(f) and 223(a)7 Closings

Effective immediately, Closers will accept the **Sources and Uses** page from the form HUD-92264a-ORCF (Rev 03/13) as the loan closing statement required for 223(f) and 223 (a)7 closings. A *draft* Sources and Uses page will be accepted in the draft closing package, and Closers will ask for a final draft with final supporting documentation, to be due no later than the day before submission/mailing of the Note and Regulatory Agreements to HUD for signature. The *executed* Sources and Uses will be due no less than 2 business days before closing.

As previously set forth in the February 19, 2010 Email Blast and as required in the firm commitments, please remember:

1. The form must be signed by the Lender and the Borrower.
2. Supporting documentation - current payoff letter(s) and invoices must be provided (attached to the Sources and Uses for 223(a)7 loans, and attached to the Cost Certification for 223(f) loans), and all costs entered on the statement must be final. For example, under HUD Eligible Costs, prepayment penalty must be net of interest premium, critical repair costs must be the documented amount accepted by HUD, existing indebtedness must be the amount shown on the current payoff letter(s) as due at closing, first year MIP and HUD exam fee must be based on the final loan amount.
3. Lender escrows must be listed in Non-Eligible Costs, as required by Paragraph 9 of the firm commitment.

Failure to provide such information may result in a delayed closing.

Back to top

## Litigation/Docket Searches

To clarify and highlight, 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.

When there is "newly" discovered litigation ("newly" meaning not previously disclosed to ORCF in the application process), ORCF will ask that the Lender immediately address the following:

1. Name and discussion of each newly discovered lawsuit, including estimated potential liability;
2. Whether each newly discovered lawsuit is of the type covered by insurance or whether the lawsuit is for a claim not covered by insurance;
3. 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
4. Identify who bears the cost of defense of each newly discovered lawsuit and whether the insurance company is participating in the defense.

As required by the attorney's opinions, litigation searches must be run within 30 days of endorsement. While HUD will endeavor to promptly evaluate litigation, disclosure of litigation promptly to HUD will minimize the risks of delays in closing.

Back to top

## Closing Queues

While technically there is NO closing queue at the moment, ORCF anticipates that there may be one in the future due to the increasing number of projects with firm commitments that have not closed. ORCF is seeing a larger volume of requests for extensions, and the parties (lenders and lender counsel) have not been submitting draft closing packages as expeditiously as perhaps they could.

In order to avoid a large queue in the coming months, ORCF encourages parties to submit closing packages to HUD as soon as possible. Please continue to follow the closing assignment protocol of emailing

ORCFCloser@hud.gov when the HUD legal package has been mailed to the assigned HUD Closing Attorney.

ORCFCloser@hud.gov also manages extension requests for projects without a Closer assignment, but please note that if your project wishes to extend beyond 90 days for a 223(a)7 or beyond 60 days for a 223(f), the HUD Underwriter may require updated financials which will take time to review and process.

Back to top

**REMINDER - LAST STEP – Transaccess Information Needed!**

As mentioned in the August 28, 2013 Email Blast, ORCF has implemented a new method to obtain critical documents for each project following closing – The Transaccess Process. These critical documents are essential for the Account Executives to service the new loans. We thank all of those Lenders/Lenders' Counsel who have been diligently providing Compact Discs and Zip files with these documents. The post-closing procedure article in the August 28, 2013 Email Blast is reprinted here for your convenience. That article stated:

**New Post-Closing Procedure, EFFECTIVE IMMEDIATELY:**

1. **Following closing, a CD with PDF copies of closing documents must be mailed directly to Gregory Arthur at:**

   Gregory Arthur
   PSL, Inc., Document Imaging Specialist
   Department of Housing and Urban Development (HUD)
   451 Seventh St., S.W., Room No. B282
   Washington, D.C. 20410

2. Closing documents should be placed on the CD in the order of the Attorney Closing Checklist. Please use the checklist for 223(a)7 and 223(f) transactions available here.

3. Be sure to include the closing checklist used at closing on the CD.

4. *Lender/Lender Counsel should notify the Closer when the CD has been sent.*

ORCF appreciates your continued support in this endeavor to provide timely documents for our Account Executives.

February 27, 2014

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

205. PRA Notice Addressing Intercreditor Agreement
206. Intercreditor Agreement Form
207. Guidance for Servicer Watchlist Process Memo on Multifamily Housing Programs Webpage
208. PV Value® (photovoltaic value) Valuation Tool
209. Loan Modification/Interest Rate Reduction Guidance on ORCF Loan Servicing Guidance Home Page
210. HUD Attorney Closing Checklist

Back to top

January 28, 2014

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of January 28, 2014

## *January 28, 2014 Contents*


ORCF Management Update
Clarification On Criteria For 24 CFR 232.7 (Formerly 232.3) "Bathroom" Waiver Reviews
Improved Section 232 Program Website Now Available
FROM THE CLOSING CORNER
Firm Commitment Extensions for Projects Without a Closer Already Assigned
Document Links Included In This Blast


## ORCF MANAGEMENT UPDATE

As many of you know, Kelly Haines was selected as the Multifamily Director of the Fort Worth and Kansas City Hub offices in December 2013. Kelly served as the Director of the Office of Residential Care Facilities (ORCF) for the past year and a half. Under her tenure, ORCF significantly improved its existing business processes and organizational structure to accommodate growing demand and changing market conditions while improving employee morale and professional development. ORCF will miss Kelly, but we are glad she is still with the HUD family!

Roger Lewis is now the Acting Director, OHP-Office of Residential Care Facilities program. Many of you know Roger in his most recent position as Director of the Production Division of ORCF. Roger is a highly respected leader in the Office of Healthcare Programs (OHP), who has overseen record-breaking and sound underwriting for residential/healthcare facilities on behalf of our mortgage insurance program. Roger offers unique expertise and keen insight in all of his efforts--- serving in FHA for over twenty-five years.

Patrick Berry is now the Acting Director of Production, OHP-Office of Residential Care Facilities program. Patrick has over 30 years in serving

FHA, most recently as a workload manager in the Production Division. Please join us in welcoming both Roger and Patrick to their new positions in OHP.

Back to top

## CLARIFICATION ON CRITERIA FOR 24 CFR 232.7 (FORMERLY 232.3) "BATHROOM" WAIVER REVIEWS

The November 12, 2013 Email Blast provided the requisite criteria for expedited reviews of bathroom waivers. If a waiver request does not meet the criteria detailed in the November 12, 2013 Email Blast, the waiver must be sent to the assigned ORCF Underwriter for review ALONG with the documentation outlined in the June 27, 2012 Email Blast. Ensuring submission of the required documentation will prevent delays in reviewing the waiver request. Please keep in mind, not all waiver reviews or expedited reviews may be approved. Further, in as much as a regulatory matter is involved, a waiver, if any, must come from the FHA Commissioner.

Back to top

## IMPROVED SECTION 232 PROGRAM WEBSITE NOW AVAILABLE

In the September 26, 2013 Email Blast, ORCF mentioned that an improved Section 232 program website was being developed. The newly formatted website is now available. The website has been updated and improved to be easier to use and more client-friendly. While there isn't a significant change in the content, the navigation has been changed to be more intuitive. Content that was buried in layers of links is now found on the front page, lists are now organized alphabetically or by transaction stage, and indexes have been created to get lenders to the information they need quickly and efficiently. The new website can be found here. Redirector links have been placed on the old pages to help you find the content in its new location. Please change your bookmarks accordingly.

If you have any comments or suggestions for improving our web site, please send them to ORCFWebTeam@hud.gov.

Back to top

## FROM THE CLOSING CORNER

### Firm Commitment Extensions for Projects Without a Closer Already Assigned

For firm commitment extensions for projects that do NOT have an ORCF Closer already assigned, please send the request to extend on Lender letterhead to ORCFCloser@hud.gov.

The lender's request to amend the Firm Commitment to extend the deadline must include the reason for the delay and an explanation of how the delay can be resolved during the extension. Amendments extending the time of the Firm Commitment must also include the following MAP Guide 11.2(G) statement that there has been no material change in the project or the underwriting of the project: "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."

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

1. Section 232 Program Website

Back to top

December 19, 2013

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of December 19, 2013

*December 19, 2013 Contents*


Section 241(a): Land Purchases and Renovation Loans
Update on the Renewed Due Diligence Contract
Section 106 (National Historic Preservation Act) – Tribal Consultation
A Reminder On Starting Site Work
FROM THE CLOSING CORNER
- Revised HUD Attorney Closing Punchlists for 223(f)s and 223(a)(7)s Applicable to Commitments On or After January 13, 2014
- Reminder - Firm Commitment Amendments and Reserve Account Balances - 232/223(f) & 223(a)(7)

Document Links Included In This Blast


## SECTION 241(A): LAND PURCHASES AND RENOVATION LOANS

Land Purchases:

Due to recent inquiries, ORCF would like to provide the following clarification of existing policy pertaining to the inclusion of land purchases with Section 241(a) Supplemental Loans. Borrowers proposing to include a land purchase with a Section 241(a) Supplemental Loan may be able to do so as long as the addition or improvements are funded with the proceeds of the supplemental loan, and the construction is commenced within a reasonable time from closing. Further, the 241(a) supplemental loan on an existing 232 project may not exceed the maximum mortgage amount prescribed under Section 232 of the National Housing Act.

Renovation Loans:

Borrowers proposing to renovate their facilities through the Section 241(a) Supplemental Loan program may run into loan sizing issues under Criterion D of the Maximum Insurable Loan Calculation (Form HUD-92264A-ORCF) if no additional beds or common space is being added. Without new beds or common space, the as-proposed value may not be much greater than the as-is value. If a borrower is willing to spend more on renovations than the resulting increase in value, Criterion D might drastically reduce the Maximum Insurable Loan.

In several instances, ORCF has received a request for waiver to allow the loan to value (LTV) limits to be applied to the overall stabilized value "as complete", instead of limiting the LTV to the "as complete" value minus the "as is" value, as prescribed for a 241(a) loan. ORCF has considered such waivers on a case-by-case basis and, to date, has only granted it when the 241(a) loan proceeds were used solely to renovate the existing facility and the proposed renovation did not alter the existing building footprint or unit mix. If a waiver is requested and approved, the lender is still required to complete all other 241(a) loan criteria noted in Form HUD-92264a-ORCF. Please note that no waiver will be granted where the "as proposed" after rehabilitation value exceeds the ORCF benchmarks of 75% for ALF and 80% for SNF's (80%/85% for non-profits).

Back to top

## UPDATE ON THE RENEWED DUE DILIGENCE CONTRACT

As mentioned in the October 25, 2013 Email Blast, the due diligence contract was renewed. Pursuant to the terms of the underwriting contract, contract underwriters will only be assigned either 223(a)(7) or 223(f) applications **after** ORCF specialists have completed their review of the appraisal, environmental (4128) and APPS (2530) components of the process. A special team within ORCF has been assembled to conduct this review as expeditiously as possible. However, there will always be some delay between the date the project is assigned to the contractor and the date the contractor assigns the project to one of its underwriters.

Back to top

## SECTION 106 (NATIONAL HISTORIC PRESERVATION ACT) – TRIBAL CONSULTATION

As part of a review required under Section 106, HUD is required to consult with federally-recognized Native American tribes when a project may affect a historic property of religious and cultural significance to the tribe. The types of activities requiring consultation include: ground disturbance (digging),

new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building with significant tribal association, and transfer, lease or sale of historic properties of religious and cultural significance.

On these types of Section 232 projects, ORCF completes the consultation with Tribes that are listed in the Tribal Director Assessment Tool (TDAT) as interested in the project's geographic area. A link to TDAT is available here. This consultation must be completed by HUD staff, and may not be completed by lenders or their environmental consultants as Section 106 requires that the contact be directly between HUD and the Sovereign Indian Nation.

When completing the Tribal Consultation, ORCF allows Tribes at least 30 days to respond. Since Form HUD-4128 requires HUD to make a determination regarding a project's impact on historic and archaeological resources, HUD cannot complete the 4128 until either all notified tribes have responded, or the 30 day period has expired. ORCF initiates the Tribal Consultation process for projects in the "Other Queue" while projects are in the queue. For Section 223(f) and 223(a)(7) projects that meet the requirements for a Tribal Consultation, the lender should notify Mike Luke when submitting the electronic version of the application so that ORCF can begin the Tribal Consultation immediately.

Back to top

## A REMINDER ON STARTING SITE WORK

Lenders are reminded that site activities are not permitted without prior HUD approval. This applies to the new construction and rehabilitation programs as well as the Section 223(f) and 223(a)(7) programs. Undertaking site activities prior to completion of the Form HUD-4128 may affect our ability to conduct the required environmental review. Lenders should contact LeanThinking@hud.gov with any specific project related questions.

Back to top

## FROM THE CLOSING CORNER

### Revised HUD Attorney Closing Punchlists for 223(f)s and 223(a)(7)s Applicable to Commitments On or After January 13, 2014

The HUD Attorney closing punchlists for 223(f)s and 223(a)(7)s transactions have been revised to correct deficiencies. The punchlists are applicable to

projects receiving commitments on or after January 13, 2014 and are available on ORCF's website here.

Back to top

**Reminder - Firm Commitment Amendments and Reserve Account Balances - 232/223(f) & 223(a)(7)**

As originally published in the August 19, 2010 Email Blast, the ORCF Closer may allow small increases less than $10,000 to the reserve for replacement account to avoid small mortgage reductions as a result of cost certification/closing statement. Any proposed increase to the replacement reserve account above $10,000 should include an explanation of the proposed uses (line item and timing) for approval by the ORCF Underwriter.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

1. Tribal Directory Assessment Tool
2. HUD Attorney Closing Punchlists for 223(f)s and 223(a)(7)s

Back to top

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of November 12, 2013

## *November 12, 2013 Contents*

Adjustments to Lease Payments
Criteria for 24 CFR 232.7 (Formerly 232.3) "Bathroom" Waivers
National Fire Protection Association (NFPA)-13 Sprinkler Systems Compliance
New Document Implementation Matrix
Environmental Review Reminders
Please Keep Electronic Documents Under 50 Megabytes (MB)
Verification of Refund Amounts Before Submissions
Check Transmittal Letter Eliminated
Document Links Included In This Blast

## ADJUSTMENTS TO LEASE PAYMENTS

HUD recognizes that operator lease payments occasionally need to be adjusted as circumstances change (such as changes in property taxes or insurance). Often these changes, though necessary, are not material from a mortgage insurance standpoint. In this regard, the new Healthcare Regulatory Agreement—Operator (Form HUD-92466A-ORCF) states that prior HUD approval is needed only for amendments to lease payment provisions that materially change the lease payment. We wish to clarify that, from HUD's standpoint, an amendment changing the lease payment is not significant as to require a formal submission to/approval from HUD as long as (1) the proposed change in lease payment maintains a lease coverage of 1.05 or greater, (2) the loan is not in default, and (3) there are no other concurrent material changes to the lease agreement. *When these circumstances are met, HUD need not be notified of the change. This applies whether the operator regulatory agreement is the most recently published form or the earlier form. When, however, any of these three circumstances are not met, the assigned Account Executive must be contacted for approval.*

Back to top

## CRITERIA FOR 24 CFR 232.7 (FORMERLY 232.3) "BATHROOM" WAIVERS

The June 27, 2012 and April 30, 2012 Email Blasts outlined the procedures to help expedite the submission and consideration of requests for waivers of 24 CFR 232.7 Bathroom (formerly 24 CFR 232.3). This expedited approach is, however, not feasible in all situations. Accordingly, please follow that approach only if all the following general criteria are met:

7. The request is for Memory Care residents who are located in a separate, secured, and locked area,
8. The Memory Care residents need full assistance and/or supervision while bathing,
9. Each resident's room contains a half bathroom,
10. For every six residents there is at least one full bathroom,
11. The residents do not reside in 3 or 4 bedroom wards, and
12. The residents will not access their bathroom through a public corridor.

For waivers request that do not meet all of the above criteria, the Bathroom Waiver request will be reviewed by the HUD Underwriter concurrent with the mortgage insurance application review process. It is important to remember that, regardless of which submission approach applies, 24 CFR 232.7 "Bathroom" waivers must meet HUD's legal sufficiency standards, as determined by HUD's Office of General Counsel, and be approved by the FHA Commissioner. Consequently, the processing times are considerably longer than standard program waivers.

Back to top

## NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)-13 SPRINKLER SYSTEMS COMPLIANCE

As previously mentioned in the April 29, 2013 and August 28, 2013 Email Blast, CMS has required that all nursing homes be fully sprinklered per the 1999 Edition of the NFPA-13 Standard for the Installation of Sprinkler Systems by August 13, 2013. HUD must honor CMS's requirement and therefore cannot add nursing homes to our portfolio that are not NFPA-13 compliant. Please ensure NFPA-13 compliance when you submit your application. Lenders should address this issue in the Lender Narrative. If you have submitted a mortgage insurance application on a nursing home that is not listed as fully sprinklered on the CMS website please discuss this issue with your assigned underwriter. Moreover, if you are considering

submitting an application before the compliance is shown on the CMS website, please contact Lean Thinking.

Back to top

## NEW DOCUMENT IMPLEMENTATION MATRIX

ORCF has created a matrix to provide clarification on the transition to the new documents as it relates to some special issues (e. g. Master Leases, AR Financing, TPAs, etc.). This matrix (found here) explains various scenarios and explains when to use the new documents and when some or all of the old documents may be used.

Back to top

## ENVIRONMENTAL REVIEW REMINDERS

ORCF has received several mortgage insurance applications that provide only a "draft" Phase I Environmental Site Assessment (ESA). "Draft" environmental assessments are not acceptable; a final, current Phase I ESA must be provided at the time of the application submission. This is consistent with the guidance provided by the Office of Multifamily Housing in Chapter 9 of the Revised Map Guide.

The Phase I Environmental Site Assessment must encompass the total project site. A Phase I ESA that involves less than the entire property is not acceptable. The land area included in the ESA should match the area defined by the legal description of the property.

When a project's floodplain location is designated as Zone X, lenders and environmental consultants are reminded to indicate whether the area is designated by FEMA as Zone X (shaded) or Zone X (unshaded). Zone X (shaded) is considered an area of moderate flood hazard and, pursuant to 24 CFR Part 55, HUD must complete an 8-Step Decision Making Process (either an abbreviated or full process as applicable) as part of its environmental review for healthcare facilities. Zone X (unshaded) is designated as an area of minimal flood hazard and does not require an 8-Step Process.

Finally, please include all communication to and from the State Historic Preservation Officer (SHPO) with the mortgage insurance application. Any response from the SHPO that the lender or its agent receives after the application has been submitted should be provided to ORCF upon receipt. Failure to forward a SHPO response to ORCF in a timely manner may cause delays in the environmental review process.

Back to top

## PLEASE KEEP ELECTRONIC DOCUMENTS UNDER 50 MEGABYTES (MB)

As mentioned in the May 31, 2012 Email Blast, ORCF is still receiving documents that are over 50 MB. Due to our server limitations, please limit document size to 50 MB. Our servers cannot handle anything over 50 MB. Also, ORCF email limits are 15 MB per email, so if you include attachments in emails, please keep them under 15 MB.

Back to top

## VERIFICATION OF REFUND AMOUNTS BEFORE SUBMISSIONS

It has come to our attention that more than a quarter of 223(a)(7) application fee refund requests received by ORCF are for the incorrect amount. ORCF asks that lenders please verify the refund amount before submitting their request. If it is incorrect, ORCF will need to contact you, and the processing of the refund request may be delayed. Also, since ORCF refunds exact amounts and does not round calculations, please be exact in your calculation. A great way to check your 223(a)(7) refund is the following method:

1. Take .15% (or .0015) of the final mortgage amount, and
2. Subtract that number from the original application fee amount paid

The difference is the amount due.

Back to top

## CHECK TRANSMITTAL LETTER ELIMINATED

When the new documents came out earlier this year, ORCF merged the check transmittal letter with the electronic certificate of submission. A separate check transmittal letter is no longer needed. The new merged document is Certificate for Submission of Electronic Firm Application (Form HUD-90022-ORCF) found here.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

2. New Document Implementation Matrix

3. Certificate for Submission of Electronic Firm Application (Form HUD-90022-ORCF)

Back to top

October 25, 2013

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of October 25, 2013

*October 25, 2013 Contents*

Post Shutdown Update For Industry Partners and Other Stakeholders

## POST SHUTDOWN UPDATE FOR INDUSTRY PARTNERS AND OTHER STAKEHOLDERS

Across FHA, we worked diligently during the 16-day government shutdown to support the market, consumers, and stakeholders. While the ultimate impact of the government shutdown on the nation's economy remains to be seen, we are very pleased to be fully operational and wanted you to know that we will be working hard to bring business back to normal. Indeed the goal of the Office of Residential Care Facilities (ORCF) is to return to normal operations within the next 30 to 45 days. As we in ORCF begin to resume normal operations, we thought it important to share with our industry partners how we intend to execute our plan after the recent Government shutdown. As you know, on October 17, 2013, the President signed P.L. 113-46, providing continuing appropriations and loan commitment authority through January 15, 2014, which allowed all staff to return to work on October 17, 2013.

Now that we are all back, ORCF will first assess the number of applications received during the shutdown and load the new projects into the system. Our staff is also focusing on issuing commitments on the 46 carryover projects ($278.6M) from last fiscal year. Lenders have been contacted to confirm viability of the loan prior to issuance of the commitment. Meanwhile, regular loan committees will resume on October 29th on a first come, first serve basis, depending on the location of the application within the respective queues. Please note that the prioritization

criteria have been eliminated. ORCF will continue to hold national loan committee three days per week (Tuesday, Wednesday and Thursday).

On another note, the closing team, along with the Office of General Counsel, did an incredible job during the shutdown in coordinating and helping to facilitate closings. Due to their ongoing efforts, ORCF does not expect long delays in HUD Closer assignments and will continue to use ORCFCloser@hud.gov to trigger the HUD Closer assignment.

Additionally, the due diligence contract has been renewed. Contract underwriters will be assigned either 223(a)(7) or 223(f) applications, as needed. A special team of ORCF professionals has been assembled to work through the appraisal, environmental (4128) and APPS (2530) components of the process to assist the contractors in processing these applications as expeditiously as possible.

Please keep an eye on ORCF's weekly web posting for updates on your applications in the queue. Also, other statistical information on ORCF applications received, commitments issued and endorsements as well as FY end reports are available here:
http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page

Asset Management staff is working to assess and prioritize the outstanding work, and we hope to resume normal operations as soon as possible. Prior to the shutdown there were over 237 outstanding Asset Management requests pending approval. These Asset Management requests included escrow draws, TPAs, Operator Changes, Loan Modifications, along with other transactions requiring HUD approval. Asset Management staff will prioritize time sensitive requests (non-critical repairs, initial operating deficit, reserve for replacement) and respond as soon as possible. Please call your Account Executive if you have a specific request to discuss.

On the Policy side, our staff is working to finalize the Intercreditor Agreement, the 232 Handbook, and the Asset Management Document Implementation reference grid. Updates on these topics will be noted in future email blasts.

The Office of Residential Care Facilities had an incredibly productive year!

The fiscal year ended with 806 firm commitments issued for $6.4B, compared to 792 firm commitments in FY 2012. ORCF carried over 46 commitments for $278M that were approved in FY 2013, but were unable to

issue the commitment due to lack of commitment authority. The low interest rate environment continued through FY 2013 resulting in 522 commitments issued under the 223(a)(7) program. Additionally, ORCF was able to insure 250 loans under 223(f) and 34 new construction and other loans with a total of $6.4B in commitments. The closing team was able to close 766 projects this past year, compared to 706 projects in FY 2012.

The Asset Management team processed over 3,340 escrow draw requests, 115 TPAs (transfer of physical assets), 70 change of operator or lease terms requests, and many other transactions requiring HUD approval. The Risk Mitigation team was successful in addressing defaults and helping facilitate successful workouts that averted claims to the insurance fund.

ORCF would like to thank each of you for making this such an incredible year and helping to achieve this level of productivity. We appreciate this partnership and look forward to another great year!

Back to top

September 26, 2013

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of September 26, 2013

*September 26, 2013 Contents*


Backlog Due to Commitment Authority Shortfall and Closing
Updated Section 232 Documents – Scrivener's Errors
Identifying Personally Liable Principals for the Healthcare Regulatory Agreement – Borrower Provision #38
Section 232 Loan Modifications - Revised Sample Format for Lender Analysis and Recommendations on HUD.GOV
Upcoming Improvements to the ORCF Webpage
FROM THE CLOSING CORNER
Reminders
Document Links Included In This Blast


## BACKLOG DUE TO COMMITMENT AUTHORITY SHORTFALL AND CLOSING

When additional commitment authority is allocated to HUD, ORCF expects to issue approximately 40 Firm Commitments in October for projects that were placed on hold when commitment authority ran out in FY 2013, provided there are no material adverse changes. Closings depend on the quality of packages submitted to the HUD Attorney and HUD Closer and ultimately the availability of the HUD Attorney. When closing packages are **complete** and ready to be submitted, please send in the legal package to the assigned HUD Attorney and email ORCFCloser@hud.gov for a HUD Closer assignment. As always, there will be no closing priorities, and closing assignments will be made in the order in which full and complete packages are received.

Back to top

September 26, 2013

# UPDATED SECTION 232 DOCUMENTS – SCRIVENER'S ERRORS

ORCF, with the assistance of internal and external stakeholders, has identified various scrivener's errors in the published documents. As allowed by OMB, ORCF has corrected these errors, and published the revised documents on our website, as well as on HUDclips. These edits are to correct typographical errors, make minor corrections and/or make clarifications; they do not represent changes to policy or the meaning of a document.

Each updated document is listed in the table below, along with the page number and description of where the corrections may be found.

| Form Name | Form Number | Page | Scrivener's Error |
|---|---|---|---|
| **Consolidated Certifications** | | | |
| Consolidated Certification—Lender | HUD–90012–ORCF | Part IV, page 3 | A line item was added in the Identities of Interest section, allowing for "other" Identities of Interest to be identified, outside of those listed specifically on the form. |
| Consolidated Certification—Borrower | HUD–90013–ORCF | Part VIII, page 5 | |
| Consolidated Certification—Principal of the Borrower | HUD–90014–ORCF | Part VI, page 4 | |
| Consolidated Certification—Operator | HUD–90015–ORCF | Part VII, page 5 | |
| Consolidated Certification—Parent of Operator | HUD–90016–ORCF | Part VI, page 4 | |
| Consolidated Certification—Management Agent | HUD–90017–ORCF | Part VII, page 5 | |
| Consolidated Certification—Contractors | HUD–90018–ORCF | Part V, page 4 | |
| **Lender Narratives** | | | |

| | | | |
|---|---|---|---|
| Lender Narrative – 223a7 | HUD-9001-ORCF | 6 | Clarifications were announced via Email Blast to better communicate who may conduct a site inspection. The Inspecting Underwriter qualifications, as described below, were initially omitted from this document, so the correction here is not adding new policy, but is correcting the omission that describes and clarifies who may conduct inspections. |
| Lender Narrative – 223f | HUD-9002-ORCF | 17 | Clarifications were announced via Email Blast to better communicate who may conduct a site inspection. The Inspecting Underwriter qualifications section was updated to be in line with previously published guidance describing and clarifying who may conduct inspections. Language referencing a "MAP Approved Underwriter" was removed from this section as well, since it no longer relates to the Section 232 program. |

| | | | |
|---|---|---|---|
| Lender Narrative – 241a | HUD-9003-ORCF | 15, 45, 58 | Clarifications were added to the Inspecting Underwriter section (pg. 15) and reference to a MAP Approved Underwriter was removed.<br><br>Inconsistencies were corrected (pg. 45 and 58), wherein the old terminology of 'criteria 3' should have been updated to the new term, 'criterion D'.<br><br>An inconsistency was discovered in the calculation for Criterion D (pg. 58), which was updated to clarify the formula (adding that the test will be the lesser of "90% of" total estimated replacement cost); this is consistent with the maximum insurable loan calculation form. |
| Lender Narrative – 223d Op. Loss Loan | HUD-90011-ORCF | 9 | Updated to remove references allowing a "MAP Approved Underwriter" and to clarify that the Inspecting Underwriter must be the Section 232 Underwriter of record. |
| Lender Narrative – New Construction – Single Stage | HUD-9004-ORCF | 17 | |
| Lender Narrative – New Construction – 2-Stage, Initial | HUD-9005-ORCF | 15 | |
| Lender Narrative – New Construction – 2-Stage, Final | HUD-9005a-ORCF | 15 | |
| Lender Narrative – Sub Rehab – Single Stage | HUD-9006-ORCF | 17 | |

| | | | |
|---|---|---|---|
| Lender Narrative – Sub Rehab – 2-Stage, Initial | HUD-9007-ORCF | 17 | |
| Lender Narrative – Sub Rehab – 2-Stage, Final | HUD-9007a-ORCF | 15 | |
| Lender Narrative – Blended Rate – Single Stage | HUD-9008-ORCF | 18 | |
| Lender Narrative – Blended Rate – 2-Stage, Initial | HUD-90025-ORCF | 17 | |
| Lender Narrative – Blended Rate – 2-Stage, Final | HUD-90025a-ORCF | 11 | |
| **Other Documents** | | | |
| Initial Operating Deficit Calculation | HUD-91128-ORCF | | Reference errors were discovered in two of the worksheet cells. These errors were corrected, and did not change the calculations. Neither error resulted in an incorrect IOD calculation. They only resulted in an incorrect number of leased units shown in Months 4 and 6 in the Output – Summary Tab.<br><br>The formula in the Output – Summary Exhibit tab, cell D19 was ='Details & Draw Requests'!I$7. This has been corrected to ='Details & Draw Requests'!H$7<br><br>The formula in the Output – Summary Exhibit tab, cell D21 was ='Details & Draw Requests'!M$7. This has been corrected to |

| | | | |
|---|---|---|---|
| | | | ='Details & Draw Requests'!L$7 |
| TPA Application | HUD-92266-ORCF | 3 | A reference to a checklist HUD form number was removed at the top of page 3. This form number was established at the beginning of the PRA process; however all checklists were later removed from the PRA information collection, and therefor the form number reference should also have been removed. |
| Addendum to Operating Lease | HUD-91116-ORCF | 8 | Section 19 was updated to change "Cross-Default Guaranty of Operators" to the correct title of the document: "Cross-Default Guaranty of Subtenants"; |
| Guide to Opinion of Operator's Counsel | HUD-92325-ORCF | 4 | Item M in the list of documents reviewed used the incorrect document title for the Management Agent Certification. It was corrected to be "Management Certification – Residential Care Facility." |
| Security Instrument/Mortgage/Deed of Trust | HUD-94000-ORCF | 4, 5 | In completing the Security Instrument, lender's counsel must select the appropriate second paragraph (Alternative A, B or C). However, the Alternative text paragraphs each appeared **above** each applicable Alternative text heading, rather than below the heading, thereby creating |

| | | | |
|---|---|---|---|
| | | | confusion. The headings have now been moved above the related paragraphs. |
| Healthcare Regulatory Agreement – Borrower | HUD-92466-ORCF | 22 | Paragraph 29 referred to the Management Agent Certification by the wrong title and wrong form number. The reference was corrected to be "Management Agent Certification – Residential Care Facilities (form HUD-9839-ORCF, or successor form)." |
| Healthcare Regulatory Agreement – Operator | HUD-92466A-ORCF | 11 | Paragraph 13 refers to the Management Agent Certification by the wrong title and wrong form number. The reference was corrected to be "Management Agent Certification – Residential Care Facilities (form HUD-9839-ORCF, or successor form)." |
| Healthcare Regulatory Agreement – Master Tenant | HUD-92337-ORCF | 2 | In the definition of Borrower-Operator Agreement, the brackets around the term "Master Tenant" were removed. |

| | | | |
|---|---|---|---|
| Intercreditor Agreement | HUD-92322-ORCF | 2, 3, 6, 11 | In the last 3 lines of Section 1.1 (pg. 2), "FHA Lender" was capitalized; "FHA Loan Documents" was changed to "HUD Loan Documents"; and "FHA Loan" was changed to "HUD Loan".<br><br>In Section 1.8 (pg. 3), references to Bank were changed to AR Lender.<br>In the 5th line of Section 1.9 (pg. 3), "FHA Triggering Event" was changed to "HUD Triggering Event".<br>In Section 1.26 (pg. 6), “AR Loan Triggering Events” had clauses numbered as (v) and (vi), inadvertently continuing the numeration from the “HUD Triggering Event” descriptions in the previous paragraph. These clauses (v) and (vi) were corrected to be (i) and (ii).<br><br>In the last line of Section 2.6(b) (pg. 11), the word “Time” was removed. |
| Cross-Default Guaranty of Subtenants | HUD-92331-ORCF | 2 | In Section 1 of the Cross-Default Guaranty of Subtenants, there should be a closed parenthesis after the term "Sublease Obligations"; this has been added. |

| | | | |
|---|---|---|---|
| Operator Security Agreement | HUD-92323-ORCF | 4 | Section 2(a) includes a line that says, "...and (xii) the cash flow chart [dated as of the date of closing and provided to Lender] [attached hereto as Exhibit C-1] accurately and completely discloses the flow of Operator's funds, and all deposit accounts ..."<br><br>The first set of brackets, around the words "dated as of the date of closing and provided to Lender" were included in error. This scrivener's error has been corrected by removing the brackets.<br><br>The second set of brackets, around the words "attached hereto as Exhibit C-1," were included in error. This scrivener's error has been corrected by replacing the brackets with parentheses. |
| Master Lease SNDA | HUD-92333-ORCF | 1, 6 | In the first paragraph (pg. 1), the word "as" was added before the word "borrowers" in the second line.<br><br>In Section 5, paragraph (4)(A) (pg. 6), capitalization was removed from the words "Healthcare Facilities". The intent is to capture all healthcare facilities remaining subject |

| | | | |
|---|---|---|---|
| | | | to the Master Lease, not just those that are subject to this particular Master Lease SNDA/Subordination Agreement. |

Back to top

## IDENTIFYING PERSONALLY LIABLE PRINCIPALS FOR THE HEALTHCARE REGULATORY AGREEMENT – BORROWER PROVISION #38

Section 38 of the Healthcare Regulatory Agreement – Borrower (HUD-92466-ORCF), published on March 14, 2013, requires that individuals or entities who will be personally liable for certain enumerated matters be identified within the document. Recently, ORCF has encountered situations where Section 38 was not completed in the regulatory agreement because the information was not provided in the firm commitment. Therefore, ORCF has determined to provide clarification concerning the information that is required to be included in the firm commitment. This guidance follows the guidance provided by Multifamily Housing.

(Please apply the following guidance to any Firm Commitments in processing, and if necessary to requests for amendments to Firm Commitments for projects that have not closed.)

For privately held entities: Section38 generally requires two signatures for project sponsors. In most cases, HUD, upon the Lender's recommendation, shall select one individual signatory to sign in his or her individual capacity and the project parent/sponsor entity to sign in a corporate capacity. In any specific deal, underwriting may point to a different entity with the requisite control and involvement or interest in the Project, positive credit history, and adequate financial strength relative to the size of the loan to serve in the capacity required by Section 38.

For publicly traded corporations or REITS, or Non-profit organizations: The parent/sponsor entity itself is acceptable as the sole signatory. For such entities, any individual signing on behalf of the corporate entity does not sign in an individual capacity, but to bind the parent/sponsor, and no

personal liability will be claimed against the individuals signing in such a capacity.

For any corporate entities required to execute Section 38: Every corporate officer is not required to sign. Whomever the corporation entity has authorized to bind the company in connection with the proposed transaction may sign, provided that Participant Credit and Financial review has discretion to require additional signatories if warranted in a specific (exception) situation.

Please note the following prohibitions related to Section 38:
Insertions of "or successors" language to the identification of signatories is NOT allowed. The Regulatory Agreement can and should be amended when there is a new individual who is responsible for the provisions of Section 38.
Riders to the Regulatory Agreement that attempt to limit a signatory's liability are NOT allowed.
Section 38 may not be omitted because a project has been processed as an (a)7 versus another section of the Act.

If the Firm Commitment fails to specify signatories to Section 38: The lender should request a letter amendment to the Firm Commitment. It is the lender's responsibility to perform the participant credit and financial review of the parent/sponsor entity and to identify and justify who has been proposed to sign Section 38 of the Regulatory Agreement.

Back to top

## SECTION 232 LOAN MODIFICATIONS - REVISED SAMPLE FORMAT FOR LENDER ANALYSIS AND RECOMMENDATIONS ON HUD.GOV

ORCF has revised the "Note Modification Costs" section in the document "Sample Format for Lender Analysis and Recommendations." The revised document can be found here on ORCF's program website on HUD.GOV.

Back to top

## UPCOMING IMPROVEMENTS TO THE ORCF WEBPAGE

ORCF is currently making major improvements to its ORCF webpages. The improvements will be unveiled in November 2013 and will make the site more user-friendly. Once completed, the site will be easier to navigate, you will be able to find what you are looking for more quickly, and the site will be more intuitive. Look for additional announcements in upcoming email blasts.

Back to top

## FROM THE CLOSING CORNER

### Reminders

1. **How do I get a HUD Closer Assigned?**

As a reminder, HUD Closers will be assigned when closing packages are **complete** and ready to be submitted to the HUD Attorney. When the legal closing package is sent to the assigned HUD Attorney, please email ORCFCloser@hud.gov and a HUD Closer will be assigned.
Use of the NEW closing documents is required for all closings on projects which received Firm Commitments on or after July 12, 2013 (unless otherwise exempt).

2. **Utilizing the HUD Closer for signing closing documents:**

Due to the virtual environment that we embrace in 232 Lean deals, our authorized signers normally execute closing documents in different locations from our Closers. The authorized signer relies heavily on the Closer to tell him or her that the documents are cleared to sign. Therefore, ***it is critical that any and all communications regarding execution of closing documents go through ONLY the assigned Closers/GTM for Contract Closers***, especially the correspondence between the HUD Attorney and Lender's counsel regarding the Note and Regulatory Agreements. Please do not contact other OHP staff regarding closings as this can delay the closing process.

3. **Withdrawing Firm Commitments**:

If faced with a Firm Commitment that needs to be withdrawn after being issued, please submit a written request to withdraw the Firm Commitment to ORCFCloser@hud.gov.

4. **Replacement Reserve Amendments (Section 232/223f Transaction):**

As noted in the August 19, 2010 email update, the HUD Closer will allow increases less than $10,000 to the reserve for replacement account to avoid mortgage reductions as a result of cost certification. Any proposed increase to the replacement reserve account above $10,000 should include an explanation of the proposed uses (line item and timing) for the additional deposit. Please note these proposals will need HUD Underwriter approval.

Back to top

September 26, 2013

## DOCUMENT LINKS INCLUDED IN THIS BLAST

4. Sample Format for Lender Analysis and Recommendations
5. New Closing Documents

Back to top

August 28, 2013

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of August 28, 2013

## *August 28, 2013 Contents*


Completion of Critical Repairs
Updated Instructions for CMS Database - Nursing Homes with National Fire Protection Association (NFPA)-13 Non-Compliant Sprinkler Systems
Updated Instructions for Loan Modification Submissions to ORCF
FROM THE CLOSING CORNER
Document Links Included In This Blast


## COMPLETION OF CRITICAL REPAIRS

Recently, ORCF has received a number of requests to waive the requirement for completion of critical repairs until after closing. Critical repairs are any individual or combination of repairs that are required to correct conditions that (a) endanger the safety or well-being of residents, patients, visitors, or passers-by; (b) endanger the physical security of the property; (c) adversely affect project or unit(s) ingress or egress; and/or (d) prevent the project from reaching sustaining occupancy. These critical repairs are typically identified early in the firm commitment application process in the PCNA report. As a reminder, critical repairs **must be performed prior to HUD endorsement of the mortgage**. Non-critical repairs, approved by HUD, may be completed after endorsement with appropriate financial escrows at closing.

Back to top

## UPDATED INSTRUCTIONS FOR CMS DATABASE - NURSING HOMES WITH NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)-13 NON-COMPLIANT SPRINKLER SYSTEMS

August 28, 2013

As mentioned in the April 29, 2013 Email Blast, CMS has required that all nursing homes be fully sprinklered per the 1999 Edition of the NFPA-13 Standard for the Installation of Sprinkler Systems by August 13, 2013. Instructions were given in the April 29, 2013 Email Blast on how to determine whether a project was listed as fully sprinklered on the CMS database. Recently, CMS has re-designed their database website and made some changes in the database file formats. Below are updated instructions on how to determine whether a project is listed as fully sprinklered on the CMS re-designed database website:

1. Go to the CMS website here.
2. Enter the Location (Zip Code or City, State, or State), click on the "Search" button.
3. Check the box next the appropriate facility name.
4. Click on the green "Compare Now" button at the top of the page. The "Results" page will load.
5. Scroll down on the "General Information" tab to the "Automatic Sprinkler Systems: in All Required Areas" field. The field will indicate Yes, No, or Partial.

Back to top

## UPDATED INSTRUCTIONS FOR LOAN MODIFICATION SUBMISSIONS TO ORCF

Please email all future Loan Modification applications to the following email address: ORCFLOANMODIFICATION@HUD.GOV.

Back to top

## FROM THE CLOSING CORNER

**LAST STEP – Transaccess Information Needed!**
As mentioned in the November 18, 2011 Email Blast, ORCF introduced a new method to obtain critical documents for each project following closing – The Transaccess Process. These critical documents are essential for the Account Executives to service the new loans. We thank all of those Lenders/Lenders' Counsel that have been diligently providing Compact Discs and Zip files with these documents.

**New Post-Closing Procedure, EFFECTIVE IMMEDIATELY:**

5. **Following closing, a CD with PDF copies of closing documents must be mailed directly to Gregory Arthur at:**

   Gregory Arthur
   PSL, Inc., Document Imaging Specialist
   Department of Housing and Urban Development (HUD)
   451 Seventh St., S.W., Room No. B282
   Washington, D.C. 20410

6. Closing documents should be placed on the CD in the order of the Attorney Closing Checklist. Please use the checklist for 223a7 and 223f transactions available here.

7. Be sure to include the closing checklist used at closing on the CD.

8. *Lender/Lender Counsel should notify the Closer when the CD has been sent.*

ORCF appreciates your continued support in this endeavor to provide timely documents for our Account Executives.

**Last Minute Issues Prior to Closing – Procedures for Newly Discovered Litigation**
Please keep in mind that searches should be run and analyzed by the Lender ***no earlier than 30 days before closing and no later than 5 business days before closing***. Lenders will disclose to HUD any newly discovered litigation or UCCs that will not be released in connection with closing. Any issues will need to be cleared by ORCF and OGC prior to closing.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

1. 223(f) and 223(a)(7) Transaction Checklist

Back to top

July 17, 2013

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Revised Update as of July 17, 2013

## *July 17, 2013 Contents*

JULY 12 IS HERE! – Implementation Date for New Documents
ORCF Needs Lender Cooperation In Using Commitment Authority Effectively
Document Links Included In This Blast

## JULY 12 IS HERE! – IMPLEMENTATION DATE FOR NEW DOCUMENTS

The implementation date for the 115 new ORCF documents is finally here… with an effective date of JULY 12, 2013! You'll recall that 47 of those documents were *initially* to apply to transactions receiving a firm commitment on or after April 9, 2013 but, in response to industry requests for more transition time, we extended that implementation date by three additional months to July 12, 2013. We announced this extension by Email Blast on April 29¸2013.

Therefore, as of July 12, all 115 new ORCF documents are to be used for all deals going forward.

We have all worked together and been through a very long process over the past year in creating and publishing documents, and receiving and responding to *lots* of industry comments at each step of the process. While finalizing the documents, we went through extensive dialogue between all parties and at this point, we have worked very hard in resolving the major concerns expressed by the industry and stakeholders. Throughout the past year we communicated with lenders, owners and operators, held Kaizens, worked with the MBA and COHF on various issues and held a training session with the ELA in Philadelphia in March. Your involvement in that process was *enormously* helpful, and very significant revisions occurred between each of the three sets of document publications (May 3, 2012; November 21, 2012, and March 14, 2013).

Although we continue to receive requests to re-work documents or delay implementation, at this point, we must let the dust settle and adhere to the effective date. Now, we will begin to focus our staff resources on the new comprehensive 232 Handbook. ORCF is focused on meeting a very aggressive Handbook timeline.

Since 2008, ORCF has fostered a collaborative partnership with our stakeholders to ensure the industry has a voice in the Program. This partnership has made the Program the success that it is today. The entire 232 team thanks everyone that participated along the way for getting us where we are today!

One final note on document implementation--Additional guidance will be forthcoming regarding the use of a Rider for the Operator Security Agreement (via a Housing Notice) and a task force has been convened to discuss the new OMB approved Intercreditor Agreement. Until the task force completes its review, the current OMB approved ICA effective July 12, 2013 must be used in all transactions involving Accounts Receivable financing.

Back to top

## ORCF NEEDS LENDER COOPERATION IN USING COMMITMENT AUTHORITY EFFECTIVELY

Please see the letter to our partners in the industry (here) regarding insufficient commitment authority for all applications currently in the pipeline, and regarding plans to prioritize applications.

Given the limitations on Fiscal Year 2013 Section 232 commitment authority, the failure of an approved transaction to close could needlessly impair ORCF's ability to offer mortgage insurance to other eligible pending applications, and thereby limit ORCF's ability to accomplish the Program's purpose.

It is thus crucial that a firm commitment be issued on a transaction only if the Lender, in communication with its client, is able to represent to HUD that, upon receipt of a firm commitment, the Lender is prepared to—and intends to--close on the transaction. We do understand that sometimes a firm commitment can have terms or conditions that were unexpected and that a prospective mortgagor may make a last-minute decision not to proceed. Those situations, however, should be extremely rare, if the Lender is in close contact with the HUD underwriter.

After Loan Committee and prior to issuing the firm commitment, the HUD UW will contact you to ask that you and the borrower certify that you are ready and willing to close. The sample certification (here) is an appropriate means for certification.

We do intend to make maximum use of our finite firm commitment authority as the Fiscal Year enters its final quarter.

Several lenders are modifying the Lender Narrative templates, which slows down our review process. ORCF asks lenders to keep the following in mind when preparing their Loan Committee memos.

5. Please do not convert the template's embedded Excel spreadsheets into images within the Word template, or use images from other exhibits such as the appraisal, as images do not allow us to quickly verify that the formulas are accurate.

6. Please present charts in the manner noted in the Lender Narrative template, for example, do not provide total dollars when the template indicates using dollars per patient day, or vice versa.

7. Please do not change any of the formatting (e.g. font, order, colors) in the template. ORCF is very familiar with the templates and can move more quickly through lender narratives that look like all the others.

8. Please do not delete sections from the template. ORCF will have to check the lender narrative provided against the lender narrative template to see what is missing. Once ORCF notices one thing is missing, ORCF will need to check line by line to ensure nothing else is missing. If a section is not applicable to your deal, please keep the headings and write "Not Applicable." Please also keep the Program Guidance sections; they serve as guidance for everyone, including HUD staff.

9. Please do not combine sections, even if you feel like it makes sense for your deal. Please present everything in the order that it appears in the lender narrative template.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

6. Sample Lender Certification
7. FHA Commitment Authority Letter

Back to top

June 26, 2013

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)
## Update as of June 26, 2013

*June 26, 2013 Contents*


Lender Narrative Templates
Categories of Lender Performance Measures with Examples
Loan Modification Sample Documents and Application Submission Logistics
Sample DACA and DAISA Now Available on HUD.GOV
FROM THE CLOSING CORNER
  Reminders
Document Links Included In This Blast


## LENDER NARRATIVE TEMPLATES

Several lenders are modifying the Lender Narrative templates, which slows down our review process. ORCF asks lenders to keep the following in mind when preparing their Loan Committee memos.

10. Please do not convert the template's embedded Excel spreadsheets into images within the Word template, or use images from other exhibits such as the appraisal, as images do not allow us to quickly verify that the formulas are accurate.
11. Please present charts in the manner noted in the Lender Narrative template. For example, do not provide total dollars when the template indicates using dollars per patient day, or vice versa.
12. Please do not change any of the formatting (e.g. font, order, colors) in the template. ORCF is very familiar with the templates and can move more quickly through lender narratives that have a consistent appearance.
13. Please do not delete sections from the template. ORCF will have to check the lender narrative provided against the lender narrative template to see what is missing. Once ORCF notices one thing is missing, ORCF will need to check line by line to ensure nothing else is missing. If a section is not applicable to your deal, please keep the headings and write "Not Applicable." Please also keep the Program

Guidance sections; they serve as guidance for everyone, including HUD staff.

14. Please do not combine sections, even if you feel like it makes sense for your deal. Please present everything in the order that it appears in the lender narrative template.

Back to top

## CATEGORIES OF LENDER PERFORMANCE MEASURES WITH EXAMPLES

The Lean approach to business emphasizes continuous improvement, and we know that ORCF's Lean-approved underwriters are themselves seeking to continuously improve their own processes. To help foster that improvement, we have been monitoring lender performance and providing feedback, as we have discussed at various lender conferences. Perhaps in part as a result of that feedback and ongoing dialogue, lender underwriting errors, overall, have dropped from nearly 25% at the start of the fiscal year to 15% in the current quarter. Many lenders have made great strides to achieve no or minimal errors on their Firm Application submissions. For any questions on lender performance, please contact Mary Walsh who handles ORCF Lender Relations at: Mary.V.Walsh@hud.gov.

While we have streamlined the loan application in an effort to reduce errors and facilitate efficient processing, we still encounter errors in the submissions that can delay the underwriting. The general areas of concern are generally well known, but some have indicated that some specific examples would be helpful. Thus, for lenders' ready reference we are providing here some areas for consideration, with specific examples.

**Mathematical Calculations to Support Underwriting**

*Considers the lender's technical accuracy of amounts used to support proposed loan. Errors can include:*

- Incorrect or Inconsistent General Calculations (NOI/Trailing 12 months)
- Incorrect Amortization Values
- Sources and Uses /Mortgage Sizing Errors

**Quality Control of Package**

*Considers the completeness, internal consistency and general accuracy of information within the application or closing package, conforming to Lean processing. Errors can include:*

- Wrong Project Referenced (e.g. failure to update application from previous submission)

- Wrong Information on Project (e.g. wrong # beds/units; wrong address)
- Multiple Typographical Errors – (e.g. transposed numbers, misspellings)
- Obsolete Forms or Other Forms Used in Lieu of Standardized OHP Forms
- Failure to Submit Required Exhibits or Exhibits Missing
- Failure to Provide Updated Financials

**Responsiveness**

*Considers the timeliness of response by lender to requests from OHP for correction of deficiencies or additional information to complete underwriting review or closing processing. Errors can include:*

- Failure to Respond without ORCF Reminders or within ORCF Timeframes
- Failure to Respond to All Items as Identified

**Due Diligence of Facility's Performance**

*Considers issues with the lender's familiarity with the full scope of the facility in the lender's underwriting review, especially applicable to existing facilities, warranting full explanation in the application with supporting documentation. Errors can include:*

- Failure to Addressing Ongoing HUD Enforcement/Compliance Issues
- Failure to Disclose/Address Patterns of High Claims (and Pending Litigation)
- Failure to Research/Address Ongoing State Survey Compliance Issues
- Failure to Address Other Pending Action Impacting the Risk Assessment of the Underwriting
- Failure to Address Negative Trends in Facility Performance or Occupancy

**Programmatic and Legal Issues**

Considers issues that prevent programmatic or legal concurrence due to program policy and/or legal requirements to protect HUD's interest. Errors can include:

- Issues with Operator Lease and/or SNDA
- Issues with License/License Holder
- Issues with Role of Management Agent
- Issues with Compliant Account Receivable/DACA/DAISA
- Issues with Acceptability of Master Lease
- Issues with Organization Documents or Structure of the Mortgagor or Operator

- Issues with Ground Lease/Secondary Financing

**Third Party Technical Reports/Lender Assessment of Physical Asset**
*Considers problems with the accuracy, quality and reliability of third party technical report, problems with application of reports by the lender in underwriting and overall lender thoroughness in addressing the physical asset and proposed repairs. Errors include:*

- Appraisal/Market Problems/Issues
- Environmental Assessment Problems/Issues
- Title/Survey Problems/Issues
- Project Capital Needs Assessment Problems/Issues
- Poor Lender Site Visit Synopsis
- Lack of Detailed Scope of Work for Proposed Repairs
- Failure to Properly Explain Deviation from Third Party Reports (e.g. appraisal)

Back to top

## LOAN MODIFICATION SAMPLE DOCUMENTS AND APPLICATION SUBMISSION LOGISTICS

ORCF has posted a revised "Sample Checklist" and "Sample Format for Lender Analysis and Recommendations" to HUD.GOV (here).

The primary change on the checklist deals with the logistics of submitting a Loan Modification application. Please submit all future loan modification submissions as an email with the documents attached to the following email address: Leanwork@hud.gov.

If you have already begun to use the previous version of the "Sample Format for Lender Analysis and Recommendations" on a Loan Modification, ORCF will not object to you submitting the Loan Modification using that version.

Back to top

## SAMPLE DACA AND DAISA NOW AVAILABLE ON HUD.GOV

In response to the Public Comments received during the Section 232 PRA Document review process, the Deposit Account Control Agreement (DACA) and Deposit Account Instructions and Services Agreement (DAISA) were removed from the OMB-approval process. In their place, ORCF has prepared sample documents for use by industry lenders available on HUD.GOV (available here sample DACA, sample DAISA). These documents are only samples illustrating how existing program guidance may be executed.

June 26, 2013

Back to top

## FROM THE CLOSING CORNER

### Reminders

1. Repairs – Prior to submitting evidence of repairs done as a requirement of closing, please be sure to pay special attention to the firm commitment exhibit detailing the repairs. If the exhibit attached is not clear enough, lenders may always refer to the PCNA for additional details. Clear photos, invoices, and organized submissions that evidence full completion will expedite review.

2. Forms – Unless otherwise directed, Lean 232 applications and closing documents should not use MAP Guide policies or documents. For example, the Design Architect's Certification from Appendix 5H of the MAP Guide is not applicable to Section 232 construction loans. Before July 12, 2013, the Design Architect's Certification posted on HUD.gov should be used. On or after July 12, 2013, form HUD-91124-ORCF should be used.

3. Firm Commitment Amendment Requests – When submitting a request for amendment to the firm commitment, requests should come to HUD on the lender's letterhead with adequate justifications and revised exhibits, if applicable.

4. New 232 Documents and Future State of Legal Reviews - Beginning **July 12, 2013** and in conjunction with newly revised 232 documents, all projects with Firm Commitments issued after July 12, 2013 will be required to use the new 232 documents found here.

   As stated in the May 30, 2013 Email Blast, a one part review will replace the part 1 and part 2 process for all 232/223(f) and 232/223(a)(7)s with the exception of transactions involving accounts receivable financing or master leases (the review process for which will remain unchanged). For projects using all new documents with Firm Commitments issued **before July 12, 2013**, OGC will defer review until after Firm Commitment is issued. For all Firm Commitments **after July 12, 2013**, instructions on where to send closing packages will be included in the correspondence from the HUD Underwriter.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

8. Sample Loan Modification Documents
9. Sample Deposit Account Instructions and Service Agreement (DAISA)
10. Sample Deposit Account Control Agreement (DACA)
11. New 232 Documents

Back to top

May 31, 2013

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of May 31, 2013

## *May 31, 2013 Contents*


Future State of Legal Review
Special Use Facilities
Reminder Regarding Financial Statements
Document Links Included In This Blast


## FUTURE STATE OF LEGAL REVIEW

ORCF would like to announce changes to the closing review process. Beginning July 12, 2013 and in conjunction with newly revised 232 documents, ORCF with OGC has determined that a one-step review process would be most efficient. This one step review would replace the current part 1 and part 2 process for all 232/223(f) and 232/223(a)(7)s with the exception of transactions involving accounts receivable financing or master leases (the review process for which will remain unchanged). It is anticipated that with the implementation of standard OMB approved documents, that the closing process will be much more streamlined and efficient.

As a complement to the changes in our review process, comprehensive legal punchlists and checklists for 232/223(f) and 223(a)(7)s have been created and will be available by COB June 3, 2013 at the document links below for implementation beginning after July 12, 2013. As all stakeholders become familiar with the new documents and the policies contained within them, the punchlists will be further streamlined.
As a practical matter, the process flow will be as follows:

For projects using all new documents with Firm Commitments issued **before July 12, 2013**, OGC will defer review until after Firm Commitment is issued.

For all Firm Commitments **after July 12, 2013**, instructions will be as follows:

- Send complete LEGAL closing package to: [Regional Counsel or Associate Regional Counsel assigned to the project's location].
- When sending the LEGAL closing package to HUD counsel above, email Carol.S.Jun@hud.gov for a HUD Closer assignment, or Jason.P.Roth@hud.gov, for a contactor assignment if the project was underwritten by a contract Underwriter. A Closer will be assigned when a HUD OGC attorney is assigned. Lender and Lender's counsel will be notified of who the Closer is and where to send the complete Closer package.

Please note that if the closing will be delayed due to pre-payment penalties or any other significant delay, ORCF asks that the Lender immediately contact Carol Jun (or Jason Roth for contractor processed projects) so that projects and holds may be tracked accordingly.

ORCF Closers will continue to return any incomplete closing packages to the closing queue if deemed incomplete or substantially incorrect by HUD, in order to process projects that are ready to close more fairly and efficiently.

Back to top

## SPECIAL USE FACILITIES

In the 9/1/11, 11/18/11, and 1/6/2012 Email Blasts we cautioned you on Special Use Facilities and our belief that these facilities may pose a higher risk to the FHA Insurance Fund. We did not expressly prohibit an application on such a facility – we asked that you address how the particular project you were submitting was acceptable in the Lender Narrative. We are continuing to experience high rates of claim on these types of facilities (in Fiscal Year 2012, five of the eight claims we experienced were on Special Use Facilities). To better serve you, on any Special Use Facility being considered for FHA Insurance, we are requesting the lender to email the specifics of the project to Leanthinking@HUD.GOV and obtain our comments prior to moving forward on preparing the Firm Application. We strongly encourage lenders to submit the email to HUD as early in the process as possible (prior to expenditure of considerable resources on the application).

Back to top

May 31, 2013

## REMINDER REGARDING FINANCIAL STATEMENTS

We have previously emphasized ORCF's need for updated financial statements during the underwriting process. As the queues diminish, the initially submitted financials may often suffice. Currently, though, we are finding that many 223(f)'s are reaching the underwriting stage with financial statements that are no longer current. When financial statements are over 90 days old, delays can ensue as the ORCF underwriter seeks updated financial statements from the lender. ORCF can reach a decision on an application more quickly, and save the lender and the borrower time, if the lender assures that, as an application reaches the front of the queue, ORCF is provided with updated financial statements. If the application has not been assigned to an underwriter and you have updates to the financial statements, please submit those to Mike Luke (Michael.D.Luke@hud.gov).

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

1. HUD Attorney Closing Punchlist
2. HUD Attorney Closing Checklist
3. HUD Closer Checklist – Section 232/223(a)(7)
4. HUD Closer Checklist – Section 232/223(f)

Back to top

April 29, 2013

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of April 29, 2013

## *April 29, 2013 Contents*


Time for Implementation of Section 232 Documents Extended
New ORCF Documents on Web – Structured By Loan Type
Changes for Non-Profit Borrowers in the New Regulatory Agreement (HUD-92466-ORCF)
Nursing Homes with National Fire Protection Association (NFPA)-13 Non-Compliant Sprinkler Systems
Bridge Loans and Debt Seasoning
Advisory Base Flood Elevations
Submitting Key Environmental Concerns in Advance of Application Submission
Interest Rate Reductions on Performing Loans
2013 Eastern Lenders Association Lean (ELA) Training Presentation Slides and Survey
Office of Healthcare Programs Organizational Chart
FROM THE CLOSING CORNER
"Comfort Letters"
Document Links Included In This Blast


## TIME FOR IMPLEMENTATION OF SECTION 232 DOCUMENTS EXTENDED

On March 14, 2013, the Department published a notice, "HUD Healthcare Facility Documents: Notice Announcing Final Approved Documents and Assignment of OMB Control Number" ("Notice") (FR–5623–N–03), making available a complete set of new/ revised Section 232 documents. The revised Section 232 Healthcare documents can be found here. To facilitate timely implementation of a rule published September 7, 2012 ("Rule"), the Notice made 47 of the 115 documents effective for transactions for which a firm commitment was issued on or after April 9, 2013 (documents listed below) -- the same date as some key Rule provisions (remaining documents have had a July 12, 2013 implementation date). Certain industry groups have asserted that the April 9, 2013 date for new documents is problematic. HUD agrees that the date may be problematic for some.

April 29, 2013

To facilitate an extension of time to commence using the 47 documents listed below, HUD is amending the Rule, changing the implementation date of the relevant Rule provisions from April 9, 2013 to July 12, 2013. The Rule amendment has, in turn, positioned HUD to change the implementation date for those 47 documents. Accordingly, the 47 documents (listed below) that were to be used for transactions in which a firm commitment was issued on or after *April 9, 2013*, are now required to be used for transactions in which the firm commitment is issued on or after *July 12, 2013.*

Parties wishing to use new documents before their implementation date may do so. If, however, a new mortgage insurance transaction does use new documents, then it must use all applicable new documents. Exceptions may be considered on a case-by-case basis with respect to master lease documents and accounts receivable financing documents (since these are arrangements that may involve multiple transactions closing over an extended period of time).

The 47 documents are:

| | | |
|---|---|---|
| 1. | HUD–91112–ORCF | Request of Overpayment of Firm Application Exam Fee |
| 2. | HUD–92466–ORCF | Healthcare Regulatory Agreement—Borrower |
| 3. | HUD–92466A–ORCF | Healthcare Regulatory Agreement—Operator |
| 4. | HUD–94000–ORCF | Security Instrument/Mortgage/Deed of Trust |
| 5. | HUD–94001–ORCF | Healthcare Facility Note |
| 6. | HUD–91710–ORCF | Residual Receipts Note—Non Profit Mortgagor |
| 7. | HUD–92223–ORCF | Surplus Cash Note |
| 8. | HUD–91110–ORCF | Subordination, Non-Disturbance and Attornment Agreement of Operating Lease (SNDA) |
| 9. | HUD–92420–ORCF | Subordination Agreement—Financing |
| 10. | HUD–2205A–ORCF | Borrower’s Certificate of Actual Cost |
| 11. | HUD–92323–ORCF | Operator Security Agreement |
| 12. | HUD–91116–ORCF | Addendum to Operating Lease |
| 13. | HUD–9839–ORCF | Management Certification—Residential Care Facility |
| 14. | HUD–91118–ORCF | Borrower’s Certification—Completion of Critical Repairs |

| | | |
|---|---|---|
| 15. | HUD–92434–ORCF | Lender Certification |
| 16. | HUD–91117–ORCF | Operator Estoppel Certificate |
| 17. | HUD–91725–INST–ORCF | Instructions to Guide for Opinion of Borrower's and Operator's Counsel |
| 18. | HUD–91725–CERT–ORCF | Exhibit A to Opinion of Borrower's Counsel—Certification |
| 19. | HUD–91725–ORCF | Guide for Opinion of Borrower's Counsel |
| 20. | HUD–92325–ORCF | Guide for Opinion of Operator's Counsel and Certification |
| 21. | HUD–91128–ORCF | Initial Operating Deficit Escrow Calculation Template |
| 22. | HUD–92414–ORCF | Latent Defects Escrow |
| 23. | HUD–9443–ORCF | Minor Moveable Escrow |
| 24. | HUD–92476–ORCF | Escrow Agreement Noncritical Deferred Repairs |
| 25. | HUD–91123–ORCF | Design Professional's Certification of Liability Insurance |
| 26. | HUD–93305–ORCF | Agreement and Certification |
| 27. | HUD–92441–ORCF | Building Loan Agreement |
| 28. | HUD–92441a-ORCF | Building Loan Agreement Supplemental |
| 29. | HUD–92450–ORCF | Completion Assurance |
| 30. | HUD–92442–ORCF | Construction Contract |
| 31. | HUD–92554–ORCF | Supplementary Conditions of the Contract for Construction |
| 32. | HUD–92479–ORCF | Offsite Bond—Dual Obligee |
| 33. | HUD–92452–ORCF | Performance Bond—Dual Obligee |
| 34. | HUD–92452A–ORCF | Payment Bond |
| 35. | HUD–92455–ORCF | Request for Endorsement |
| 36. | HUD–92412–ORCF | Working Capital Escrow |
| 37. | HUD–9442–ORCF | Memo for Post-Commitment Early Start of Construction Request |
| 38. | HUD–92415–ORCF | Request for Permission to Commence Construction Prior to Initial Endorsement for Mortgage Insurance (Post-Commitment Early Start of Construction) |
| 39. | HUD–90020–ORCF | A/R Financing Certification |
| 40. | HUD–92322–ORCF | Intercreditor Agreement (for AR Financed Projects) |
| 41. | HUD–92211–ORCF | Master Lease Addendum |
| 42. | HUD–92331–ORCF | Cross-Default Guaranty of Subtenants |
| 43. | HUD–92333–ORCF | Master Lease SNDA |
| 44. | HUD–92335–ORCF | Guide for Opinion of Master Tenant's Counsel |

| | | |
|---|---|---|
| 45. | HUD–92337–ORCF | Healthcare Regulatory Agreement—Master Tenant |
| 46. | HUD–92339–ORCF | Master Lease Estoppel Agreement |
| 47. | HUD–92340–ORCF | Master Tenant Security Agreement |

For any firm commitments that have been issued with language requiring the new 232 documents (both the reference to the new 232 documents in standard conditions and special conditions), Lenders may submit an amendment request to their assigned Closer for processing.

Back to top

## NEW ORCF DOCUMENTS ON WEB – STRUCTURED BY LOAN TYPE

ORCF is in the process of reorganizing its documents page to provide separate directories for each Section 232 loan type. This will allow applicants to easily identify all documents-- from application submission through closing—for that loan type. As of this Email Blast, the Section 232/223a7 and 232/223f directories are available. Other loan types will be available in the near future. The *new* web directories can be found in the same location already used, the Underwriting Guidance Home Page section; the *current* documents will be available there as well during this transition period. The sections are clearly labeled to identify which are using the new documents and which are using the current/existing documents.

Back to top

## CHANGES FOR NON-PROFIT BORROWERS IN THE NEW REGULATORY AGREEMENT (HUD-92466-ORCF)

A new Borrower Regulatory Agreement was included in the March 14, 2013 Federal Register Notice (FR–5623–N–03) which has changes that will impact non-profit Borrowers and the way their distributions are approved or allowed.

Specifically, for Firm Commitments issued on or after July 12, 2013, there will no longer be separate Regulatory Agreements for For-Profit and Non-Profit Borrowers. Instead, there will be only one Borrower Regulatory Agreement, but the first page of that Agreement will indicate whether the Borrower is For-Profit or Non-Profit and, if the Borrower is a Non-Profit Borrower, the page will further indicate whether or not the Borrower is permitted to take distributions. If a Non-Profit Borrower is permitted to take distributions, as indicated on the first page of the Agreement, then to the extent that the annual audited financial statement of such Non-Profit

Borrower demonstrates Surplus Cash, such Non-Profit Borrower may make distributions of such Surplus Cash, upon meeting specific conditions, as set forth in that Regulatory Agreement and as summarized below. The Non-Profit Borrower taking Distributions must evidence, with appropriate documentation sufficient for audit and HUD monitoring purposes, compliance with each of the specific conditions at the time such distribution is made, and must retain such documentation in accordance with Program Obligations, for audit and HUD monitoring purposes.

For new Section 232/223a7 refinances, with Firm Commitments issued on or after July 12, 2013, where the existing Regulatory Agreement is profit-motivated, the project will continue to be regulated as for-profit. If the existing Regulatory Agreement is non-profit, the project will continue to be regulated fully as a non-profit, and will be required to deposit all surplus cash into a residual receipts account, the funds of which are accessible only with HUD approval for eligible purposes consistent with the newly executed regulatory purposes.

For new Section 232/223f refinances and all other new projects, if the project is underwritten at a level higher than the benchmark LTV for profit-motivated projects, HUD will regulate the project fully as a non-profit. The borrower will be required to deposit all surplus cash into a residual receipts account, the funds of which are accessible only with HUD approval for eligible purposes consistent with the newly executed regulatory purposes. If underwritten at or below the benchmark LTV for profit-motivated projects, HUD will allow the borrower's distribution of surplus cash, provided conditions set forth in the Regulatory Agreement (and summarized below) are met.

**Benchmarks for Maximum LTV's for Profit-Motivated Projects:**

- 223f = 80% LTV
- New construction, Sub. Rehab, 241a, and Blended Rate:
  - Primarily SNF: 80%
  - Primarily ALF: 75%

**Surplus Cash Criteria for Non-Profit Borrowers Who Are Eligible to Take Distributions:**

The following provisions in the Regulatory Agreement govern when a non-profit that is eligible to take distributions from surplus cash, rather than depositing the surplus cash into its residual receipts account:

(i) Distributions may only be made after the end of any annual or semi-annual fiscal period, and when the Borrower can demonstrate positive Surplus Cash (pursuant to Section 15 of the Regulatory Agreement),

at the end of the immediately prior annual or semi-annual fiscal period;

(ii) Operator is in good standing with the applicable licensing agency and has no open state compliance issues or special focus facility designation;

(iii) No unresolved audit findings in the annual audited financial statements exist relating to the Project;

(iv) Borrower and Operator are in compliance with the terms of this Agreement and the Operator's Regulatory Agreement, respectively, with no notice of noncompliance or violation from HUD;

(v) No defaults exist under any of the Loan Documents and all payments required by any of the Loan Documents are current, with no notice of noncompliance or violation from HUD; and

(vi) The balance of the Residual Receipts account remains equal to no less than six months of the Borrower's required debt service (including any mortgage insurance premium, escrow deposit, reserve deposits, or any other payments required by Borrower pursuant to the Loan Documents).

The Regulatory Agreement further speaks to when funds may be *withdrawn* from the Residual Receipts account. In the case of a non-profit that is permitted to take distributions, the same criteria applicable to determining the ability to retain surplus cash are used when evaluating requests to withdraw funds from the residual receipts account.

Back to top

## NURSING HOMES WITH NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)-13 NON-COMPLIANT SPRINKLER SYSTEMS

CMS has required that all nursing homes be fully sprinklered per the 1999 Edition of the NFPA-13 Standard for the Installation of Sprinkler Systems by August 13, 2013. CMS maintains a publicly available database of which properties are fully sprinkled. If you are considering submitting a mortgage insurance application for a nursing home, or have a mortgage insurance application pending, you should assure yourself that the facility is listed on the CMS database as fully sprinkled. If the facility is not listed on the CMS database, you should contact the assigned underwriter or, if not yet assigned, then LeanThinking@hud.gov promptly.

To determine whether a project is listed as fully sprinklered on the CMS database, go to the following website (here) and follow the instructions below:

- From the drop down menu called "Select A Database", select "Nursing Home Compare – About The Nursing Home" and then click on the "Continue" button
- Click on the "Download" button for the CSV Flat Files option (2nd "Download" button from the top).
- Click "Open" to open the ZIP file folder that will pop up.
- Within the ZIP file folder is an Excel Spreadsheet called "NHC_NH.csv"  Click on it to open it up.
- In the Excel Spreadsheet:
    - "Column M- Sprinkler Status"  indicates if the facility is Fully, Partially or Not Sprinklered  and
    - "Column I- Fire Survey Date" indicates the date of that determination by the state surveyor.

Back to top

## BRIDGE LOANS AND DEBT SEASONING

ORCF did not intend to suggest in the February 28, 2013 Email Blast article addressing eligible indebtedness that bridge loan debt, which the lender demonstrates to have been used for an eligible purpose, must still season.

Back to top

## ADVISORY BASE FLOOD ELEVATIONS

ORCF requires elevation of new structures in accordance with the most recent FEMA data.  The latest FEMA data includes Advisory Base Flood Elevations (ABFEs) and Preliminary Flood Insurance Rate Maps (P-FIRMs). ABFE maps are available for Sandy affected areas in New York and New Jersey.  Please refer to the FEMA website (here) to determine if your new construction site is in an affected area.  If higher elevations are required by locally adopted code or standards, those higher standards would apply. Please consult with LeanThinking@hud.gov before commencing a new construction project in the Sandy affected areas.

Back to top

## SUBMITTING KEY ENVIRONMENTAL CONCERNS IN ADVANCE OF APPLICATION SUBMISSION

As a reminder, per the March 30, 2012 Email Blast, ORCF is available to review key environmental issues prior to application via its Lean Thinking email box. We encourage you to submit questions on unusual site conditions, such as soil contamination, explosive hazards, unacceptable

noise levels, fall hazards, etc., to LeanThinking@HUD.gov. By submitting potential environmental concerns prior to application submission, lenders may avoid wasted time and effort by early consultation with ORCF.

Back to top

## INTEREST RATE REDUCTIONS ON PERFORMING LOANS

ORCF is in the process of updating its process for approving interest rate note modification for performing loans. We anticipate posting procedural guidance for this on our website soon in the Loan Servicing Guidance Home Page section.

Back to top

## 2013 EASTERN LENDERS ASSOCIATION LEAN (ELA) TRAINING PRESENTATION SLIDES AND SURVEY

The 2013 ELA Lean Training Event, conducted March 13-14 in Philadelphia, PA, was designed to train lenders who participate in the Office of Residential Care Facilities programs, including Development, Asset Management, and Policy related activities. The event was an opportunity to promote risk mitigation initiatives, collaborate and exchange information on the lending environment, and discuss FHA's developments and current policies and initiatives. The training provided an open, Lean atmosphere for constructive dialogue between Industry and ORCF staff. Below are the links to the presentations delivered during the training. Also, please feel free to the complete the feedback survey below to help us improve your Lean training experience.

Presentation slides available here.

Survey available here.

Back to top

## OFFICE OF HEALTHCARE PROGRAMS ORGANIZATIONAL CHART

The Office of Healthcare Programs, which includes ORCF, has posted an updated organization chart online (under General Overview heading here). The organizational chart provides organizational information for all three of ORCF's divisions: Production, Asset Management and Lender Relations, and Policy and Risk Analysis.

Back to top

April 29, 2013

## FROM THE CLOSING CORNER

**"Comfort Letters"**
In limited circumstances involving complex transactions (typically transactions that are part of portfolios), parties have occasionally requested letters (sometimes labeled "comfort letters") conditioning HUD's exercise of its rights under certain contractual agreements on a party's concurrent noncompliance with some other identified document(s). HUD has considered this matter in the context of the comprehensive set of documents published March 14, 2013. HUD does not anticipate such letters being necessary going forward.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

5. March 14, 2013 Federal Register Notice (FR–5623–N–03) HUD Healthcare Facility Documents: Notice Announcing Final Approved Documents and Assignment of OMB Control Number

6. Revised Section 232 Healthcare Documents

7. Underwriting Guidance Home Page

8. CMS Database for NFPA-13 Compliance

9. FEMA Coastal Analysis and Mapping Home Page - Hurricane Sandy Advisory Base Flood Elevations in New Jersey and New York

10. Loan Servicing Guidance Home Page

11. Eastern Lenders Association Presentations

12. Eastern Lenders Association Philadelphia Training Survey

13. Office of Healthcare Programs Updated Organizational Chart

Back to top

February 28, 2013

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of February 28, 2013

## *February 28, 2013 Contents*


HUD Form 2530 Delays
Updated Procedure for Mailing Section 232 Post Closing Recorded Documents to HUD's Office of General Counsel
Two-Stage 241(a) Supplemental Loans Submittals
ORCF Now Offering A New Lender's Corner Online
TEAM TSI Portal Access
TEAM TSI Portal Training
Mortgage Insurance Premium (MIP) Calculation Reminder For Section 223(a)(7) Projects
Responses to Questions Concerning the Eligibility of Existing Indebtedness on Section 232 Refinances
Clarification Regarding Master Leases
FROM THE CLOSING CORNER
LEAN 232 New Construction – Reminders for Release of Contractor's Retainage
Closing Checklist
Document Links Included In This Blast


## HUD FORM 2530 DELAYS

Several lenders are submitting 2530 forms that are incorrectly completed and/or are missing key information. This is causing substantial delays in our ability to assign projects to contractors and to finalize our processing. Lenders are responsible for ensuring that 2530 forms are completed correctly prior to submitting them to HUD. The 2530 form includes detailed instructions that explain the requirements. Lenders should ensure that they have read and understand the instructions.

Please note that those lenders who are using the APPS system are submitting submissions that are consistently completed correctly and that our review process is significantly faster for APPS submissions as opposed to

the paper 2530 form. While ORCF will continue to accept both paper and electronic submissions, we strongly encourage lenders to utilize the electronic APPS system.

**Reminders:**

1. All principals (as defined in the 2530 instructions) listed at the top of Section 7 must also be listed at the bottom of page 1 and must have a signature next to their name, unless one principal has authorization to sign on behalf of all principals with the same participation. All principals listed on page 1 must also be listed on the Schedule A.
2. The 2530 must be consistent with the organization chart.
3. TINs/SSNs presented on the 2530 must match the BPRS registration.
4. All certifications must be dated (bottom of page 1).
5. The Schedule A must be completed according to the instructions, including attention to the information outlined in the column headings.
6. All principals must be registered in BPRS.

In the future, ORCF staff reviewing 2530 forms will notify the lender that their 2530 is incorrect, and it will be the lender's responsibility to review the submission and check for incomplete items. The lender should review and ensure that the form is completed correctly prior to re-submitting the 2530. **Incomplete 2530 submissions may result in an application not being assigned out of the queue until it is correct and complete.**

Back to top

## UPDATED PROCEDURE FOR MAILING SECTION 232 POST CLOSING RECORDED DOCUMENTS TO HUD'S OFFICE OF GENERAL COUNSEL

We ask that lenders instruct their counsel to follow the following protocol in sending Section 232 recorded closing documents to HUD.

**Recorded Closing Documents from Lender's (and Client's) Attorneys**

1. The Lender's Attorney assembles and packages the following recorded documents (if applicable):
    - Subordination Agreement

- Amended and restated Memorandum of Lease
- Mortgage
- Regulatory Agreement (Original)
- Regulation Agreement Nursing Homes (Original)
- UCC-1 Financing Statement – County (Owner and Operator)
- Other documents

2. The Lender's Attorney prepares a cover sheet, along with the recorded documents, and mails them to the HUD's Local Field Counsel that closed the loan.

Back to top

## TWO-STAGE 241(A) SUPPLEMENTAL LOANS SUBMITTALS

ORCF has received some requests from lenders to consider allowing two-stage application submissions for Section 241(a) Supplemental Loans. ORCF has allowed such submissions upon request in the past, and will continue to consider accepting two-stage applications in the future. Lenders wishing to pursue this option should send a request to Lean Thinking requesting approval to submit an application using this approach, including justification as to why this approach is needed. Due to the low volume of requests received to date, ORCF will not be developing a separate process for these loans at this time. Applications should follow the general format of a Substantial Rehabilitation or Blended Rate two-stage application, depending on which is most appropriate; ORCF will work with the lender to make any specific adjustments to the application package as necessary.

Back to top

## ORCF NOW OFFERING A NEW LENDER'S CORNER ONLINE

The Lender's Corner is a tool for lenders to use for the latest training opportunities and portal access offered by the ORCF.

Gain access to the Lender's Corner here or:
http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/Lender_Corner

February 28, 2013

Currently available in the Lender's Corner is:

**TEAM TSI Portal Access**

The TEAM TSI Portal provides lenders with the ability to look up current survey information on FHA insured skilled nursing facilities. Information available through the TEAM TSI Portal includes: actual citations, Special Focus, Standard, Complaint and Life Safety Inspections along with other facility related information.

To request access to the TEAM TSI Portal:

Please send email to: SurveyResults@hud.gov
Subject line: TEAM TSI Portal Access

Please include the following in your email:
Name
Address
Company Name
Contact Phone number
Email Address

Once you are a confirmed lender, your information will be submitted to TSI and then you will be given access via email.

**TEAM TSI Portal Training**

ORCF is excited to offer TEAM TSI Portal Training for lenders on a monthly basis for 2013. Lenders can learn how to navigate this site for valuable information on the current ORCF portfolio that includes survey citations, occupancy, risk ratings, etc. Keep up to date on your facilities, their surveys and other valuable information. Team TSI Portal Training for HUD occurs once a month. Please register for the date that works best for you. All training is from 1pm to 2pm CST. Click here to register.

2013 Training Dates:
Friday, March 29, 2013
Monday, April 29, 2013
Friday, May 24, 2013
Monday, June 24, 2013
Friday, July 26, 2013
Monday, August 26, 2013
Friday, September 27, 2013
Monday, October 28, 2013
Friday, November 22, 2013
Monday, December 16, 2013

After registering you will receive a confirmation email containing information about joining the training.

Back to top

## MORTGAGE INSURANCE PREMIUM (MIP) CALCULATION REMINDER FOR SECTION 223(A)(7) PROJECTS

As a reminder, for 232/223(a)(7)'s the first year MIP is .50% (50 basis points). This is the percentage that should be shown in paragraph #6 of the firm commitment. This is also the percentage that should be used when calculating the MIP amount for Criterion 10 on the Supplement to Project Analysis, HUD-92264-A, and on all closing statements. The MIP for Criterion 5 on the HUD-92264-A, is .55% for non-LIHTC projects and .45% for LIHTC projects.

Back to top

## RESPONSES TO QUESTIONS CONCERNING THE ELIGIBILITY OF EXISTING INDEBTEDNESS ON SECTION 232 REFINANCES

ORCF has addressed existing indebtedness in several previous Email Blast articles (including Blasts published on April 10, 2009, January 6, 2012, March 30, 2012 and October 31, 2012). Even so, ORCF still receives many questions pertaining to eligibility of debt and debt seasoning on Section 232 refinances. The following discussion attempts to clarify three areas that have been previously addressed but have continued to be the subject of confusion (debt seasoning and identities of interest, debt investigation and bridge loans).

### *Debt Seasoning & Identities of Interest*

Question: When should Lean 232 debt seasoning periods be imposed, and how does the existence of various identities of interest impact debt seasoning?

Response: Debt seasoning periods are imposed when an identity of interest of any degree exists between the borrower and lender on the loan that is to be refinanced or between a seller, purchaser or borrower, including any affiliates of any such entities. The time period for the debt seasoning will be either two years or five years , depending on the specific circumstances as more fully described below:.

- **Five-Year Waiting Period:** When there is an identity of interest between the borrower and the lender of the existing indebtedness (beyond a traditional arms-length banking relationship between the borrower and the lender), the borrower must wait five years from the date the existing debt was generated before submitting a 223(f) refinance application to HUD.

- **Two-Year Waiting Period:** When there is an identity of interest involving a seller, purchaser or borrower (or any affiliates of any such entities), a two year waiting period will apply. In such cases, the borrower must wait two years from the date the existing debt was generated before submitting a 223(f) refinance application to HUD. An identity of interest purchase, whereby an IOI between the seller and purchaser survives the sale transaction or a proposed transaction will finance the buying out of a partner, must adhere to the two-year waiting period and must be processed as a refinance transaction. Debt seasoning may not be required in the case of sale-leaseback transactions in which the transaction is clearly arms-length, at market value, and the post-transaction operator will have no interest whatsoever in the borrower entity (see the January 6, 2012 Email Blast). HUD will carefully investigate the mortgage insurance request for all sale lease back transactions.

Once the debt has seasoned for the length of time required by the circumstances set forth above, it will be considered eligible debt, subject to underwriting and final approval. Transactions that would involve an identity of interest between the borrower and the FHA lender are not allowed under the Section 232 program.

(*See April 10, 2009 and March 30, 2012 Email Blast*)

***Investigation of Debt***

Question: When is an investigation of existing debt required?

Response: If project debt that is being retired is less than two years old, even if an identity of interest transaction is not involved, the FHA Lender must conduct further analysis of debt eligibility. Specifically, in order to be

used in the calculation of the cost to refinance, the lender must provide sufficient evidence to establish that the debt meets one of the categories listed in the Definition of Eligible Debt found in the April 10, 2009 Email Blast.

ORCF provides a few concrete examples of specific categories of eligible indebtedness in the April 10, 2009 Blast article. Please note that the Lean 232 FAQs include additional examples of eligible debt (e.g., past due assessments, under certain circumstances, and funds from the cash flow of the property or the borrower used for capital improvements or betterments to the property) and ineligible debt (e.g., operator debt or funds related to the project but used for an unintended purpose, such as paying down a seller's delinquent taxes or covering the costs of a judgment).

***Bridge Loans***

The most recent discussion of bridge loans in the October 31, 2012 Email Blast prompted inquiries by several lenders. Below is one of those questions and our response.

Question: What does HUD consider bridge loans to be and how does HUD treat bridge loan debt when identities of interest between bridge lenders and FHA lenders are involved.

Response: To clarify, a bridge loan is a loan that is short term in nature that allows a borrower to borrow short term funds to bridge a gap between the existing financing structure (or a purchase) and permanent financing such as a HUD insured loan. Bridge loans are permitted as eligible indebtedness as long as the FHA Lender can demonstrate that 100% of the bridge loan has been used for purposes related to a facility, i.e. there is no cash out, and that it complies with all Lean requirements for debt seasoning or eligible indebtedness.

When a bridge loan is structured to bridge a gap between the date that an outstanding project loan must be repaid and the time permanent financing will be able to be secured, the bridge loan itself does not need to season for two years if the amount of the bridge loan is equal to the principal amount of the previously repaid loan with no cash takeout to any entity or individual.

If there is an identity of interest between the bridge lender and the FHA lender, in addition to the requirements stated above, HUD requires the FHA lender to disclose any such identity of interest so that the bridge loan may be carefully analyzed in order to address any potential concerns regarding the objectivity of the value analysis.

We realize that questions will continue to arise on a case-by-case basis concerning the eligibility of existing debt. Please continue to send such questions to Lean Thinking, but also be sure to first reference the Lean 232 FAQs.

Back to top

## CLARIFICATION REGARDING MASTER LEASES

The November 18, 2011 Email Blast included interim guidance on portfolios and master leases. In that guidance as it relates to master leases, we indicated that HUD will reach back and require existing FHA facilities to be included in a new master lease if those facilities were submitted for financing/refinancing within the past eighteen months, or if credit considerations on a new transaction would warrant it. For purposes of clarification, please note that this standard applies even if a borrower chooses to use different lenders for the loans in its portfolio. ORCF finds master leases to be an appropriate required risk mitigation tool *regardless of whether the borrower elects to hire different lenders to finance FHA insured loans in their portfolio.*

Back to top

## FROM THE CLOSING CORNER

### LEAN 232 New Construction – Reminders for Release of Contractor's Retainage

The Building Loan Agreement requires the Lender to retain at least 10 percent of the construction proceeds from each advance. The construction contract also provides for a 10 percent holdback from the contractor's monthly payments for acceptably completed work, acceptably stored materials, and where applicable, components acceptably stored offsite. The holdback provides an incentive for the general contractor and Mortgagor to:

a. Promptly complete the project;

b. Submit cost certification; and

c. Reach final closing.

**At 90% construction completion** - the Contractor may request that up to 5% of the Construction retainage be released. HUD may approve the request under the following conditions:

a. The Contractor has no identity-of-interest with the Owner greater than a 5 percent equity interest;

b. Prior written consent from the surety company must be attached to the request for release; and

c. There are no questions regarding the contractor's performance concerning the quality of work, compliance with the contract and any change orders or work in progress.

**Upon construction completion** - the Contractor may request that an additional 2.5% of the retainage released. HUD may approve the additional retainage release under the following conditions:

a. Contractor's cost certification, where required, has been reviewed and approved;

b. Contractor has disclosed its final obligations on Form HUD-92023, Request for Final Endorsement of the Credit Instrument;

c. All work under the construction contract has been inspected and approved by the controlling jurisdictions and/or authorities;

d. Certificates of occupancy or other required approvals for the dwelling units, and non-dwelling facilities, where applicable, have been issued by governmental authorities having jurisdiction. Separate buildings for community rooms, rental offices, laundry rooms, etc., commonly require certificates of occupancy;

e. Permission To Occupy, Form HUD-92485 has been issued by OHP for all units;

f. All Davis Bacon payroll requirements have been satisfied; and

g. Prior written consent from the surety company is attached to the request for release.

In addition to the conditions above, HUD may also require an As-Built Survey, conducted according to "Survey Instructions."

***HUD requires 2.5% retainage held until final closing*** - in addition, HUD will retain, where applicable, an adequate amount for the following:

a. Items of delayed completion in an amount equal to 150 percent of the OHP Inspector's cost estimate for completion;

b. Any owed or contested amounts indicated by mechanics, subcontractor, supplier, or equipment lessor liens, etc.;

c. Lessor of the liquidated damages or actual damages computed at cost certification; and

d. Net effect of negative change orders.

**HUD will not approve the release of any part of the retainage until final closing for a contractor with an identity of interest**
Please ensure that all parties involved in New Construction transactions are aware of these requirements for release of contractor's retainage.

Back to top

**Closing Checklist**
HUD Closing Attorneys have noticed that with the end of the completeness check and the certification of the closing checklist, the quality of the closing package has deteriorated significantly and in several instances no checklist has been provided. In addition, we are also aware that in some instances the closing package is no longer being reviewed by an attorney or the assigned attorney may not be aware that the lender has sent the closing package to HUD. This lack of legal review prior to submission to HUD has resulted in lost time for all parties involved. A function of the closing checklist was to get lender's counsel involved at the beginning of the process when documents are being drafted so that there would be minimal comments from HUD field counsel and a timely closing. Immediate efforts should be made to improve the quality of the closing packages, i.e. lender's counsel should ensure compliance with all closing checklist requirements before documents are submitted to HUD.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

14. Lender's Corner Online

15. TEAM TSI Training

February 28, 2013

Back to top

December 19, 2012

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of December 19, 2012

## *December 19, 2012 Contents*


Lender Quality and Monitoring Division Mortgagee Certification
Consolidated Section 223(a)(7) Queue
New Queue Views for Section 223(f) and 223(a)(7)
Other Queue – Lenders Preparation Of an Application As It Reaches The Top Of The Queue
Revised Accessibility Matrix for Section 232
Use of Risk Management Programs
Final Rule for Section 232 Partial Payment of Claims is Published
Update on REAC Physical Inspections
Legal Punch List For Transfer of Physical Assets (TPA) Effective December 19, 2012
ALTA Title Policy Endorsement Requirement
Lender Training on March 13th and March 14, 2013
FROM THE CLOSING CORNER
- Section 232 New Construction Final Closing Consolidated Certification
- Comfort Letters and Identity of Interest (IOI) Between Borrower and Operator
- Rollout of the Special Conditions Matrix
- Last Step – Transaccess Information Needed

Document Links Included In This Blast


## LENDER QUALITY AND MONITORING DIVISION MORTGAGEE CERTIFICATION

HUD's Lender Quality and Monitoring Division (LQMD) is currently ensuring all lenders doing business with HUD under Section 232/Lean have provided the proper mortgagee certification (per the March 30, 2012 Email Blast). Accordingly, any lender needing to complete the certification will be contacted by LQMD staff in the very near future. Lenders can confirm an updated certification is on file at the following link: Mortgagee Certification MAP Approved Lenders List

Back to top

## CONSOLIDATED SECTION 223(A)(7) QUEUE

By Email Blast dated January 25, 2011, we announced the creation of two lanes for enhanced workload management of Section 223(a)(7) Firm Applications – the Green and Regular Lanes. Green Lane deals were defined as proposed Section 223(a)(7) refinances with no loan term extensions, no Transfer of Physical Assets (TPA)/change of operator and no new Accounts Receivable Lines requiring Lean compliance approval (subsequently, electronic 2530s were also required with Green Lane deals).

Since that time, ORCF has allocated additional staffing resources able to perform underwriting reviews for 223(a)(7) applications, helping greatly to reduce previous backlogs. Accordingly, we have decided to merge the two lanes back into one consolidated 223(a)(7) queue. The consolidated Section 223(a)(7) queue will take effect for Firm Applications submitted on or after January 15, 2013, with those applications assigned to underwriters on a first-in, first-out basis.

Lenders are encouraged to perform thorough quality review checks to applications prior to submission to assist in the efficient and accurate Firm Review of the Section 223(a)(7) application. Lenders also are reminded that loan term extension requests will continue to be carefully reviewed by ORCF to determine if the additional term will inure benefit to the insurance fund.

Back to top

## NEW QUEUE VIEWS FOR SECTION 223(F) AND 223(A)(7)

In response to concerns raised by some lenders when an application no longer shows up on the hud.gov queue lists upon assignment to an Underwriter, we are adding additional information fields to the existing views for Section 223(f) and 223(a)(7) loans. The new view will now include a list of loans that have been assigned within the last week, along with the assigned ORCF Underwriter's name. This new view should help lenders track their loans while the applications move from an "In Firm Queue" status to the "Firm Review" status.

Back to top

## OTHER QUEUE – LENDERS PREPARATION OF AN APPLICATION AS IT REACHES THE TOP OF THE QUEUE

When an application in the "Other Queue" reaches the top of the queue, you will be contacted by the ORCF Underwriter once your application has been

assigned. Please be prepared to submit the following documentation to the Underwriter at that time (we recommend you begin to address these items when your loan is the fifth one from the top of the queue):

1. Place all updates in the hard copy of the full application, including the third party reports (a hard copy of the plans and specifications is not required). The assigned ORCF UW will inform you when to send the hard copy.
2. Updated financials (YTD) for relevant entities (electronic and hard copies). If the updated financials indicate a significant change from the data in the original submission, please provide a narrative explanation of those changes. Please see sample document (here) for example of projects having existing operations. For the mortgagor entities, we will need updated financials on the entity or person(s) who is providing the financial capacity for the project as well.
3. Updated working capital calculation for the General Contractor – not required for initial submission applications.
4. If any of the principals have changed, please submit revised organization charts and update any other relevant exhibits.
5. An electronic copy of Division 1 of the specifications (including the wage decision) – not required for initial submission applications.
6. For existing SNF projects update the state survey information as well.
7. For the Operator and General Contractor, please answer the following questions:
    1. Do the Aging of Accounts Payable schedules show any material accounts payable (amounts in excess of 5% of effective gross income) over 90 days? If so, please provide an explanation.
    2. Do the Aging of Accounts Receivable schedules show any material accounts receivable (amounts in excess of 2% gross income) over 120 days? If so, please provide an explanation.
    3. Are there any net losses or declining net incomes for the year to date and last three fiscal years? If so, please provide an explanation.

Please review the Email Blast dated 9/1/11 regarding Financial Capacity, Participant Experience and Debt Service Reserve Escrows, and update any relevant exhibits. Moreover, please note that once we begin our underwriting review, it is unlikely that a refund of the HUD application fee will be issued.

Back to top

## REVISED ACCESSIBILITY MATRIX FOR SECTION 232

In conjunction with HUD's Office of General Counsel, Fair Housing Compliance Division, ORCF's Accessibility Matrix has been revised. A summary of the significant changes to the original February 9, 2010, version (published in the February 19, 2010, Email Blast) follows:

- The Fair Housing Amendments Act (FHAA) is applicable to Skilled Nursing and Intermediate Care facilities (as well as Assisted Living and Board & Care).

- For Purchase/Refinance loans, the Uniform Federal Accessibility Standards (UFAS) is applicable to all existing HUD Section 232 New Construction, and existing HUD Section 232 Substantial Rehabilitation (but only those elements that underwent alteration), that Initially Closed with HUD after July 11, 1988.

- Compliance with Title II and Title III of the Americans With Disabilities Act (ADA) has been clarified.

The revised Matrix, dated December 5, 2012, can be found here and is to be used immediately. The Matrix is also posted under "Lender Tools for Firm Application," for New Construction, Substantial Rehabilitation, 241(a), and 223(a)(7). Any questions should be directed to LeanThinking@hud.gov.

Note – HUD is currently working on a proposed rule to adopt the Architectural Barriers Act (ABA) Accessibility Guidelines with some revisions. Stay tuned for details.

Back to top

## USE OF RISK MANAGEMENT PROGRAMS

As the HUD underwriter and the Loan Committee have considered how a facility has been performing with respect to risk management (considering, for example, state survey scores, insurance claims, etc.), HUD has sometimes included in its firm commitment a special condition specifying that an operator must create and maintain a risk management program. Further, the recently published Operator Regulatory Agreement includes a provision for all operators to provide for risk management, stating:

> **RISK MANAGEMENT PROGRAM.** In accordance with Program Obligations, Operator shall implement and maintain a risk management program which incorporates a real-time incident reporting and tracking system that informs Operator's senior management of all incidents with the potential to expose the Operator to liability for personal injury or other damages. Each incident must

be reviewed by Operator's appropriately-trained professional staff, and such staff must follow-up on incidents as necessary. The risk management program must include appropriate training for Operator's staff.

The effective date of the Operator Regulatory Agreement and other recently published documents has not yet been announced, and details for the risk management program will be addressed in the forthcoming handbook. However, given operators' interest in knowing what to reasonably anticipate, and given that HUD does presently include a special condition on this subject in some firm commitments, ORCF is setting forth below general examples of risk management programs that operators should anticipate may be required, depending on the circumstances. They include:

1. **Develop and document a comprehensive software-based risk management program and have designated staff positions to implement the risk management program -** In this approach, a highly experienced long-term care risk manager develops the company's risk management program, tracks incidents, analyzes incident trends, trains/re-trains front line staff as needed, works with the professional liability insurance carrier, etc. This could be implemented across multiple facilities.

2. **Contract with a third party provider of electronic risk management.** This level of risk management provides the highest degree of confidence, accuracy and follow-through on reducing incidents and claims. **The statement of work must include, at a minimum, the following:**
    - Access and use of an electronic incident tracking and reporting system
    - Facility incident reporting and tracking with the third party provider's data processing/risk management center
    - Clinical specialists to review all incidents and trends and train staff accordingly
    - Assist the facility in developing, implementing and maintaining appropriate risk prevention initiatives

The risk management program, which must be reviewed and approved by HUD prior to closing, is expected to be maintained for the life of the loan. If at some time in the future the operator requests to make any changes to the original risk management program that was approved by HUD prior to closing, Asset Management would review and consider the request on a case-by-case basis.

Back to top

## FINAL RULE FOR SECTION 232 PARTIAL PAYMENT OF CLAIMS IS PUBLISHED

On December 7, 2012, the Department published a Final Rule providing for the partial payment of mortgage insurance claims in the Section 232 Program (FR-5537-F-02). The new rule will be a substantial risk mitigation tool; it will be used only to prevent otherwise unavoidable full insurance claims. Under the rule, HUD can request a mortgagee to participate in a partial payment of claim in lieu of assignment after HUD determines that partial payment would be less costly than other reasonable alternatives for maintaining the project and keeping it available to serve community needs. This tool will not be used except in circumstances in which HUD finds that the financial relief resulting from the partial payment of claim, when considered with other resources available to the project, will be sufficient to restore the financial viability operational stability of the project (and thus prevent a full claim). While the rule has been pending, HUD approved several partial payment of claim transactions pursuant to temporary authority provided by a mortgagee letter (Mortgagee Letter H-2011-15), and HUD has thereby been able to avoid several Section 232 assignments that otherwise would have occurred. The new rule provides permanent authority for this tool and clarifies the requirements for its use.

Back to top

## UPDATE ON REAC PHYSICAL INSPECTIONS

As a result of the Final Rule (FR–5465 F–02**)** published September 7, 2012 and as discussed in the October 31, 2012 Email Blast, HUD has revised its protocol on REAC physical inspections on some Section 232 projects. Consistent with the Rule, HUD is ceasing the routine inspection of skilled care facilities on the basis that those facilities are subject to routine surveys and inspections by the states pursuant to the requirements of the Centers for Medicare and Medicaid Services. The document entitled "Account Executive Facility Assignment – Contact Listing" (posted here) lists which Section 232 projects are subject to future routine REAC inspections.

If you believe our coding for a particular project is incorrect, please contact the project's Account Executive. Please note, projects containing more than one type of facility are coded as the predominant facility type (based on # of beds). **Please also note that if the previous REAC inspection on a facility was below a 60, HUD will require a re-inspection regardless of the type of facility (until a score of 60 or above is obtained).**

Back to top

## LEGAL PUNCH LIST FOR TRANSFER OF PHYSICAL ASSETS (TPA) EFFECTIVE DECEMBER 19, 2012

Effective immediately, please begin using the TPA legal punch list (located here) for all TPA transactions.

Back to top

## ALTA TITLE POLICY ENDORSEMENT REQUIREMENT

Due to changes in the ALTA Title Policy Endorsement 9.3-06 comprehensive endorsement, HUD now requires Title Policy Endorsement 9-06 and 9.6-06. The next revisions of the punch list will reflect this change.

Back to top

## LENDER TRAINING ON MARCH 13TH AND MARCH 14, 2013

Save the Date! Working in conjunction with the Eastern Lenders Association, ORCF plans to have a lender and third party training on underwriting, closing, asset management, and policy related to Section 232 loans on March 13th and March 14th of 2013. The training will take place at the Philadelphia Marriott Downtown. The Eastern Lenders Association will be sending out additional information to their email listserv. If you wish to be placed on this listserv, please email Kim Henry (Assistant to Jeff Allshouse, Secretary of ELA) at kim.henry@prudential.com.

Back to top

## FROM THE CLOSING CORNER

### Section 232 New Construction Final Closing Consolidated Certification

The Section 232 New Construction Final Closing Consolidated Certification is a sample form first published in the June 27, 2012 Email Blast. This form is being republished (link here) as some minor changes have been made to fit the title designations in the Section 232 final rule, as well as to reiterate that it is completely discretionary. It is issued in order to reduce the number of final closing requirements. ORCF will accept this certification as an alternative to resubmitting documents from the initial closing. When using this optional approach, the expectation is that the identified parties will certify to HUD that, to the best of their knowledge and belief, various critical documents have not been revoked, amended, modified or changed as of the date of final closing. To the extent that the identified documents have been

revoked, amended, modified or changed since initial closing, they must be submitted for HUD review and approval as part of the draft final closing submission.

Back to top

**Comfort Letters and Identity of Interest (IOI) Between Borrower and Operator**

Some transactions involving accounts receivable, master leases, and/or an operating lease between a non-identity of interest owner and operator, included letters from HUD indicating that HUD would honor certain provisions in loan documents to which HUD is not a direct party. These letters (which some referenced as "comfort letters") were intended to address potential inconsistencies between documents, and were relevant primarily in the case that the borrower and operator were not identity-of-interest entities. Please note that the newly published documents include provisions that have been revised so as to eliminate the basis for requesting such a letter from the Department. Therefore, once those documents are in effect and applicable, such letters should no longer be necessary. In the meanwhile, HUD will continue to consider requests for comfort letters, but the "comfort" requested should be appropriate for the transaction. For example, IOI parties should not request non-disturbance provisions in their documents.

Back to top

**Rollout of the Special Conditions Matrix**

The purpose of the special conditions matrix is to consolidate the special conditions in an easy to use matrix and document how each of the special conditions is being satisfied. The special conditions matrix is available here and also posted on ORCF's Sample Closing Documents Page here. As a sample document, its use is discretionary. The special conditions matrix will be emailed to the Lender/Lender Counsel by the Closing Coordinator with the initial closing email. The Lender/Lender Counsel should include the special conditions matrix with the closing package. The Lender/Lender Counsel should fill in the column entitled: "Evidence provided to clear condition" with the necessary explanation on how the special condition is being satisfied. Supporting documentation, e.g. letters, forms, plans, can be referenced in the matrix. After reviewing the closing package, the ORCF Closer will indicate in the following columns whether the condition has been satisfied or not, along with a date. If the Lender /Lender Counsel has not provided sufficient documentation to satisfy the special condition, the Closer will notify the Lender/Lender Counsel, asking for additional information or documentation. As a reminder, all special conditions must be satisfied prior

to closing. For new construction projects only, it may be necessary for a special condition to survive closing and must be cleared prior to Final Endorsement. Once all of the special conditions have been cleared by the ORCF Closer, a copy of the special conditions matrix will be sent to HUD counsel, along with the email clearing the project for closing. If HUD Counsel agrees, the special conditions matrix may be used in lieu of amending the Firm Commitment.

Back to top

**Last Step – Transaccess Information Needed**

As mentioned in the November 18, 2011 Email Blast, ORCF introduced a new method to obtain critical documents for each project following closing – The Transaccess Process. These critical documents are essential for the Account Executives to service the new loans. We thank all of those Lenders/Lenders' Counsel that have been diligently providing Compact Discs and Zip files with these documents.

This is a friendly reminder that, while this still has not become a standard operating procedure for all Lenders/ Lenders Counsel, we strongly encourage all to provide these documents in a timely manner – within 30 days of the closing of the project. **The Lender/Lender counsel must provide an electronic version of all recorded documents to the Closer, in addition to the hard copies already submitted to Headquarters.** The ORCF Closer will provide the Lender/Lender Counsel with a "Transaccess Scanning Sheet" (located here), with the respective documents checked, with the electronic version of the file. Please submit all documents, using this "Transaccess Scanning Sheet" as your cover-page, and number your documents according to this Transaccess Scanning Sheet". We strongly encourage you to use CDs to accommodate the number/size of documents required to be sent simultaneously.

ORCF appreciates your continued support in this endeavor to provide timely documents for our Account Executives.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

16. Mortgagee Certification MAP Approved Lenders List

17. "Other Queue" Updated Financials Table Sample for Lenders

18. Revised Accessibility Matrix For Section 232

19. Section 232 Partial Payment of Claims Final Rule FR-5537-F-02

20. Section 232 Healthcare Facility Insurance Program-Strengthening Accountability and Regulatory Revisions Update Final Rule FR–5465 F–02

21. Account Executive Facility Assignment – Contact Listing

22. TPA Legal Punch List

23. Section 232 New Construction Final Closing Consolidated Certification

24. Special Conditions Matrix

25. Transaccess Scanning Sheet

Back to top

November 30, 2012

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of November 30, 2012

## *November 30, 2012 Contents*

Revised Section 232 Documents Available For Public Review
Document Link Included In This Blast

## REVISED SECTION 232 DOCUMENTS AVAILABLE FOR PUBLIC REVIEW

On November 21, 2012 a Federal Register Notice (FR-5623-N-02) was published to share the public comments received during the first round of review of the proposed Section 232 documents (held May 3, 2012 – July 2, 2012). The Notice also shares HUD's responses to the received comments, as well as the newly revised documents themselves. A link to this Notice, revised documents and redline comparisons to those documents posted on May 3rd, is available for review at: www.hud.gov/232forms.

Back to top

## DOCUMENT LINK INCLUDED IN THIS BLAST

1. Federal Register Notice FR–5623–N–02, Revised Section 232 Documents and Redline Comparisons

Back to top

October 31, 2012

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of October 31, 2012

## *OCTOBER 31, 2012 Contents*


Section 232 Accountability Rule, Effective October 9, 2012, Makes Key Program Changes
- Operator Financial Statements
- REAC Physical Inspections
- Purchase of Goods and Services
- Working Capital
- Prompt Notification of Circumstances Placing the Value of the Security at Risk

Eligibility of Bridge Loan Financed Indebtedness
Changes to the "Other Queue"
New Construction Processing – Applications with Major Deficiencies
Lender Performance Measures (Underwriting)
Upcoming Team TSI/HUD Training Webinar
FROM THE CLOSING CORNER
- Early Commencement Shortfall Process
- New Construction Final Closing Legal Checklist and Punchlist

REMINDERS
- Application Submission Reminders
  - Identify Common Ownership and Portfolios at Application Submission
  - Naming Convention in Submission of Electronic Applications
- Closing Reminders
  - After Closing – The Transaccess Process
  - 223f/223(a)(7) Closings
  - New Construction Final Closing Timeframes

DID YOU KNOW?
- ORCF's Frequently Asked Questions (FAQ) Have Been Updated
- FY 2012 LEAN Closings are Now Posted on HUD.gov

Document Links Included in this Blast

October 31, 2012

# SECTION 232 ACCOUNTABILITY RULE, EFFECTIVE OCTOBER 9, 2012, MAKES KEY PROGRAM CHANGES

The Final Rule entitled "Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program-Strengthening Accountability and Regulatory Revisions Update," (click here for Final Rule) which was published September 7, 2012, became effective October 9. The Final Rule covers many facets of the 232 Program, including physical, financial and operational matters, and though its overall effective date was October 9, various provisions of it have initial applicability dates beyond that point. Here is a summary of some key provisions of the Final Rule, which is attached. Note that although the preamble portion of the attached Final Rule is lengthier than the regulatory provisions themselves, the preamble language provides useful background and context.

## Operator Financial Statements

This provision requiring operator financial statements (24 CFR 5.801(a)(6) and (d)(4)) is not yet applicable; it will not apply until HUD announces (via Federal Register notice) the manner in which such financial reports are to be submitted. HUD anticipates that this announcement will be made in 2013. Even then, this provision will apply only with respect to fiscal years commencing at least sixty days after the announcement. When the applicability date is ultimately reached, however, this provision will apply both to existing and future 232 projects.

The provision requires operators to submit quarterly/year-to-date operator-certified financial statements to the lender and HUD. The Rule further states that HUD may direct the operator to submit the financials to a third party in lieu of or in addition to HUD. Given the substantial relationship between operator financial performance and mortgage risk, obtaining operator financial performance data is extremely important. The reporting requirement will also help assure that the operator maintains facility-by-facility accounting records.

## REAC Physical Inspections

This provision (24 CFR 200.855) is now applicable, and it limits the inspections on skilled nursing facilities. It provides in part that REAC will no longer routinely perform physical inspections on skilled nursing facilities (though HUD can direct on a case-by-case basis that one be conducted). In applying this provision, HUD is halting the inspections on facilities categorized in HUD's database as skilled nursing facilities (SNFs). This can include skilled nursing facilities that do have some non-skilled nursing units, but are predominantly providing skilled nursing care.

In implementing this provision as expeditiously as possible, HUD is halting the scheduling of routine inspections on such facilities. Additionally, HUD has directed the cancellation of:

a) inspections already scheduled to occur between October 9th and November 8th on any such facilities, *where the prior REAC inspection resulted in a score of 80 or above*, and

b) inspections already scheduled to occur on or after November 9th on any such facilities, *unless the prior REAC score was below 60*.

The provision also gives HUD the authority to determine that other (non-SNF) projects in a particular jurisdiction do not need REAC inspections, if HUD finds that a particular jurisdiction provides adequate inspections with readily available results. Action, if any, with respect to that authority will be announced at a later date.

**Purchase of Goods and Services**

This provision (24 CFR 232.1007) is now applicable, and it applies to all existing and future 232 projects. It simply applies a reasonableness standard to the purchase of goods and services. Although this matter had not previously been set forth at the rule level, it is not a departure from longstanding HUD expectations or from industry practice.

**Working Capital**

This provision (24 CFR 232.1013(b)) directs that the operator may not withdraw funds if it fails to timely submit its quarterly/year-to-date financial statement or if that statement shows negative "working capital", a term to be applied based on Generally Accepted Accounting Principles (GAAP). The provision applies only to transactions for which a firm commitment is issued on or after April 9, 2013.

**Prompt Notification of Circumstances Placing the Value of the Security at Risk**

This provision (24 CFR 232.1015), is now applicable, and it applies to all existing and future 232 projects. The provision requires a facility's operator to very promptly provide HUD and the lender with any notification that has placed the licensure, a provider funding source, and/or the ability to admit new residents at risk, and any response to those notices.

The language of the Final Rule is far-reaching on this notification issue, but the provision also states that HUD may choose to exempt certain information from the requirement based on the severity level. Toward that end, HUD

included in the proposed Operator Regulatory Agreement (published as part of the PRA Document Notice concurrently with the Proposed Rule) the following proposed exemption from this requirement:

> Unless otherwise requested by HUD, the reporting requirement of this provision shall not encompass regulators' communications relating solely to Licensed Nursing Facility surveys wherein all cited violations are less severe than a "g" level, or its equivalent, and, collectively, do not result in an imposition of remedy level greater than CMS Remedy Category 1, or its equivalent (pursuant to CMS State Operations Manual, Chapter 7, as may hereafter be edited or updated, or any successor guidance).

HUD finds this limitation on the scope of 24 CFR 232.1015 reasonable, and HUD at this point is not expecting to be routinely provided with communications about such matters that do not rise above this level of severity.

Back to top

## ELIGIBILITY OF BRIDGE LOAN FINANCED INDEBTEDNESS

**Clarification on the Eligibility of Bridge Loan Financed Indebtedness-** A bridge loan is one that spans the gap between the termination of a short-term loan and the start of another long term loan. Bridge loans are permitted as eligible indebtedness in the Section 232/223(f) program as long as the original indebtedness meets eligible debt requirements (please see April 10, 2009 Email Blast) and the bridge was not used to artificially increase the mortgage, circumvent program intent or to facilitate equity cash out.

Please note that when any identity of interest is involved, further requirements or restrictions may apply. As established in the April 10, 2009 Email Blast and reaffirmed in the March 30, 2012 Email Blast, transactions involving any identity of interest between the Borrower and the Lender of the proposed FHA transaction ("FHA Lender") are not permitted by Section 232. Similarly reaffirmed on March 30, 2012, when either the lender of the original indebtedness ("original lender") or the lender of the bridge loan ("bridge lender") on said indebtedness has any identity of interest with the Borrower, the debt must season five years before it can be refinanced under Section 232/223(f). When there is any identity of interest between the FHA Lender and the Bridge Lender, the original indebtedness must meet eligible debt requirements and any identity of interest must be disclosed so that it

may be carefully analyzed by HUD. Such identities of interest can raise concerns about the objectivity of the lender in its analysis of value.

Back to top

## CHANGES TO THE "OTHER QUEUE"

ORCF has received numerous inquiries on status of applications in the "Other Queue"; we want to point out the current changes with processing in the "Other Queue". For a period of 60 days, some ORCF Underwriters were pulled from reviewing applications to review industry comments on the new forms being developed by ORCF for publication. Now that the forms review process is completed, we are assigning five ORCF Underwriters and five ORCF appraisers to concentrate on reviewing the applications in the "Other Queue." By allocating these resources to the "Other Queue," ORCF will be able to reduce the queue time for these applications.

One other change involves Diane Rosinski 's retirement on September 30, 2012. As Diane was very instrumental in the development of the underwriting process for the "Other Queue" she will be missed! We wish her many years of HAPPY Retirement!

Back to top

## NEW CONSTRUCTION PROCESSING – APPLICATIONS WITH MAJOR DEFICIENCIES

We are continuing to screen applications in the other queue per the Email Blast dated May 31, 2012.

If the prescreening identifies any major deficiencies, ORCF will contact the lender to advise them of those deficiencies. The firm application will then be placed on long-term hold until the lender has provided sufficient evidence or explanation to resolve the major deficiencies. **Firm Applications that are received on or after November 1, 2012 that are placed on long-term hold due to major deficiencies will be returned to the back of the queue based on the date the lender provides an acceptable response to ORCF.** By managing firm applications for new construction projects in this order, ORCF can provide the fastest processing to lenders with complete applications.

Major deficiencies include, but are not limited to:

- Incorrect program templates used (i.e. used initial submission documents for a single stage application)
- Expired Third Party Reports

- Environmental Issues are not addressed
- Impact of proposed state reduction in Medicaid is not addressed
- Insufficient experience of the Borrower
- Unclear or insufficient financial position of the Borrower/Principals
- Insufficient equity
- Incorrect or inconsistent calculations throughout the application
- 2530s/APPS not completed or completed incorrectly
- Missing exhibits

Back to top

## LENDER PERFORMANCE MEASURES (UNDERWRITING)

ORCF is collecting data based on our Underwriter Reviews of applications submitted by Lenders. Applications are evaluated based on six general criteria: Mathematical Calculations; Quality Control; Responsiveness; Due Diligence; Programmatic/Legal Issues; 3rd Party Reports and Assessments. Any significant problems in these areas that lead to delay in underwriting review are noted by the ORCF underwriter. Data is collected for every application sorted by lender and will be shared with individual lenders on a quarterly basis. While we coordinate with our Lender Approval and Monitoring Division, please confirm with Mary Walsh who the lead underwriting contact you wish to receive the quarterly data report. Please email Mary at: Mary.V.Walsh@hud.gov. Mary also can be reached at 817.978.5807 for any questions.

Back to top

## UPCOMING TEAM TSI/HUD TRAINING WEBINAR

As mentioned in the January 25, 2011 Email Blast, HUD has contracted with Team TSI to provide a web site which contains all the survey reports for HUD's 232 existing nursing home portfolio (*Disclaimer: Team TSI is one of many companies in the industry that provide this type of information for a fee. The reference to this company should not be interpreted as an endorsement by HUD to the expertise of the company or quality of the product provided)*. This information is crucial in understanding the quality of care provided to the residents. This service is FREE for all lenders to access their existing FHA insured portfolio. Team TSI/HUD will be providing a training webinar on use of the Team TSI Corporation web portal on Friday, November 9, 2012, from 1:00pm-2:00pm CST and Friday, December 14, 2012, from 1:00pm – 2:00pm CST. To register for a session, click on a date below:

Fri, Nov 9, 2012 1:00 PM - 2:00 PM CST

October 31, 2012

Fri, Dec 14, 2012 1:00 PM - 2:00 PM CST

Back to top

## FROM THE CLOSING CORNER

**Early Commencement Shortfall Process**

Lenders have reminded us that for ORCF approved Early Commencement construction transactions the HUD-92264HCF Section H may over-estimate certain line items since it is based on the estimated replacement cost. To address this issue, ORCF is offering Lenders the option to request amendments to firm commitments which more accurately reflect estimated costs in the determination of the maximum mortgage amount (Criteria 12 of the HUD-92264A). The firm commitment amendment request letter should include:

1. Information on the estimated and actual cost in connection with the subject loan for new construction, rehabilitation, or addition, after excluding any kickbacks, rebates, adjustments made for items including but not limited to taxes, interest, insurance, MIP, or other expenses identified. This information shall be submitted and certified by an authorized representative of the mortgagor entity. A sample certification for your reference is located on ORCF's website under Sample Closing Documents (Direct link here).

2. A revised HUD-92264A reflecting a reduction in the Replacement Cost in Criteria 12 by the amount of the Early Commencement Savings.

Additional Discussion of Early Commencement Shortfall Concept

The most common and most significant savings in cost in early commencement transactions would be in the interest line item. The borrower will not be paying (HUD insured) interest payments during the early commencement period. To determine the revised interest amount the lender should estimate the remaining interest payments for the number of months (plus two months) that will remain in the construction schedule at the time of Initial Closing, and attach that calculation (and any explanation) to the Shortfall Certification.

There will in many cases be a savings in Mortgage Insurance Premium as well. Please note that the most accurate estimate of the Mortgage Insurance Premium would be based on a per diem calculation (based on the remaining construction period plus two months).

Savings in other line items should be reviewed by the lender and included in the certification as appropriate.

**Do not revise the HUD-92264HCF and do not attach it to the amendment request.** The HUD-92264HCF attached to the Firm Commitment reflected the estimated replacement cost at the time of Firm Commitment and remains the approved cost estimate for appraisal purposes.

The Lender's Advance Register should reflect the Early Commencement Cost from the Shortfall Certification as the opening balance for each affected line item.

Questions should be addressed to your ORCF Closing Coordinator.

Back to top

**New Construction Final Closing Legal Checklist and Punchlist**
To clarify and correct, the New Construction Final Closing Legal Checklist and New Construction Final Closing Legal Punchlist that were published in the 6/27/12 Email Blast are to be "For **closing packages** submitted on or after 8/1/12," not "For **applications** submitted on or after 8/1/12." The checklist and punchlist for new construction final closings (and 241a's) were intended to be effective immediately on all final closing packages submitted on or after 8/1/12. This clarification/correction is effective immediately.

Back to top

## REMINDERS

### Application Submission Reminders

**Identify Common Ownership and Portfolios at Application Submission**
As stated and defined in the November 18, 2011 Email Blast, and May 31st Email Blast **if 2 (or more) projects have any degree of common ownership, *indicate that on the Certification for Electronic Submittal and/or preferably let Rasheedah Dix know when you submit your FHA # request*. Remember, this is part of an 18 month period; you may have to look at what already closed or what you will submit in the future.**

We need lenders' help to identify the common ownership as early as possible, preferably when you get the FHA number but also when you submit

an application. Common ownership is usually on the *Principal of Mortgagor Consolidated Certification*, but please ensure that it is also reflected on the *Certification for Submission of Electronic Firm Application*. This is **not** the determination of master lease or portfolio review requirements. This is simply for the purpose of **proper naming and tracking** of the projects.

Early identification of common ownership allows us to assign one underwriter and attorney to all of the applications. This simplifies and speeds up the application processing for everyone. The underwriter will inform you if your group will require a master lease under current criteria.

Back to top

**Naming Convention in Submission of Electronic Applications**
As has been mentioned in the past, when submitting an electronic application, please use only letters, numbers and underscores when making the electronic names of the documents. Please do not use special characters or punctuations. Please only use letters, numbers and underscores.

Back to top

## Closing Reminders

**After Closing – The Transaccess Process**
As mentioned in the November 18, 2011 Email Blast, ORCF introduced a new method to obtain critical documents for each project following closing – The Transaccess Process. These critical documents are essential for the Account Executives to service the new loans. We thank all of those Lenders/Lenders' Counsel that have been diligently providing Compact Discs and Zip files with these documents.

This is a friendly reminder that, while this still has not become a standard operating procedure for all Lenders/ Lenders Counsel, we strongly encourage all to provide these documents in a timely manner – within 30 days of the closing of the project. The Lender/Lender counsel must provide an electronic version of all recorded documents to the Closer, in addition to the hard copies already submitted to Headquarters. The ORCF Closer will provide the Lender/Lender Counsel with a "Transaccess Scanning Sheet" (located here), with the respective documents checked, with the electronic version of the file. We strongly encourage you to use CDs to accommodate the number/size of documents required to be sent simultaneously.

ORCF appreciates your continued support in this endeavor to provide timely documents for our Account Executives.

Back to top

**223f/223(a)(7) Closings**

- ✓ **EXTENSION REQUESTS:** The Firm Commitment may be extended for a 60-day period for 223(f) or a 90-day period for 223(a)(7) provided that processing and underwriting conclusions are current at the time of any extension. The lender's request to amend the Firm Commitment to extend it for 60/90 days must include the reason for the delay and justify how the delay can be solved during the extension. Amendments that extend the time of the Firm Commitment must also include the following MAP Guide 11.2(G) statement that there has been no material change in the project or the underwriting of the project: "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." ***Note***: The **FIRST** request to extend may be approved by the Closer. The **subsequent** request must go to the Underwriter and project WLM for approval; ***please cc the closer when you submit this request.***

- ✓ **INTEREST RATE PREMIUM AND CLOSING STATEMENTS:** Please remember that the full amount of the interest rate premium and sources of any cash to Borrower are required to be shown on closing statements.

- ✓ **NEW FORMS:** The proposed revised documents have not gone into effect and should not be used.

Back to top

**New Construction Final Closing Timeframes**

Please keep in mind the following key time-periods when planning for Final Closing of your New Construction project:

| TIMEFRAME | ACTION REQUIRED |
|---|---|
| Construction Complete Date | **Construction Completion** The Final Trip Date (date of inspection) is considered the Construction Completion Date. |

| | |
|---|---|
| Up to **60 days** from date of Construction Completion/Final Trip Report | **<u>Cost Cut-Off:</u>**<br>The Mortgagor has up to 60 days from the date of the Final Trip Report/Construction Completion to determine the Cost Cut-off Date for development soft costs. |
| Up to **60 days** from Cost Cut-Off Date | **<u>Cost Certification Package:</u>**<br>Lender to submit the Cost Certification Package (see required documents for package in Email Update of **2/2/12, and supplemental information in 11/18/11, 1/6/12, and 5/31/12)**<br><br>*****If Lender is not able to meet this deadline, an extension request will need to be sent to the Closing Coordinator.*** |
| Up to **30 days** from receipt of Cost Certification Package | **<u>ORCF Review of Cost Certification Package:</u>**<br>Maximum Insurable Mortgage Letter will be issued once Cost Certification Package is approved. |
| Up to **30 days** from issuance of Maximum Insurable Mortgage Letter | **<u>Final Closing Package:</u>**<br>Lender to submit the Final Closing Package (see required documents for package in Email Update of **6/27/12**)<br><br>*****If Lender is not able to meet this deadline, an extension request will need to be sent to Closing Coordinator.*** |

| Up to **30 days** from receipt of Final Closing Package | **ORCF/OGC Review of Final Closing Package and Final Closing Date Set:** |
|---|---|
| **Incomplete packages or delays in submission of required documents will cause delays in reaching Final Closing.**<br><br>**ORCF will be looking to Lenders to share these critical timeframes to all parties involved in a New Construction Final Closing.** | |

Back to top

## DID YOU KNOW?

**ORCF's Frequently Asked Questions (FAQ) Have Been Updated**
The most recent update to ORCF's FAQs was on October 17, 2012. ORCF's FAQs are a valuable reference resource when looking for quick answers. The updated FAQs can be found here.

Back to top

**FY 2012 LEAN Closings are Now Posted on HUD.gov**
FY 2012 LEAN closings are now posted on HUD.gov and can be found here. All LEAN closings (FY 2010 – FY 2012) can be found here. Please check these pages in the future for LEAN closing updates.

Back to top

## DOCUMENT LINKS INCLUDED IN THIS BLAST

1. Final Rule - Federal Housing Administration (FHA): Section 232 Healthcare Facility Insurance Program-Strengthening Accountability and Regulatory Revisions Update
2. FY 2012 LEAN Closings
3. All LEAN Closings FY 2010 – FY 2012
4. ORCF FAQs
5. Early Commencement Shortfall Certification Sample Document
6. Transaccess Scanning Sheet-UW and Closer
7. Upcoming TEAM TSI/HUD Training Webinar Registration
   Fri, Nov 9, 2012 1:00 PM - 2:00 PM CST
   Fri, Dec 14, 2012 1:00 PM - 2:00 PM CST

October 31, 2012

Back to top

August 29, 2012

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)

## Revised Update as of August 29, 2012

*AUGUST 29, 2012 Contents*


- Mortgage Insurance Premium (MIP) Update
- Fixed Monthly Replacement Reserve Deposit
- Guidance On Floodways
- Site Visit Inspections by LEAN Approved Underwriter for 232/223(a)(7)s and 223(f)s
- Where to Send Application Fees
- FROM THE CLOSING CORNER
- Document Links Included In This Blast


## Mortgage Insurance Premium (MIP) Update

Effective October 1, 2012 (FY2013) all firm commitments issued or re-issued for all Section 232 projects will have an increase in the annual Mortgage Insurance Premium. However, firm commitment applications (whether "Initial Submittal of Firm" or "Direct to Firm" applications) that were in the queue prior to June 1, 2012 will be grandfathered under the previous (FY2012) MIP rates. The new rate information is attached and available here: **MIP Change for FY 2013 FR-5634-N-02**

**MIP Collected by Lenders—All Projects**

ORCF does not regulate the amount of mortgage insurance premiums collected by lenders from borrowers in refinance or construction transactions. Lenders may have their own policies as they deem appropriate.

**MIP Collected by ORCF at Initial Closing—223(f) and 223(a)(7) Transactions**

The current practice remains in place. The first year MIP for a Section 232/223(f) health care facility remains at 100 basis points (one percent). The first year MIP for a Section 223(a)(7) refinancing loan remains at 50 basis points.

**MIP Collected by ORCF at Initial Closing—New Construction, Rehabilitation, 241a, Blended Rate Transactions**
Effective October 1, 2012 the lender must provide a check for one year of MIP at initial closing.

**MIP Underwritten Amount—New Construction, Rehabilitation, 241a, Blended Rate Transactions**
For underwriting purposes, the MIP should be calculated on a per diem basis as required for cost certification.

**MIP Year 2 Source of Funds—New Construction, Rehabilitation, 241a, Blended Rate Transactions**
Lenders may request release of funds from the Working Capital account to make this payment if the project has not yet reached final endorsement. This request should be made in writing to the ORCF Closing Coordinator.

**MIP Cost Certification Amount—New Construction, Rehabilitation, 241a, Blended Rate Transactions**
For cost certification purposes the MIP should be calculated on a per diem basis. This was included in instructions in the email blast of January 6, 2012 in the Lender Narrative Cost Certification Supplement attachment.

**MIP—Additional Questions**
If you have additional questions on MIP (including billing errors to borrowers) please forward those to Lean Thinking.

Back to top

## Fixed Monthly Replacement Reserve Deposit

ORCF has received a number of Firm Applications with a reserve for replacement schedule/analysis that factors in a large increase in annual replacement reserve deposits in years 11-15 of the mortgage. We do realize that a new Project Capital Needs Assessment (PCNA) report will be completed in year 10; however, we are concerned about the property's ability to absorb such increases (especially in light of the uncertainty of the future reliability of

government provider payments as a revenue source). Therefore, for Firm Applications submitted on or after 9/30/12, the replacement reserve schedule/analysis must use annual replacement reserve deposits that are fixed over the 15 year term of the replacement reserve schedule/analysis.

Back to top

## Guidance On Floodways

Recently, applications have been rejected for having floodways or coastal hazard areas on site. The decisions were based on a prohibition against mortgage insurance in the situations cited in 24 CFR 55.1(c). Once an application for a site containing a floodway has been submitted, the application may not be accepted subject to a carve-out of the floodway portion. Under an exception in 24 CFR 55.12(c)(6), floodways may only be part of the insured site so long as all floodplain areas (including the 500-year floodplain for critical actions) are considered to be incidental portions of the site and construction (including existing improvements) or landscaping activities (except for minor grubbing, clearing of debris, pruning, sodding, seeding, etc.) do not occupy or modify the relevant floodplain. Due to the constraint that activities must "not occupy or modify" the floodplain, the floodplain cannot be utilized in the development or support of any project activity, except as passive open or green space. Open space is a portion of a development site that is permanently set aside for public or private use and will not be developed. Green space is considered to be undeveloped land or land restored to its natural state.

When invoking the incidental portion exception at 24 CFR 55.12(c)(6), a protective covenant or comparable restriction must be placed on the property's continued use to preserve the floodplain. The covenant or comparable restriction must run with the land to provide for permanent preservation of the floodplain. A restriction that is contained in a document that would expire at the conclusion of the HUD-insured mortgage does not meet the requirement for permanent preservation of the floodplain.

In considering the safety of the residents, offsite floodways and other flood hazards will be evaluated in terms of separation distance, elevation differences, and the nature of the hazard in question. Unacceptable proximity to hazards may result in rejection of the application. Pre-submission rulings can be requested through Lean Thinking (LeanThinking@hud.gov).

Back to top

## Site Visit Inspections by LEAN Approved Underwriter for 232/223(a)(7)s and 223(f)s

HUD is updating and clarifying the standard for site inspections of 232/223(a)(7)s and 223(f)s. A LEAN approved underwriter, who is NOT the LEAN underwriter of record, *would* be appropriate to perform the site visit so long as the site inspection report is reviewed and certified/signed by the Lender Underwriter.

Back to top

## Where to Send Application Fees

Application fees are due to Mike Luke in Minneapolis before the signed Firm Commitment. After the Firm Commitment is issued, any additional application fees go to Mike Moe Lawassani in the San Francisco office.

Mike Luke
HUD Minneapolis Field Office
920 2nd Ave S, Suite 1300
Minneapolis, MN 55402

Mike Moe Lawassani
U.S. Department of HUD - San Francisco Field Office
600 Harrison Street, 3rd Floor
San Francisco, CA 94107

Back to top

## FROM THE CLOSING CORNER

**Language changes to form legal documents:** As a reminder, form legal documents are intended to apply to relevant transactions without editing. Proposed changes should be very rare and based on highly exceptional circumstances. if any changes to form legal documents (e.g. Regulatory Agreements, Riders, Lease Addenda, etc) are proposed, please do not forget to submit the suggested changes to **BOTH** OGC and OHP via a red-line document with comments or justifications for the change. OGC and OHP will work together to discuss and decide on such suggested changes, as it relates specifically to the project. The OHP contact person for the requested changes should be the assigned Closing Coordinator, who will coordinate the proper authorizations within OHP. Lenders and Lenders' Counsel should not submit changed form documents without flagging such changes for clearance by both OGC and OHP. **Any proposed document change will need to be approved by OGC and OHP prior to closing.**

Back to top

August 29, 2012

## Document Links Included In This Blast

2. **MIP Change for FY 2013 FR-5634-N-02**

Back to top

July 13, 2012

# HUD's Lean 232 Program

## Office of Residential Care Facilities (ORCF)

## Update as of July 13, 2012

*July 13, 2012 Contents*


- Proposed Rule for Section 232 Partial Payment of Claims is Published


## Proposed Rule for Section 232 Partial Payment of Claims is Published

A proposed rule establishing the criteria and process by which FHA will accept and pay a partial payment of the claim under the FHA mortgage insurance contract for Section 232 projects has been published in the Federal Register.

https://federalregister.gov/a/2012-16559

This proposed rule changes the Section 232 regulations, and your input is important for ORCF in its effort to shape an appropriate final rule after the public comment period. Please provide feedback and submit public comments by September 7, 2012, as described in the proposed rule.

All comments should refer to *Federal Housing Administration (FHA) Section 232 Healthcare Mortgage Insurance Program: Partial Payment of Claims*, Docket Number FR-5537-P-01.

Back to top

Need to Reference Previous Lean 232 Updates?
Previous E-Newsletters (Email Updates) can be found at:
http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters
Have questions about the Lean 232 Program? Please send them to the Lean Thinking mailbox at LeanThinking@hud.gov

July 13, 2012

Have your loan servicing colleagues joined our email list? The email blasts contain information relevant to them as well. You might suggest they sign up online.

For more information on the Lean 232 Program, check out: **http://www.hud.gov/healthcare**
Past Lean 232 Updates are available online here.
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.

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 mailing list, please go here.

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of JUNE 27, 2012

## *JUNE 27, 2012 Contents*


- 232 Email Blasts moving to HUD Listserv
- Green Lane for 223(a)7 combined with 232(i) Fire Safety Equipment Loan Program transactions
- Information Needed for Waivers of 24 CFR 232.3 (Bathroom Waivers)
- Mitigate Special Income Sources in Appraisal and Underwriting
- Clarification on Lender Underwriter Approval
- Completed Kaizen Action Items, Legal Review Updates

Revised Management Agent Grid
Revised Closing Legal Punchlists and Checklists – 232/223(a)(7) and 232/232(f)
Accepting one set of closing documents with a soft copy

- FROM THE CLOSING CORNER

"Hot off the Press!" - Guidance for Final Closing for 232 New Construction Projects
TAKE NOTE: HUD Application Fee Adjustment Process has Changed
Closing Contract Changes

- Files Distributed in this Blast


## 232 Email Blasts moving to HUD Listserv

ORCF has set up a new listserv to distribute Email Blasts and other program announcements. All addresses on the current Blast distribution list have been added to the electronic mailing list. This system allows people to subscribe and unsubscribe themselves directly through the HUD website. This will allow you to manage your own subscription preferences and reduce HUD staff time required to manage the list. Messages will still come from Mike.M.Lawassani@hud.gov

but will be forwarded by Lean-232-Updates-L@hudlist.hud.gov. Depending on your email settings one or the other address may appear in the "From" field.

Due to listserv limitations we will not be sending any files attached to future Email Blasts. All files will be available from the ORCF website, and the Blast will include a direct link to the online file.

Access the Lean 232 Updates mailing list on this webpage:
http://portal.hud.gov/hudportal/HUD?src=/subscribe/signup&listname=Lean%20232%20Updates&list=LEAN-232-UPDATES-L

Please do not send future subscription requests to Mike Lawassani. Use the online portal to manage your own subscription.

Back to top

## Green Lane for 223(a)7 combined with 232(i) Fire Safety Equipment Loan Program transactions

The January 25, 2011 Email Blast established a "Green Lane" for expedited processing of Section 223(a)(7) applications meeting certain criteria. The criteria is being updated to address the potential that a 223(a)(7) application can be submitted with 232(i), Fire Safety Equipment Loan Program application. Effective immediately, the criteria for expedited Green Lane processing has been expanded to include all 223(a)(7) applications submitted with 232(i), Fire Safety Equipment Loan Program applications. The Fire Safety Equipment Loan Program was highlighted in the March 30, 2012 Email Blast.

Back to top

## Information Needed for Waivers of 24 CFR 232.3 (Bathroom Waivers)

The April 30, 2012 Email Blast directed lenders to send requests for waivers of 24 CFR 232.3 to Vance.T.Morris@hud.gov. In sending the request, the following information must be included from the Lender's Narrative:

1. Project Name
2. Project Address
3. Copy of License
4. Sketch of Floor Plan showing residents' sleeping, bathing and toileting facilities
5. Number of Residents
6. Number of Full Bathrooms
7. Number of Half Bathrooms
8. Number of shower rooms or bathing areas (excluding those in full bathrooms)
9. Full explanation on why the loan applicant cannot meet the requirements of 24 CFR 232.3 for number of bathrooms and/or private access to bathrooms.

It is important to remember that 24 CFR 232.3 "Bathroom" waivers must meet HUD's legal sufficiency standards, as determined by the HUD's Office of General Counsel, and be approved by the FHA Commissioner.

Back to top

## Mitigate Special Income Sources in Appraisal and Underwriting

The Section 232 Loan Committee has recently encountered applications where Medicaid Upper Payment Limit (UPL) revenues have materially impacted the income approach to valuation used to determine the maximum loan amount. In most cases, this relatively new special income source emanated from a new operator arrangement with a governmental entity, thereby allowing the UPL revenue stream to be created. As such, this new arrangement caused concern, delay, and required changes to individual applications before a Firm Commitment could be issued.

To avoid similar problems in future applications, lenders should ensure that all special income sources are appropriately addressed in advance. The key principles are **disclosure** and **mitigation**.

Any unusual income sources must be clearly identified and described in both the text of the lender narrative and in tables, financial statements, sources & uses, etc. as applicable. The lender underwriter should evaluate the risk and stability of these income sources and include specific, appropriate, and clearly defined mitigation such as modified capitalization rates, long-term debt service reserve escrow accounts, or other mitigations. The third party appraiser should determine the appropriateness of including such income when establishing the market value of the property using the income approach.

As a reminder, sound appraisal principles require that the appraised market value of a property be established *without regard to the identity of the current owner and operator*. If needed, the appraiser should cite a hypothetical condition in order to include or exclude the owner- or operator-dependent income. Examples of special revenue sources that are not included in the calculation of income for determining market value include fundraising, endowments, grants, and investment income. Depending on the circumstances, Upper Payment Limit revenue may need to be excluded as well.

Back to top

## Clarification on Lender Underwriter Approval

The March 30, 2012 Email Blast had comprehensive guidance on the criteria for Lender and Underwriter Approval under 232/Lean. We have received questions and would like to clarify one item needed for underwriter approval. Loan Underwriter Approval described Exhibit A as "Resume for healthcare underwriter which supports five years of experience in underwriting residential healthcare facilities." ORCF does not intend to require 5 years duration of underwriter experience. Instead, consistent with the previous MAP Guide, the lender underwriter should demonstrate *recent* residential healthcare experience. Therefore, effective immediately, the above-quoted sentence with respect to instructions for Exhibit A is amended to read, "Resume for healthcare underwriter which supports experience in underwriting residential healthcare facilities within the previous five years."

Back to top

# Completed Kaizen Action Items, Legal Review Updates

The following items complete the process improvement tasks identified in the February 2012 Kaizen.

## Revised Management Agent Grid

Pursuant to the February Kaizen, changes were made to the Management Agent Grid to provide better guidance for field counsel when reviewing the roles of the parties operating the project regardless of their title. (***See revised Management Agent Grid posted online***)

## Revised Closing Legal Punchlists and Checklists – 232/223(a)(7) and 232/232(f)

The 232/223(a)(7) and 232/223(f) legal closing punchlists and checklists have been revised and are effective August 1, 2012. The legal punchlists have been changed to clean up obsolete or inaccurate language, indicate when redlines copies of documents should be provided, suggest that field counsel facilitate discussion of legal comments by making an evaluation call to lender's counsel, and clarify the required searches. (***See revised Punchlists and Checklists posted online***)

## Accepting one set of closing documents with a soft copy

Some local HUD counsel have elected to eliminate the need for multiple sets of closing documents when lender's counsel has committed to providing HUD, within 2 weeks but no later than 30 days from closing, with a CD containing all the closing documents as a searchable pdf organized per the closing checklist. The Atlanta Regional Office, Baltimore Field Office, and New York Regional Office currently participate. Lenders are encouraged to ask the HUD closing attorney if they are willing to follow this process, which is completely discretionary.

**Step-By-Step "One Set" Process**

The hard copy delivered at the closing will be the documents submitted for the Washington Docket. The soft copy will be retained as the field counsel copy of closing documents. Process outline:

- CD Formatting - The CD must contain the documents listed in the order of the checklist preferably with electronic tabs /bookmark as a searchable pdf. All scanned documents included in the CD as a PDF should be OCR (optical character recognition).
- Lender's counsel would be required to provide 1 original of the closing documents.
- On the day of closing or the next day, the OGC field counsel would scan in certain documents to Headquarters. (Note, Regulatory Agreement(s), Escrow Agreements) to Closing Coordinator and Mike Lawassani for 290 Closing Memorandum.
- The OGC closing attorney would hold all of the original closing documents in their offices until all recorded documents are returned to HUD.
- As the original recorded documents come back, lender's counsel would (i) send original Regulatory Agreement(s) to the OGC closing attorney to replace in the original closing file and (ii) send photocopies of the other file-stamped recording documents to the OGC closing attorney to replace in the original closing file.

- As soon as the original closing file is complete with the file-stamped recording documents (no later than 30 days), the lender's counsel would, at the same time, send OGC field counsel 1 CD with all of the closing documents and the closing checklist.
- Lender's counsel would also send to Closing Coordinator 1 CD with the documents required by the Transaccess Scanning Sheet, with the documents names including just the numbers on that sheet.
- OGC closing counsel would then send the original set of closing documents to Tiffany Tyer in Washington and keep 1 CD in their office in the field. (no change from current transmittal sheet)

Back to top

# FROM THE CLOSING CORNER

## "Hot off the Press!" - Guidance for Final Closing for 232 New Construction Projects

Through the collaboration of OGC and ORCF, further guidance is now available for Lenders/Borrowers preparing for the final closing of a Section 232 New Construction project. The following documents (posted online) may be used by lenders to facilitate their final closings.

1. **232 NC Operator Attorney Opinion Update – Final Closing DACA/DAISA** – If the attorney's opinion, which was issued at initial closing, did not address all of the documents applicable at final closing, then the attorney's opinion must be updated at final closing. We have occasionally found this to be the case with respect to the DACA/DAISA. In situations in which those particular documents are the only documents requiring an updated opinion, this file provides a suggested format to prepare an attorney's opinion meeting HUD requirements.
2. **232 NC Final Closing Consolidated Certification** – In order to reduce the number of final closing requirements, ORCF will accept this certification as an alternative to resubmitting documents from the initial closing. When using this optional approach, the expectation is that the identified parties will certify to HUD that various critical documents have not been revoked, amended, modified or changed as of the date of final closing. To the extent that the identified documents have been revoked, amended, modified or changed since initial closing, they must be submitted for HUD review and approval as part of the draft final closing submission.

***Effective August 1***, OGC/ORCF will be using this updated punchlist and updated checklist for all Section 232 New Construction final closings, and it is provided for your reference.

3. **232 NC Final Closing Legal Checklist** – This Checklist outlines all requirements for the draft final closing submission. OGC will collect and review these items. Lenders may use this guide to ensure the required materials are available.

4. **232 NC Final Closing Legal Punchlist** – This Punchlist will be used by OGC when reviewing the draft final closing submission. We encourage lenders and their counsel to utilize this punchlist to better ensure compliance with HUD requirements prior to submitting a draft final closing submission.

Should you have any questions regarding these updates, please contact your assigned Closing Coordinator directly.

### TAKE NOTE: HUD Application Fee Adjustment Process has Changed

When experiencing an increase to the mortgage amount, the HUD Application Fee will need to be adjusted (increased) to reflect the new loan amount. ***The process for submitted a check for the difference has changed!*** The check for the difference must be mailed to Mike Lawassani, with a copy of the check forwarded to the Closing Coordinator. Confirmation from Mike Lawassani that he has received the check must occur at least one day prior to closing. If HUD does not receive this confirmation by the day prior to closing, **HUD will reschedule the closing date**.

Mike Lawassani's mailing information:

Office of Healthcare Programs (OHP)
U.S. Department of HUD - San Francisco Field Office
600 Harrison Street, 3rd Floor
San Francisco, CA 94107
mike.m.lawassani@hud.gov

### Closing Contract Changes

Please Note - The Government Technical Monitors (GTMs) for Regions I – IV who support the legal services closing contractor—Savage & Associates—have changed. Tina Strong, Attorney Advisor in the Atlanta Regional Office has replaced Chali Roche-Garcia, Koren McKenzie John, and Jud McNatt effective immediately. This does not affect the GTMs assigned to other regions.

## Files Distributed in this Blast

3. **Revised Management Agent Grid**
4. **Revised 232/223(a)(7) Legal Punchlist**
5. **Revised 232/232(f) Legal Punchlist**
6. **Revised 232/223(a)(7) Legal Closing Checklist**
7. **Revised 232/232(f) Legal Closing Checklist**
8. **232 NC Operator Attorney Opinion Update – Final Closing DACA/DAISA**
9. **232 NC Final Closing Consolidated Certification**
10. **232 NC Final Closing Legal Checklist**
11. **232 NC Final Closing Legal Punchlist**

Back to top

JUNE 27, 2012

May 31, 2012

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of May 31, 2012

## *May 31, 2012 Contents*

- Expect Changes in "Other Queue" – New Construction, Substantial Rehab, and Blended Rate

ORCF is performing an initial screening of the Other Queue Firm Applications
Eleven "Other Queue" projects on hold following initial screening

- Effective Immediately - Five Days to Address Deficiencies on "Easy Items"
- Reminder: Send Electronic and Hard Copy Application Submissions to the Correct Recipients
- Reminder: Identify Common Ownership and Portfolios at Application Submission
- Clarification on Legal Review for Firm Applications
- Clarification of Inspection Fee Amount
- Limit Electronic File Sizes to 50 MB
- ORCF Considers, and Lenders Need to Consider, Proposed Funding Cuts in Underwriting
- Reminder: Submit Comments on Proposed Rule and Document Revisions before July 2
- From the Closing Corner

PLEASE NOTE: Changes for New Construction Cost Certification Submissions!
Key Items to Keep in Mind before Submitting your Draft Closing Package…
Lender's LEAN staff (closers, etc.)

- NO ATTACHMENTS

May 31, 2012

# Expect Changes in "Other Queue" – New Construction, Substantial Rehab, and Blended Rate

## ORCF is performing an initial screening of the Other Queue Firm Applications

The purpose of this screening is to identify any obvious problems and ensure that applications are complete upon assignment to an underwriter.

At the initial screening, a preliminary review is conducted of the following:

- The experience of the Principals of Mortgagor. Experience must be in the field of developing, marketing, owning and operating a facility similar in type to the one being proposed. Experience of the management agent is not an acceptable mitigant to offset the borrower's lack of experience. The experience of the development team was previously discussed in the January 25, 2011 Email Blast. This Blast clarifies that the principals of the mortgagor are expected to be experienced themselves.
- As previously discussed in the September 1, 2011 Email Blast, the financial qualifications of the borrower including net worth/cash liquidity of the borrower and principals.
- As in the September 1, 2011 Email Blast, the cash investment as a percentage of total project cost.
- The proposed Initial Operating Deficit Escrow
- Whether the application is eligible under the Section of the Act it is proposed under.
- Status of any described liens or legal actions against any of the principals.
- Whether the Market Study, Appraisal or Phase I were expired as of the date the application was submitted.
- The status of any significant site issues noted in the Phase I.
- Discrepancies among the major underwriting documents (Lender's Narrative, Forms 92264 and 92264A).
- Initial cursory review of the APPS and paper submission under the previous participation certification. We will conduct a search for critical flags. For paper submissions we will also confirm that all parties are registered in the Business Partner Registration System (BPRS).
- Lender's Narrative has been submitted in Word format.
- Cursory review of Form 935.2, Affirmative Fair Housing Marketing Plan (AFHMP).

Once this initial review is completed, ORCF will place the application into one of the following categories:

1. All items **satisfactorily** submitted: The project will be deemed ready for assignment to an underwriter (as capacity allows).
2. **Minor revisions** needed: An email is sent to the lender requesting additional information. The project's application remains in the Other Queue.
3. **Major revisions** needed (e.g. lack of experience of development team, incorrect Section of the Act, expired Reports): The project will be placed on hold and taken out of the

queue until items are corrected. If items are corrected, the application is placed back into the queue based on the firm application's submittal date.

Back to top

### Eleven "Other Queue" projects on hold following initial screening

For your information, eleven projects from the Other Queue have been placed on hold following initial screening. Lenders with these projects have been notified of their status. These projects will be returned to the queue (with their original entry date) if the identified major revisions are corrected. This may cause changes in the number of projects in this queue.

Back to top

## Effective Immediately - Five Days to Address Deficiencies on "Easy Items"

Following the February 2012 Kaizen in Atlanta, ORCF and members of industry worked together on developing a lender response time of 5 calendar days for items that are "easy resolution" items, such as minor deficiencies in draft documents submitted.

Examples of these "easy resolution" items would be the following:

**UNDERWRITING DOCUMENTS:**

- ◊ Correction of numerical inconsistencies or errors within the application
- ◊ Updated license, liability or other insurance policies, state survey, Medicaid rate letters
- ◊ BPRS registration
- ◊ Exhibit 1-8 (contacts) updates
- ◊ Purchase contract (if purchase)
- ◊ Additional support for waiver requests
- ◊ Management agent HUD forms, documentation (when applicable)
- ◊ Additional documentation of project eligibility (example, discussion of number of independent living units or evidence of no substantial rehabilitation in last three years)
- ◊ Updated occupancy and census mix
- ◊ Updated organization charts
- ◊ Credit reports if not in application for participant

**CLOSING DOCUMENTS:**

- ✓ Providing the executed Firm Commitment
- ✓ Providing revised Regulatory Agreements with any numerical errors like FHA #, Reserve for Replacement figures, or facility bed numbers
- ✓ Providing Critical and Non-Critical repair photos and invoices <u>not already included*</u>
- ✓ Providing revised Mortgage Note with any numerical errors like the FHA#, mortgage amount, P&I amount, etc.
- ✓ Providing further license or insurance forms <u>not already included*</u>
- ✓ Providing all special condition documentation <u>not already included*</u>

* These documents should already be submitted in the original package. The assigned Closer will identify any deficiencies in the documents submitted.

**For underwriting and closing 223(f) and 223(a)(7)s, the underwriters and closers will be asking that the lender respond to ORCF comments with revised documents <u>within 5 calendar days</u>, or to please notify ORCF within 24 hours of receiving such comments, if certain documents cannot be provided within the next 5 calendar days.**
Back to top

## Reminder: Send Electronic and Hard Copy Application Submissions to the Correct Recipients

Some lenders have been sending hard copies of applications along with the electronic submissions. Please submit your checks and electronic copies (CDs/flash drives) to Mike Luke but not the hard copies. Save those for the project's assigned underwriters.

The instructions for submitting applications were detailed in the February 23, 2011 Email Blast and updated in the September 1, 2011 Email Blast.

Send the Electronic Firm Application package (including 2 Stage submissions) to:

Department of Housing and Urban Development
Attention: Mike Luke
920 Second Avenue South, #1300
Minneapolis, MN 55402

Back to top

## Reminder: Identify Common Ownership and Portfolios at Application Submission

As stated and defined in the November 18, 2011 Email Blast, **if 2 (or more) projects have any degree of common ownership, *indicate that on the Certification for Electronic Submittal***.

We need lender's help to identify the common ownership as early as possible, preferably when you get the FHA # but also when you submit an application. Common ownership is usually on the *Principal of Mortgagor Consolidated Certification*, but please ensure that it is also reflected on the *Certification for Submission of Electronic Firm Application*. This is item #4 for mid-size and large portfolios, item #5 for small portfolios. This is **not** the determination of master lease or portfolio review requirements. This is simply for the purpose of **proper naming and tracking** of the projects.

Early identification of portfolios (including small portfolios) allows us to assign one underwriter and attorney to all of the applications. This simplifies and speeds up the application processing for everyone. The underwriter will inform you if your small portfolio will require a master lease under current criteria.

Back to top

## Clarification on Legal Review for Firm Applications

We have received questions about the process for legal review of documents. As stated in the April 30, 2012 Email Blast, ORCF will no longer require a legal completeness check *in advance* of underwriting assignment for 223(f) and 223(a)(7) applications, now that the queue is much shorter. **This does not change the required Legal Firm Review.** Legal review will occur at the same time as underwriting review. Therefore it is important that lenders are prepared to submit **all** of the documents on the underwriting and legal checklists when the Firm Application is assigned to an underwriter.

Back to top

## Clarification of Inspection Fee Amount

ORCF's Inspection Fee policy was stated in the January 25, 2011 Email Blast. However, no distinction on whether to use underwritten or licensed bed/unit numbers when figuring the fee using the $30 amount was included. To clarify, when using this formula, the Inspection Fee of $30 per bed/unit is **based on underwritten number of beds/units**, not on the licensed number of beds/units.

Back to top

## Limit Electronic File Sizes to 50 MB

Due to server limitations, please ensure that all electronic documents are less than 50 megabytes in size. Please separate extremely large documents into smaller sections of 50 MB or less. This should only present a problem for a few third-party reports and plans/specifications. We are sorry for the inconvenience.

Back to top

## ORCF Considers, and Lenders Need to Consider, Proposed Funding Cuts in Underwriting

State government budgetary constraints continue to create some uncertainty about the future reliability of government provider payments as a revenue source for long-term residential care facilities. Various states are proposing—or proceeding to implement—changes in reimbursement rates or eligibility criteria for Medicaid or other government provider payment sources. Particularly in the case of a skilled care facility, Medicaid is the most substantial revenue source, and even in Assisted Living Facilities, Medicaid is becoming increasingly important.

ORCF believes that, to effectively manage risk, it is vital that announced cuts be reflected in underwriting, and proposed cuts be reflected in enhanced sensitivity analysis. ORCF recognizes that lenders share this concern. Consistent with HUD requirements, lenders should discern the impact of such cuts when preparing to request FHA insurance for a mortgage on a residential care facility, and their underwriting should reflect consideration of those announced or proposed reductions. ORCF lenders should adjust their underwriting for all 232 programs in response to material changes in future government reimbursement rates or in eligibility criteria (most typically, but not limited to, Medicaid).

If a state provider has announced a reduction of five percent or more in the payment rate for long-term care, or a change in eligibility that would adversely impact the facility, then ORCF does expect the lender to:

- Discuss in the Lender's Narrative the owner's and operator's plan to manage the proposed policy and/or budgetary changes.
- Assure that the underwritten NOI reflects the new reimbursement rates.
- Assure that the Appraisal's income approach valuation uses the reduced funding level, and that the market value estimate reflects the new rates.
- Review the Accounts Receivable financing in response to announced cuts in the funding, delays in government provider payments, or changes in resident eligibility criteria. The underwriter would confirm that AR lender is aware of and responding to the policy changes impacting the borrower.

In some instances, a state has *proposed* but not finally announced a reduction in government funding or changes in a government provider's resident eligibility criteria. Such a circumstance would encompass policy and payments changes that have a high likelihood of going to effect within two years, including:

a. Governors' and/or Executive budget proposals that propose lowering government reimbursement rates of 5 percent or more overall for long term care.

b. Governors' and/or Executive proposals (e.g., a proposed change in resident eligibility criteria) that would adversely affect FHA-insured healthcare facilities

In this circumstance the lender's submission should still reflect awareness and consideration of the proposed change. The lender should:

- Discuss in the Lender's Narrative the owner's and operator's plan to manage the proposed policy and/or budgetary changes.
- Enhance the sensitivity analysis.
    - If it is possible to quantify how the proposed change(s) would impact the project, then the lender would show how the underwritten income, expenses, and net operating income would be impacted if the change(s) were enacted.
    - If it is not possible to quantify how the proposed changes would impact the project, then, in addition to the standard Sensitivity Analysis, the lender would include an analysis of what percent the average rate type that is being impacted (e.g., Medicaid) could be decreased and still have the project operating at a 1.45 and a 1.0 debt service coverage ratio (including MIP).

Back to top

## Reminder: Submit Comments on Proposed Rule and Document Revisions before July 2

The comment period is open for the proposed rule and document revisions for the Section 232 program published May 3, 2012 in the Federal Register. Please read, consider, and submit public

comments as instructed in the rule and notice. In order to be considered, all comments **must** be submitted **as instructed in the Federal Register**. The comment period ends July 2, 2012.
Back to top

# From the Closing Corner

## PLEASE NOTE: Changes for New Construction Cost Certification Submissions!

The submission date for cost certification should be within 60 days after the owner's cut-off date. The submission date has been increased from "within 45 days" to take into consideration the Lender's review of the cost certification before submitting to ORCF.

## Key Items to Keep in Mind before Submitting your Draft Closing Package…

### Existing Indebtedness:

When existing indebtedness used for closing documents (cost cert/closing statement) is higher than amount shown on firm commitment 2264A, the increase must be justified and explained and determined to be acceptable by ORCF or it will be disallowed.

### Amendments to Firm Commitments:

- All exhibits, that are being amended, must be submitted with an amendment request.
- All amendments, issued before the closing packages are submitted (extensions), must be included in the draft packages!
- For extension requests, include an explanation for the delay & the MAP Guide language including a statement from the Lender that there has been no adverse material change in the underwriting or the project.

## Lender's LEAN staff (closers, etc.)

Lenders' LEAN staff (closers, etc.) & Lender Attorneys should sign up for the email updates for important procedural and policy updates. This is a great way to get up to date information on the LEAN 232 program and process! Join our email list by sending your contact information to: Mike.M.Lawassani@hud.gov.

# NO ATTACHMENTS

Back to top

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of April 30, 2012

## *April 30, 2012 Contents*


- Use Updated FAQs for Quick Answers
- Reminder: Lean Thinking is Available for Your 232 Program Questions
- Elimination of Partial Submission of Electronic Firm Applications
- Elimination of Legal Completeness Check
- Requesting Refunds of HUD Application Fees
- Update: Revision to Procedure on Construction Starts Prior to Commitment—241(a)'s
- Tax Credits and Grants with Section 232 New Construction/Substantial Rehabilitation Projects
- Reminder: Waivers of 24 CFR 232.3 (Bathroom Waivers)
- Exhibit 1-4, 223f Firm Commitment Template
- HUD Publishes Mortgagee Letter Addressing Swap Termination Fees
- FROM THE CLOSING CORNER

Firm Commitment Amendments
Examples
Closing a Transaction? Tips to Ensure a Smooth Closing

- Asset Management Updates
- ATTACHMENTS

## Use Updated FAQs for Quick Answers

The ORCF website has an extensive list of completely updated Frequently Asked Questions collected from applicants. This resource is your first stop for information if you have a question about a current deal and need a quick answer. The FAQ list has been completely reworked and is now organized by subject in an Excel workbook for easy access. ORCF's Policy and Risk Management Division has now taken on responsibility for this resource, and the team makes a point of culling and updating this information each quarter, taking into account all the Lean Thinking questions that are submitted. (See below.) The most recent FAQ update was April 18, 2012.

Back to top

## Reminder: Lean Thinking is Available for Your 232 Program Questions

LeanThinking@hud.gov is now fully staffed with members of ORCF's Policy and Risk Management Division and waiting for your questions. Please use it as a resource for any and all questions that aren't answered by existing written resources, including applicant materials, FAQs (discussed above), and other materials on OHP's Lean website. Answering questions through Lean Thinking ensures that you receive timely and consistent answers. This also helps the program to track emerging issues in order to maintain and update the FAQs and identify areas for improvement.

The Lean Thinking in-box is checked and assigned weekly. Please allow a week for responses as the team works to provide consistent and well-researched answers in coordination with others within ORCF. Don't wait until the day before a client meeting to ask a pivotal question!

Back to top

## Elimination of Partial Submission of Electronic Firm Applications

The September 13, 2011 Email Blast (revised by the November 18, 2011 Email Blast) allowed partial submittals of electronic Firm Applications—those documents omitted from the electronic Firm Application submittal were provided at the time of the OGC Completeness Review. Many projects are now being assigned to OGC and underwriting soon after entering the queue and thus this process is no longer practical. Therefore any electronic Firm Applications submitted after May 1, 2012, must include all documents on the Firm Application checklists.

Back to top

## Elimination of Legal Completeness Check

Effective May 1, 2012, the Legal Completeness Check for 223(f) and 223(a)(7) applications that was introduced September 1, 2011, is eliminated. This change is a result of the OGC Kaizen and

workflow streamlining. As mentioned for partial submissions, projects are now moving rapidly through the queue and this extra step is unnecessary.

Back to top

## Requesting Refunds of HUD Application Fees

Effective immediately, please email OHPrefunds@hud.gov when you are requesting a refund of an application fee. This dedicated email supersedes the instructions from the March 25, 2011 Email Blast.

Back to top

## Update: Revision to Procedure on Construction Starts Prior to Commitment—241(a)'s

The January 6, 2012 Email Blast stated that ORCF would no longer authorize construction starts prior to commitment on new construction, substantial rehabilitation, and 241(a) projects. Having further considered the matter with respect to 241(a) projects, having gained further industry input, and having considered the risk and benefits of 241(a) loans, ORCF has determined that, *with respect to 241(a) loans only*, we will continue to entertain requests for construction starts prior to commitment. We are hereby revising the language in the January 6, 2012 Email Blast to allow lenders to request construction starts on 241(a)'s.

Back to top

## Tax Credits and Grants with Section 232 New Construction/Substantial Rehabilitation Projects

As stated in the February 23, 2011 Email Blast, HUD reserves the right to adjust the Other Queue to give preference to projects that include Low Income Housing Tax Credits (LIHTC) in order to meet project-specific placed-in-service deadlines. HUD may extend similar preference to projects with other types of up-front subsidies such as time-sensitive grant support. One example of such a grant that has been brought to our attention is the HEAL NY program in New York State.

**Lenders, please inform Mike Luke (Michael.D.Luke@hud.gov) immediately if you have a project of this type in the current Other Queue.**

On future applications, please inform Mike Luke (Michael.D.Luke@hud.gov) at the time of submission of any project that includes a time-sensitive tax credit, grant, or other external support. This will allow evaluation of the situation and appropriate queue placement. It is helpful if lenders submit the Firm Applications for such projects in a manner that allows as much time as possible for HUD to act on it; this may include using the Two-Stage Firm Application Process.

Queue adjustments are not automatic and will be made on a case-by-case basis appropriate to the subsidy on the project.

In the future, our Certification for Electronic Submittal form will be revised to collect this information.

Back to top

## Reminder: Waivers of 24 CFR 232.3 (Bathroom Waivers)

When preparing an application that will require a waiver of 24 CFR 232.3, regarding bathroom access in assisted living facilities or board and care homes, please submit the waiver request directly to Vance Morris (Vance.T.Morris@hud.gov). This will allow for efficient and timely processing of the waiver request. This waiver may be submitted before the application has been assigned to a HUD underwriter, although if an underwriter has been assigned to the project please inform her or him about the waiver request as well.

Back to top

## Exhibit 1-4, 223f Firm Commitment Template

To expedite review of the Firm Commitment by ORCF staff, please note the following items you should verify before submitting the Firm Commitment in future application submissions:

**Form Version**

- ✓ Please verify that you are using the February 2, 2012 version of the FHA Form 2453-MM

**Page 1**

- ✓ Line 1 of text—"Mortgagor Name" should be replaced by the name of the Mortgagor Entity.
- ✓ Please verify that the mortgage amount, interest rate, loan term, and monthly payment match the figures on your Lender Narrative Executive Summary.

**Page 2**

- ✓ Please verify that the annual and initial deposits to the reserve for replacement account match the figures on your Lender Narrative Executive Summary.

**Page 3**

- ✓ Please verify that the critical and non-critical repair cost estimates match the figures on your Lender Narrative Executive Summary.

**Signature Page**

- ✓ Please include/insert the name of the Mortgagor and Mortgagee.

Back to top

## HUD Publishes Mortgagee Letter Addressing Swap Termination Fees

HUD has published a Mortgagee Letter (2012-8) setting forth the Department's policy in defining the indebtedness eligible for refinancing in connection with healthcare (Sections 232 and 242) projects and in connection with multifamily projects to include, under certain circumstances, interest rate swap termination fees. It applies to debt to be refinanced in connection with Section 223(f), substantial rehabilitation, or replacement facility projects. The Mortgagee Letter can be found on HUD's web site at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/letters/mortgagee

Back to top

## FROM THE CLOSING CORNER

### Firm Commitment Amendments

Lenders can help speed up Firm Commitment Amendment processing by considering the following when preparing firm amendment requests:

1. Whenever possible, please collect all changes to the firm commitment and make **one comprehensive request** for amendments. This will be much faster to track and process than multiple one-off amendment requests.
2. All second and subsequent amendment requests should summarize the previously amended items.
3. Include the following in all Firm Commitment Amendment requests:
    a. Make sure text can be copied from the file. If you provide a scan of the signed copy, also include an editable .pdf or .doc version.
    b. Use your company letterhead
    c. Requester name, title, address, and company name
    d. Amendment request number (1st, 2nd, 3rd…)
    e. FHA number of the loan
    f. Project name and project address
    g. Mortgagor
    h. Number the newly requested amendment(s) to the Firm Commitment. See below for examples of clear and complete requests.
    i. Requester signature

The ORCF closer will then prepare the Firm Commitment Amendment by using the Firm Commitment Amendment Template. This template is attached for your information. ***Clear amendment requests will enable closers to prepare this document and quickly obtain approval.***

### Examples

Item 1:

Current Firm Commitment language: [*provide exact sentence or phrase*]
Requested Firm Amendment language: [*proposed change exactly as it would be written in the Firm Commitment Amendment*]
Justification: *Concisely describe the reason for this change*.

Item 2:

Current Firm Commitment language: [The Mortgage shall bear interest at the rate of 6.0% per annum payable on the first day of each month…]
Requested Firm Amendment language: [The Mortgage shall bear interest at the rate of **4.5%** per annum payable on the first day of each month…]
Justification: Rate lock on the loan came in at 4.5%.

Item 3:

Current Firm Commitment language: [Special Condition #7: prior to closing the mortgagee shall provide evidence that…]
Requested Firm Amendment language: [Special Condition #7 is **deleted**.]
Justification: Special Condition #7 has been resolved as follows…

### Closing a Transaction? Tips to Ensure a Smooth Closing

- ✓ Make sure loan closing charges/ worksheet are included on Form 2264A.
- ✓ Confirm correct and consistent Mortgagor name, Project name, Lender name, Operator name, and addresses are on the Firm Commitments & 2264A *before* Firm is issued.
- ✓ Please remember to send the original executed Firm Commitment to the ORCF Closing Coordinator for all 223(a)(7) and 223(f) projects.

Back to top

## Asset Management Updates

The **Account Executive Facility Assignment – Contact Listing** has been posted on FHA.gov at the following link:
http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/loan_servicing_guidance_home_page

Click on **Account Executive Facility Assignments – Contact Listing** to download the spreadsheet. This will provide a convenient location where individuals internal and external to HUD can identify a facility's Account Executive. This spreadsheet will be updated periodically.
Back to top

## ATTACHMENTS

1. HUD Firm Amendment Template

Back to top

April 30, 2012

March 30, 2012

# HUD's Lean 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of March 30, 2012

## *March 30 2012 Contents*


Fire Safety Equipment Loan Program.. 1
Clarification and Interim Guidance on Bond Financed Projects 2
Requirement of a DACA/DAISA where FHA Lender is affiliated with the Operator's Depositary Bank. 2
ORCF to Review Key Environmental Concerns in advance of Application Submission 2
Clarification on Debt Seasoning and Mortgagor/Mortgagee Relationship. 2
Lender and Underwriter 232 Program Qualification Update. 2
FROM THE CLOSING CORNER. 4
- Did You Remember to Submit Final Plans and Specifications for New Construction – Initial Closings?. 4
- The Signing of Closing Documents – Key Elements to Keep in Mind: 4
- Did You Remember To…. 4

Attachments 4


## FIRE SAFETY EQUIPMENT LOAN PROGRAM

OHP is very aware of Health and Human Services' Centers for Medicare and Medicaid (CMS) regulation that all CMS certified nursing homes have automated sprinkler systems in place no later than August 13, 2013. To help CMS certified nursing homes meet this requirement, ***a waiver has been issued to amend provisions of HUD's Fire Safety Equipment Loan Program (FSELP)***. (Waiver attached). FSELP is a HUD program allowing owners of nursing homes, assisted living facilities, intermediate care facilities, and board and care projects to purchase and install fire safety systems. In the 38 years of FSELP, however, there has been no demand for the program (as revealed by a search of the records). Particular program regulatory provisions—promulgated in 1974 and not amended since then—have been very unattractive to lenders. Consequently, the waiver will

eliminate those requirements and it is believed that with those changes, FSELP will be more attractive to lenders and project owners.

**General Requirements – Fire Safety Equipment Loan Program**

| | **FHA-Insured Project** | **Non-FHA-Insured Project** |
|---|---|---|
| | | |
| **Eligible Facilities** | Nursing Homes, Intermediate Care Facilities, Board and Care, and Assisted Living Facilities | Nursing Homes, Intermediate Care Facilities, Board and Care, and Assisted Living Facilities |
| **Maximum Loan Amount** | Lesser of Fire Safety Improvements plus eligible fees or debt service coverage | Lesser of Fire Safety Improvements plus eligible fees or debt service coverage |
| **Improvements** | Fire safety equipment installed in compliance with CMS, State and other regulatory authorities | Fire safety equipment installed in compliance with CMS, State and other regulatory authorities |
| **Mortgage Term** (Amount of $100,000 or greater) | Lesser of: Coterminous with maturity of existing FHA mortgage or 15 years | 15 years |
| **Mortgage Term** (Amount less than $100,000) | Lesser of: Coterminous with maturity of existing FHA mortgage or 10 years | 10 years |
| **Loan Security** | 1st or 2nd lien position | 1st or 2nd lien position |
| **Debt Service Coverage Requirement*** | 1.45 | 1.45 |
| **Appraisal Requirement** | Not required | Not required |
| **Project Capital Needs Assessment (PCNA)** | Not required | Required |

| | | |
|---|---|---|
| **Contract** | Standard FHA Contract | Standard FHA Contract |
| **MIP** | 1 percent of Mortgage Amount | 1 percent of Mortgage Amount |
| **Insurance** | Commitments will be issued on an "Insurance upon Completion" basis only. Construction financing will not be insured. | Commitments will be issued on an "Insurance upon Completion" basis only. Construction financing will not be insured |

The procedures to request a case number and to submit a firm application package are the same as existing Section 232 programs. To obtain templates for Firm Application Checklists and Lender Narratives, lenders should send an email to Vance.T.Morris@hud.gov

**Alternatives to using FSELP**

Project owners may also use non-FHA financing to install their automated sprinkler systems. In circumstances that the non-FHA financing requires a subordinate lien on the FHA insured facility, the project owner must consult with the OHP assigned Account Executive. OHP will allow subordinated debt, to the extent allowed by FHA requirements. It must be noted that subordinated debt requests must also be approved by HUD's Office of General Counsel.

Project owners may also want to use the project's reserve for replacement fund for fire safety improvements. As determined by the facility's OHP assigned account Executive, OHP will allow existing FHA-insured nursing homes to use a portion of the reserve for replacement account. OHP will not allow reserve for replacement accounts to collateralize non-FHA insured loans.

For additional information contact Vance T. Morris by phone at 202-402-2419 or by email at Vance.T.Morris@hud.gov.

*Debt Service Coverage Ratio is calculated as: (Net Operating Income[1])/(Total Debt Service[2])

[1]NOI has the standard HUD definition of annual NOI for calculating DSCR

[2]Total debt service includes principal, interest, and MIP on FHA-insured facility mortgage *and* the fire safety loan

Back to top

March 30, 2012

## CLARIFICATION AND INTERIM GUIDANCE ON BOND FINANCED PROJECTS

The new MAP Guide (MAP Guide 4430.G) includes some updated policy on bond financed projects in Section 8.14 thereof. This new MAP Guide does not directly apply to Section 232, and ORCF is still utilizing the MAP Guide dated March 15, 2002 pending publication of a Section 232 Handbook. However, ORCF does anticipate including this new provision related to bond financed projects in its upcoming Section 232 Handbook, and also will apply that policy in the interim. Specifically, on bond financed Section 223(f) applications, any funds generated from bond premiums paid to the mortgagor entity, operator or any of their principals must be transferred to the reserve for replacement account.

On bond financed Section 232 construction projects (232 NC, 232 SR and 232 Blended Rate), any premium raised by a transaction is considered part of the mortgagee, bond underwriter, or issuer's profit. In order to prevent "kickbacks" on bond financed projects, any funds generated from bond premiums paid to the mortgagor entity, operator or any of their principals must be included in the "windfall" calculation as described in the Lean Lender Narrative Cost Certification Supplement, which was attached to the January 6, 2012 Email Blast.

Back to top

## REQUIREMENT OF A DACA/DAISA WHERE FHA LENDER IS AFFILIATED WITH THE OPERATOR'S DEPOSITARY BANK

Current guidelines (first initiated in the December 2008 transition to Lean) require a Deposit Account Instructions Service Agreement (DAISA) and/or a Deposit Account Control Agreement (DACA) as part of the loan document package.

In past practice, OHP has not always required a DACA/DAISA in cases where the FHA lender is affiliated with the depositary bank of the operator.

***Effective for all Firm Commitments issued after the date of this Email Blast, a DACA/DAISA will be required in all cases, including when the FHA lender is affiliated with the depositary bank of the operator.***

The rationale for this requirement is to protect HUD and the FHA lender against potential risks, such as the borrower moving bank accounts immediately following closing without the notice or consent of the FHA Lender. With a DACA/DAISA, the FHA lender must be notified and must approve any such move before it occurs. In the instance of an assignment of a loan to HUD, which is later assigned or sold to another lender, without a

DACA/DAISA already in place, a DACA/DAISA would likely be difficult to obtain.

This new guidance does not apply to projects currently in the closing process.

Back to top

## ORCF TO REVIEW KEY ENVIRONMENTAL CONCERNS IN ADVANCE OF APPLICATION SUBMISSION

Help on environmental issues is now available to you, even prior to application, through Lean Thinking. We invite you to submit questions on unusual site conditions, such as soil contamination, explosive hazards, unacceptable noise levels, fall hazards, etc, to LeanThinking@HUD.gov. If your site contains flood hazards or wetlands, we can conduct the 8-step decision making process prior to application. Also, some State Historic Preservation Offices (SHPO) and some regional offices of US Fish and Wildlife will only respond to consultation requests from HUD. Since these consultations can sometimes take months to complete, we want to get the process started early. In cases where HUD involvement is required, we can initiate the consultation process. The lender must provide the research necessary for HUD to make a recommendation. In each case, we will supply you with a custom list of requirements sufficient for us to complete our analysis.

We do not have the capacity to conduct full environmental reviews through Lean Thinking, but single item obstacles may warrant early consultation in order to avoid wasted time and effort.

Back to top

## CLARIFICATION ON DEBT SEASONING AND MORTGAGOR/MORTGAGEE RELATIONSHIP

**"Debt seasoning"** is intended to deter prospective borrowers (or their related entities) from increasing the mortgage or including debt unrelated to the project in order to extract cash from FHA-insured loan proceeds and circumvent program intent. Some lenders have expressed questions about ORCF's policy on debt seasoning requirements when a mortgagor-mortgagee relationship is involved. When a mortgagor-mortgagee relationship exists with respect to a loan that is to be retired, there is a five-year seasoning requirement between when that loan closed and when processing begins on the new loan. When there would be a mortgagor-mortgagee relationship in

a new loan, the transaction cannot proceed; debt seasoning simply does not come into play in this latter instance.

Back to top

## LENDER AND UNDERWRITER 232 PROGRAM QUALIFICATION UPDATE

In the November 18, 2011 Email Blast, we brought together in one article the various provisions that had been set forth regarding lender and underwriter Section 232 Program Approval. Since then, inquires have been made regarding the requirement that an underwriter obtain Multifamily Accelerated Processing approval before obtaining Lean approval. Underwriters have pointed out that they may be fully experienced and well qualified with respect to residential care facility underwriting, even if they have not obtained *Multifamily* Accelerated Processing Approval.

We agree. Accordingly, we are revising our provisions to take this into account, and we are setting forth in full the November 18 article, with the additional language addressing this. (See the italicized sentence at the conclusion of B-3 below.) Additionally, we are striking one sentence (strikethrough) that was erroneously included and that is not fully consistent with the specific provisions in Section B below. The November 18, 2011 article, with the indicated changes, follows immediately below.

The MAP Guide used by the Office of Multifamily Housing before August 18, 2011 (and still available on HUD's Section 232 Underwriting Guidance web page), sets forth standards and procedures for approval of an underwriter to underwrite a Section 232 loan under MAP. The new MAP Guide, issued August 18, 2011, does not do so. However, to participate in the Section 232 program, HUD does continue to require that the lender and its underwriter be MAP approved. In particular, the policies in effect with respect to underwriter approval for the Section 232 program *prior to* the new MAP Guide's publication do remain in effect. The forthcoming Section 232 Handbook will address the process for Section 232 lender and underwriter approval fully, but in the interim some clarification of the continuing policy is needed.

The existing policy with respect to underwriter approval is set forth in several documents. In particular, the former MAP Guide language (language which is still being utilized in the Section 232 approval process) states, in Chapter 2, Section 2.3:

> For Health Care Applications, the MAP underwriter must have within the previous five years experience in underwriting the development and operation/management of health care facilities. The underwriter's resume must demonstrate this specific experience and is submitted to the Lender

> Qualifications and Monitoring Division (LQMD) of the office of Multifamily Development in Headquarters for review and approval. Any MAP Lender, whose underwriter cannot demonstrate the necessary level of experience, must use Traditional Application Processing (TAP) Program when financing its health care facility.

In responding to Frequently Asked Questions on June 15, 2006, HUD clarified that the above-referenced experience "in underwriting the development and operation/management of health care facilities" was being construed as requiring at least three MAP skilled nursing facilities.

With the implementation of Lean underwriting (rather than MAP underwriting) in the Section 232 Program, the Office of Healthcare Programs issued the following clarification on the HUD website:

> We require the lender to be an FHA Approved Lender, a MAP-Approved lender and the lender's underwriter must also be a MAP-Approved Healthcare underwriter. ~~In addition, to underwrite a Lean loan, the underwriter must have attended one of our Lean training sessions or have underwritten at least two Section 232 Lean loans that have been closed.~~

OHP recognizes that some underwriters now seeking approval to underwrite Section 232 transactions will not have any MAP Section 232 experience and, in any event, Lean Section 232 experience is now more relevant. Accordingly, OHP is allowing underwriters to cite either Section 232 MAP transactions or Section 232 Lean transactions toward the three transactions previously required. Additionally, if at least two of those transactions are not Section 232 Lean transactions that have closed, then the underwriter must also have attended lean underwriter training.

Below is guidance for the lender in packaging and submitting an application for approval. This guidance substantially tracks procedures that have previously been set forth.

## A. <u>Lender Approval</u>

In support of a lender's application, the following information is to be provided to HUD:

1. Cover Letter.
2. Exhibit A. Name of applicant, address, employer identification number, contact person or persons, telephone and fax number, e-mail address, branch offices for residential healthcare facility business with address, telephone and e-mail address, and the FHA Mortgagee ID Number.

3. Exhibit B. Evidence of approval from FHA's Lender Approval Division in accordance of HUD Handbook 4060.1 REV-2, FHA Title II Mortgagee Approval Handbook, including any recertifications.
4. Exhibit C. Evidence of MAP approval.
5. Exhibit D. Lender certification that the lender will only use underwriters that have already been approved as 232 Lean healthcare underwriters or who obtain approval as set forth immediately below.

## B. Loan Underwriter Approval

The lender submits the following information to HUD in support of its request for approval of a 232/Lean healthcare underwriter.

1. Cover Letter.
2. Exhibit A. Resume for healthcare underwriter which supports five years of experience in underwriting residential healthcare facilities.
3. Exhibit B. Evidence of approval as a MAP-approved underwriter. *In lieu of MAP approval, an applicant seeking Lean underwriter approval can provide evidence of having completed OHP's Lean Underwriter Training and also having underwritten, as a trainee, four additional Section 232 (Construction/Substantial Rehabilitation or 223(f)) loans that have closed, beyond what is provided in response to item 4 immediately below.*
4. Exhibit C. Evidence that the healthcare underwriter (a) has underwritten, as a trainee, three Section 232 (New Construction/Substantial Rehabilitation or 223(f)) Loans that have closed and (b) unless at least two of those loans are Section 232 Lean loans that have closed, has also participated in OHP's Lean Underwriter training. The lender is to provide to HUD the Lender Narrative, and form HUD-92264-A, Supplement to Project Analysis, for the transactions underwritten by the Healthcare Underwriter. The Lender is also to provide a copy of the Healthcare Underwriter's attendance letter from OHP for Lean training, if applicable.

## C. Application Submission and Response Procedures

A lender should submit two copies of its application to:

Office of Multifamily Development
Room 6134
HUD Building, 451 Seventh Street, SW
Washington, DC 20410

Review and approval or disapproval will take approximately 30 to 45 days from the date the application is received. The applicant will be informed in writing of the decision.

If you have questions on the approval process, please call Terry W. Clark at (202) 402-2663 or email Terry.W.Clark@hud.gov

Back to top

## FROM THE CLOSING CORNER

### Did You Remember to Submit Final Plans and Specifications for New Construction – Initial Closings?

It is the Lender's responsibility to ensure that the final plans and specifications submitted at Initial Closing are identical to those identified in the executed Firm Commitment, and related Amendments. Any changes to the plans and specifications after issuing the Firm Commitment, and prior to Initial Closing, shall be documented in an Addendum issued by the project Architect, and included in a Firm Commitment Amendment. The number and date of all Addenda shall be incorporated into a revised description of the plans and specifications. This revised description will be included in the HUD Construction Contract.

Lenders are encouraged to enlist the services of their Third Party Architectural Reviewer to review any changes made to the plans and specifications since submission of the Firm Application. The Third Party Architectural Reviewer shall provide an updated Report as described in Section IV.B. of their Statement of Work.

Back to top

### The Signing of Closing Documents – Key Elements to Keep in Mind:

To ensure a smooth closing of Lean 232 projects, it is important to keep in mind the process for getting closing documents signed in preparation for your closing.

1. **"The GREEN LIGHT"** - The OHP Closing Coordinator will send the Lender and Lender Attorney an email with detailed instructions for mailing the Closing Docs (Regulatory Agreement(s), Note, Agreement and Certification (3305), and Assignment, if applicable) to the designated HUD signatory. These instructions will be provided only after the OHP Closing Coordinator and HUD Counsel have received and

approved complete final drafts, including all riders and attachments, of these documents. ***DO NOT SEND DOCUMENTS TO OHP PRIOR TO THIS EMAIL AS THEY WILL BE RETURNED.***

2. Your timetable for closing should include a minimum of three days for the signed documents to be sent back to the appropriate parties, in addition to the number of days needed for any pre-recording prior to closing.

3. Once documents are signed, the OHP Program Specialist will send out documents as outlined in your instructions/cover memo.

Please feel free to contact your assigned OHP Closing Coordinator if you have any questions.

Back to top

**Did You Remember To…**

- ✓ Send the executed Firm Commitments (hard copy) to assigned Closing Coordinator?

- ✓ Ensure all closing checks include the project name, FHA number, and purpose of the check (MIP, Inspection, etc.) on the check or the check stub?

- ✓ Sign up your Closing Team to receive Lean 232 Email Updates? Policy and procedural updates for closing are communicated through these email updates!

## ATTACHMENTS

**12. Fire Safety Equipment Loan Program Waiver 3-14-12**

Back to top

February 2, 2012

# HUD's LEAN 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of February 2, 2012

## UPDATED FREQUENTLY ASKED QUESTIONS (FAQs)

**ORCF has posted an updated version of FAQs on our website, as of February 1, 2012, and intends to keep the FAQs updated periodically. The latest updates are much more extensive than the previous FAQs, and the document is searchable. The document is in an Excel workbook and the tabs are sorted by categories that will correspond to the forthcoming Section 232 Production Handbook. The intent is for this document to be an immediate resource for questions you may have, and although our Lean Thinking email is still very much available for your questions about the program, we do encourage everyone to begin using this FAQ document as a resource of first resort.**

## REVISED DOCUMENT SUBMISSION PROTOCOL

**ORCF has made some changes to improve our processes and reduce the amount of time to underwrite applications. We have also increased the amount of time the lender has to submit legal documents to the OGC Reviewer, from 5 working days to 7 working days.**

**Below are two sample e-mails that will be used to request legal documents from the lender. One e-mail is solely for those properties that entered the queue *on or prior to January 18, 2012* and the other e-mail is for those properties that entered the queue *after January 18, 2012 and for projects that entered the queue prior to January 18, 2012 with completed prep work.***

**All properties entering the queue on or prior to January 18, 2012 will receive a HUD e-mail requesting that revised organization charts and updated exhibits (examples include Lender Narrative, Facility**

**License, Professional Liability Insurance Accord, etc.) be submitted electronically, to the requestor, within 7 business days. (Please see e-mail below.)**

## SAMPLE HUD EMAIL FOR PROJECTS THAT ENTERED QUEUE BEFORE 1/18/12

This is in response to your email where you indicated that the subject project is ready for Queue Prep Work.

Please send the following documents, as applicable, to me electronically (via email or electronic storage medium) so that they are received within the next **7 business days**:

A. If any of the principals have changed, please provide revised organization charts and update any other relevant exhibits.
B. Please review your application and revise/collect any exhibits that have expired or changed while the project was in the queue. (Examples include: Lender Narrative, Facility License, Professional Liability Insurance Accord, etc.)
C. Please verify that the numbers in the Lender Narrative (Executive Summary and Contents) tie into the firm commitment and attachments (Examples are: mortgage amount, repairs, initial and annual deposit to the reserve for replacement account, interest rate, loan term, number and type of beds, and net operating income).

When HUD counsel is assigned, ORCF will notify the lender of the assignment and request that the lender send one complete hard copy set of the following documents, tabbed and in the following order, to the assigned HUD counsel within 7 business days. Please note, the exhibit numbers listed below correspond to the revised Firm Application Checklists that will soon be posted to HUD.GOV – if there is no Exhibit number listed, the document is currently not on the Firm Application Checklist.

Please forward this email to lender counsel.

**Revised Document Submission Protocol:**

Section 223(f):

1. Title (Exhibit 8-3)

2. Licenses (Exhibit 8-2)
3. Documents related to Operating Lease (if applicable) (Exhibit 5-11)
   A. Operator's Estoppel Certificate (with Operating Lease and HUD Addendum a attached)
   B. Memorandum of Lease
   C. SNDA (if applicable for non-related owner and operator)
4. Survey (Exhibit 8-4) (full size)
5. Organizational Docs of Mortgagor (Exhibits 3-1 & 3-2 only)
6. Organizational Docs for each entity in Mortgagor's signature block (if applicable) (Exhibits 4-1 & 4-2)
7. Organizational Documents of Operator/ Lessee (if applicable) (Exhibits 5-1 & 5-2 only)
8. Organizational Docs for each entity in Operator's signature block (if applicable) (Exhibits 6-1 & 6-2)
9. Master Tenant Organizational Documents (if applicable)
10. Accounts Receivable Documents (if applicable) (Section 12)
    A. Cash Flow Chart
    B. AR Loan Agreement and Amendments
    C. AR Loan Note
    D. Security Agreement with AR Lender
    E. Intercreditor Agreement
    F. Rider to Intercreditor Agreement
    G. Lessee Security Agreement with FHA Lender
    H. UCC-1 Filings and UCC Searches
    I. Guarantees (if applicable)
    J. AR Lender Lock-Box Agreement or equivalent control agreement
    K. Accounts Receivable Financing Certifications (format posted to HUD.GOV)
11. Ground Lease (if applicable) (Exhibit 8-9)
12. Secondary Financing Documents (Exhibit 11-1)
13. Management Agreement (if applicable) (Exhibit 7-4)
14. Master Lease Documents (if applicable) (Exhibit 5-12)
    A. Master Lease (with HUD Addendum when available)
    B. HUD Master Lease SNDA or Subordination Agreement (if related owner and operator)
    C. Cross Default Guarantee of Sub-Tenants
    D. Sublease
15. Organizational Docs of Management Agent (if applicable) (Exhibits 7-1 & 7-2)
16. Commercial Leases (if applicable) (Exhibit 8-8)
17. Underwriting Narrative (Exhibit 1-2)

18. Contact List (Exhibit 1-8)

**To expedite this process, please ensure the following:**

- Sticky notes are placed on the page of the organizational documents with the HUD provisions, so HUD counsel can quickly flip to that page, and note that the item appears complete.

- Title exceptions are clearly numbered (with a marker, if necessary). Exception documents should be marked with the same number at the top. This will allow HUD counsel to quickly glance at the pro forma and exception documents in order to determine that all exception documents have been submitted.

- Where a HUD sample form is available, the submitted documents shall be redlined against the HUD sample form, and the lender/lender's counsel must also submit a clean copy of the document. Any changes to the sample documents, other than the names of parties or state law requirements, must be documented in a memo, and submitted to ORCF as a waiver request.

- The submission includes a HUD legal punchlist completed by lender/lender's counsel indicating which documents have been submitted, and which review items have been addressed. Highlight in yellow items that have been omitted and provide a justification and/or waiver request, as appropriate. Any documents not submitted or HUD language omitted must be explained with a facially compelling justification for the omission in the lender narrative and in the completed legal punchlist. For instance, if there is no operating lease submitted, the lender narrative and punchlist must explain that the project does not include an operating lease. Another example: the lender narrative may state that the HUD operating lease addendum should not be used because of certain specified, unique circumstances, and the lender should request a waiver of this item.

- ☐ The certification in the HUD legal punchlist is signed by the lender or lender's counsel.

February 2, 2012

**All properties entering the queue on or after January 18, 2012, and those projects that entered the queue prior to January 18, 2012 with completed prep work, will receive a HUD e-mail requesting one complete hard copy of the Firm Application be sent to OGC within 7 business days.**

## SAMPLE HUD EMAIL FOR PROJECTS THAT ENTERED THE QUEUE AFTER JANUARY 18, 2012 AND FOR PROJECTS THAT ENTERED THE QUEUE PRIOR TO JANUARY 18, 2012 WITH COMPLETED PREP WORK

Please send one complete hard copy set of the following documents, **tabbed and in the following order**, to the assigned HUD counsel within **7 business days.** Please note, the exhibit numbers listed below correspond to the revised Firm Application Checklists that will soon be posted to HUD.GOV – if there is no Exhibit number listed, the document is currently not on the Firm Application Checklist. The assigned HUD counsel is:

[Name of Assigned HUD Counsel]
[Title, e.g., Associate Regional Counsel]
Dept. of Housing and Urban Dev.
[Street Address]
[City, State Zip Code]
[HUD Counsel's Phone Number]

Please forward this email to lender counsel immediately.

**Revised Document Submission Protocol:**

Section 223(f):

1. Title (Exhibit 8-3)
2. Licenses (Exhibit 8-2)
3. Documents related to Operating Lease (if applicable) (Exhibit 5-11)
   A. Operator's Estoppel Certificate (with Operating Lease and HUD Addendum a attached)
   B. Memorandum of Lease
   C. SNDA (if applicable for non-related owner and operator)
4. Survey (Exhibit 8-4) (full size)

5. Organizational Docs of Mortgagor (Exhibits 3-1 & 3-2 only)
6. Organizational Docs for each entity in Mortgagor's signature block (if applicable) (Exhibits 4-1 & 4-2)
7. Organizational Documents of Operator/ Lessee (if applicable) (Exhibits 5-1 & 5-2 only)
8. Organizational Docs for each entity in Operator's signature block (if applicable) (Exhibits 6-1 & 6-2)
9. Master Tenant Organizational Documents (if applicable)
10. Accounts Receivable Documents (if applicable) (Section 12)
    A. Cash Flow Chart
    B. AR Loan Agreement and Amendments
    C. AR Loan Note
    D. Security Agreement with AR Lender
    E. Intercreditor Agreement
    F. Rider to Intercreditor Agreement
    G. Lessee Security Agreement with FHA Lender
    H. UCC-1 Filings and UCC Searches
    I. Guarantees (if applicable)
    J. AR Lender Lock-Box Agreement or equivalent control agreement
    K. Accounts Receivable Financing Certifications (format posted to HUD.GOV)
11. Ground Lease (if applicable) (Exhibit 8-9)
12. Secondary Financing Documents (Exhibit 11-1)
13. Management Agreement (if applicable) (Exhibit 7-4)
14. Master Lease Documents (if applicable) (Exhibit 5-12)
    A. Master Lease (with HUD Addendum when available)
    B. HUD Master Lease SNDA or Subordination Agreement (if related owner and operator)
    C. Cross Default Guarantee of Sub-Tenants
    D. Sublease
15. Organizational Docs of Management Agent (if applicable) (Exhibits 7-1 & 7-2)
16. Commercial Leases (if applicable) (Exhibit 8-8)
17. Underwriting Narrative (Exhibit 1-2)
18. Contact List (Exhibit 1-8)

**To expedite this process, please ensure the following:**

- Sticky notes are placed on the page of the organizational documents with the HUD provisions, so HUD counsel can

quickly flip to that page, and note that the item appears complete.

- Title exceptions are clearly numbered (with a marker, if necessary). Exception documents should be marked with the same number at the top. This will allow HUD counsel to quickly glance at the pro forma and exception documents in order to determine that all exception documents have been submitted.

- Where a HUD sample form is available, the submitted documents shall be redlined against the HUD sample form, and the lender/lender's counsel must also submit a clean copy of the document. Any changes to the sample documents, other than the names of parties or state law requirements, must be documented in a memo, and submitted to ORCF as a waiver request.

- The submission includes a HUD legal punchlist completed by lender/lender's counsel indicating which documents have been submitted, and which review items have been addressed. Highlight in yellow items that have been omitted and provide a justification and/or waiver request, as appropriate. Any documents not submitted or HUD language omitted must be explained with a facially compelling justification for the omission in the lender narrative and in the completed legal punchlist. For instance, if there is no operating lease submitted, the lender narrative and punchlist must explain that the project does not include an operating lease. Another example: the lender narrative may state that the HUD operating lease addendum should not be used because of certain specified, unique circumstances, and the lender should request a waiver of this item.

☐ The certification in the HUD legal punchlist is signed by the lender or lender's counsel.

## CORRECTIONS TO 223(a)(7) AND 223(f) LEGAL PUNCH LISTS

**Effective immediately please use the legal punch lists (attached) dated February 3, 2012 for all (a)(7) and (f) transactions. The revised punch lists correct permitted language on indemnification provisions in the Mortgagor's organizational documents which was inadvertently omitted.**

## REVISION TO PROCEDURE ON CONSTRUCTION STARTS PRIOR TO COMMITMENT

**The January 6, 2012 Email Blast stated that HUD will no longer authorize construction starts prior to commitment on new construction, substantial rehabilitation, and 241(a) projects after a certain date. We are hereby revising this language to allow lenders to continue to request construction starts prior to commitment on 241(a)'s.**

## REMINDER: USE CURRENT DOCUMENT VERSIONS

**ORCF has noticed that application submissions do not always contain the most recent versions of documents. We encourage you to reference the OHP website before submitting each application, to ensure that the documents you are using are the most current, and have version dates matching what is posted.**

**An example of a commonly incorrect version of a document submitted is the 223(a)(7) Firm Commitment. The most current version online is dated *June 26*, 2009; however many submissions contain the *February 2*, 2009 version. Again, please be sure to verify that each document is current.**

## NON-PROFIT ENTITIES MAY USE CONSULTANTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION PROJECTS

**Lenders must review the consultant contract as a part of their due diligence and must include a detailed discussion of the consultant and the contract in the lender narrative. The consultant contract should be included as a part of the application (in Exhibit 3-3).**

**The lender should demonstrate that:**

**(1) The consultant has relevant experience which includes knowledge of HUD's Section 232 program.**
**(2) The consultant fee is based on reasonable and necessary costs, which means that the number of hours and the hourly rate for each function should be identified. The burden is on the lender to demonstrate that the hourly rate is reasonable.**
**(3) None of the consultant's functions duplicate tasks that should be carried out by the lender, lender's counsel, borrower's counsel, architect (design or supervision), general contractor, clerk of the works, surveyor, management agent, marketing vendor or other participants in the development, construction or operations of the facility.**

**If the borrower has already signed an unacceptable or partially unacceptable agreement without prior HUD approval, then the borrower will need to pay for excess items with other sources of funds.**

**The estimated consultant fee on construction projects should be shown on line H-35 of the Form HUD-92264. If a consultant is used, the estimate for organization costs should be lowered accordingly. If a Developer's Fee is being included in Line H-27, no separate Consultant Fee should be shown.**

## FROM THE CLOSING CORNER

## Office of General Counsel (OGC) now working with Closing Contractor under the LEAN 232 Program

**The Department procured the law firm Savage & Associates Law Group P.C. ("Savage & Associates") to provide assistance with FHA closings. Savage & Associates is a small, woman owned corporate law firm based in Philadelphia, Pennsylvania, with an office in Washington D.C. Savage & Associates will utilize a team of experienced closing attorneys and client advisors to assist the Department with closing FHA-insured Healthcare and Multifamily mortgage transactions involving the acquisition or refinancing of an existing project that does not require substantial rehabilitation in any state. These transactions include, *and are limited to,* closings under Sections 207/223(f), 207/223(a)(7), 213/223(a)(7),**

**220/223(a)(7), 221(d)(3)&(4)/223(a)(7), 231/223(a)(7) and 232/223(a)(7). The closing contractor will be completing both Part I Reviews for Underwriting as well as the Closing Review. Please note that Savage & Associates will not assist with the refinancing of healthcare facilities when accounts receivable financing and or a master lease is involved.**

**To assist the closing contractor, there are eight attorneys designated as Government Technical Monitors (GTMs): Chali Roche-Garcia, Koren McKenzie-John, Jud McNatt, Joshua Mason, John Munday, Jessica Lee, Edward Ferguson, and Brenda Joseph-Chambers. These GTMs will have primary responsibility for specific regions and serve as the primary conduit between the contractor, OGC and Housing for any substantive closing issues that arise.**

**There should be no difference in how closings are conducted under the LEAN 232 program, except that more people may be copied on correspondence as all documents will be copied to Ed Ferguson and Brenda Joseph-Chambers and the Regional GTM that is assigned to the project (one of the GTMs listed above). We will keep you posted as this new process is implemented. Should you have any questions regarding a specific closing, please contact the assigned OHP Closing Coordinator directly.**

## Clarification for Cost Certification on 241a Loans

**Please note: According to the Lender Narrative Cost Certification Supplement (LNCCS) published in the January 6, 2012 email blast, it states that LNCCS is not required for 241 a loans. The LNCCS is correct. *Completion of the LNCCS is not required for 241a loans unless there is a mortgage increase.***

**An updated LNCCS is attached for your reference. Please use this document, effective immediately, when submitting Cost Certifications.**

**223(a)(7) Legal Punchlist 0212**
**223f Legal Punchlist 0212**
**LEAN Lender Narrative Cost Certification Supplement 8 2011**

February 2, 2012

**Need to Reference Previous LEAN 232 Updates?**
**Previous E-Newsletters (Email Updates) can be found at:**

**http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters**

**Have questions about the LEAN 232 Program? Please send them to the LEAN Thinking mailbox at LeanThinking@hud.gov**

**Interested in getting updates on the LEAN 232 Program?**
**Join our email list by sending your contact information to: Mike.M.Lawassani@hud.gov.**

**Have your loan servicing colleagues joined our email list? The email blasts contain information relevant to them as well. You might suggest they sign up, by contacting Mike.M.Lawassani@hud.gov**

**For more information on the LEAN 232 Program, check out: http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities**

**Or check out:**
**http://www.hud.gov/healthcare**

January 17, 2012

# HUD's LEAN 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of January 17, 2012

## QUEUE UPDATE

**OHP is working diligently to respond to the demand of applications awaiting underwriting review in the queue, and, ultimately, working towards the goal of being able to process applications upon submission by the lender. With the help of additional resources, including an underwriting contract, we are making significant headway in eliminating the queue for 223(f)'s and 223(a)(7)'s with a projected elimination sometime in mid-2012. In collaboration with industry partners, we are developing new procedures that will enable us to continue to process applications that have been waiting in the queue as expeditiously as possible. As stated in previous email blasts, we are currently performing proactive outreach by providing lenders the opportunity to ensure aged applications are fully updated and corrected in order to proceed to underwriting.**

**However, as of January 18, 2012, newly submitted applications must be complete and ready to underwrite upon submission by the lender. This means complete, up-to-date financials, APPS submissions, and other required exhibits must be submitted with the lender's confidence that they are ready for Firm Review by the OHP underwriter. This does not include documents that are allowed to be omitted and submitted separately to the OGC. "Placeholder" documents will not be acceptable. We want to further improve upon the great strides that we have all made in the quality and completeness of the applications over the past year. In an effort to be fair to all, it is OHP's prerogative to return incomplete applications as rejected.**

January 17, 2012

**The November 18, 2011 Email Blast asked that the lender email Rasheedah Dix when they were ready to submit the required documents within five business days. This email blast only discussed the Section 223(f) projects that were on the list attached to the Email Blast. We are hereby revising this process to ask lenders to submit this email to Rasheedah (as soon as the documents are in fact ready to be submitted in seven business days) for all Section 223(f)'s in the queue before January 17, 2012 – regardless of when the project was submitted. The email is not required for any other loan type. We will concentrate our queue prep work on projects that the lender has emailed Rasheedah that it is ready. See the November 18, 2011 Email Blast for additional details.**

## APPS SUBMISSION UPDATE

**During the month of December, a team of HUD staff processed over 120 APPS submissions on applications in the queue. Most of the submissions that had errors and had to be returned were paper documents. In contrast, the electronic submissions were typically processed very quickly. While paper filing of APPS is permissible, we strongly urge filing of APPS electronically because the electronic submission reduces the processing times significantly. If you have any questions about how to submit electronically or about the process in general, please email Angela Collier at Angela.B.Collier@hud.gov.**

**Need to Reference Previous LEAN 232 Updates?**
**Previous E-Newsletters (Email Updates) can be found at:**

**http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters**

January 17, 2012

**Have questions about the LEAN 232 Program? Please send them to the LEAN Thinking mailbox at LeanThinking@hud.gov** <mailto:LeanThinking@hud.gov>

**Interested in getting updates on the LEAN 232 Program? Join our email list by sending your contact information to: Mike.M.Lawassani@hud.gov.**

**Have your loan servicing colleagues joined our email list? The email blasts contain information relevant to them as well. You might suggest they sign up, by contacting Mike.M.Lawassani@hud.gov**

**For more information on the LEAN 232 Program, check out: http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities**

**Or check out:**

**www.hud.gov/healthcare <http://www.hud.gov/healthcare**

January 6, 2012

# HUD's LEAN 232 Program
# Office of Residential Care Facilities (ORCF)
# Update as of January 6, 2012

## CONSTRUCTION STARTS PRIOR TO COMMITMENT WILL NO LONGER BE APPROVED

**In light of risks associated with allowing construction starts prior to issuing a commitment, ORCF no longer intends to authorize construction starts prior to commitment. (This applies with respect to applications being submitted after February 29, 2012.) This is true with respect to Section 232 construction or substantial rehabilitation, as well as the 241a program. ORCF will, however, consider approving a post-commitment early start of construction, and ORCF is working to revise and repost forms to facilitate this.**

## ELIGIBLE/INELIGIBLE DEBT IN SALE/LEASEBACK TRANSACTIONS

**As discussed at the lender training in Chicago in September 2011, debt incurred from an identity-of-interest purchase that survives the sale transaction must be seasoned for two years (i.e., there must be 24 months between the closing date of the purchase loan and the date OHP underwriting begins on the FHA mortgage). Recall, an identity of interest is a financial or family relationship, however slight, between any two or more parties in a transaction (primarily, lender, seller and purchaser).**

**ORCF has stated "an owner/operator who continues to operate the facility after the sale constitutes an identity of interest." However, ORCF does not intend to restrict arms-length transactions from prompt eligibility. When the transaction is clearly arms-length and at market value, ORCF may not necessarily categorize it as identity of interest for debt eligibility purposes, even though the seller may continue to operate the facility, provided that the post-transaction operator will have no interest whatsoever in the mortgagor entity.**

January 6, 2012

## REMINDER REGARDING SPECIAL USE FACILITIES

**Given the history of claims on the FHA insurance fund, OHP has previously stated mortgage insurance for special use facilities (e.g. behavioral health care facilities, drug/alcohol rehab, psychiatric hospitals, etc.) will not be approved except in extraordinary situations. (See Email Blasts of 9/1/11 and 11/18/11). This continues to be ORCF's position. It is important to note that ORCF does not consider memory care/dementia units (whether in combination with an assisted living facility, skilled nursing facility or a standalone facility) to be special use facilities.**

**At this point we also wish to bring our Lenders' attention to the issues associated with very high acuity facilities, such as those providing for ventilator patients, traumatic head injury, etc. These facilities are likely to have a much higher component of their valuation in the operation, rather than the real estate (as is true, to a lesser degree, of all skilled nursing facilities), therefore posing a correspondingly high level of risk.**

**Given the rapid changes in both technology and reimbursement policies, OHP emphasizes that in the event that such a transaction is considered, the obsolescence risk of these high acuity facilities should be dealt with by using very short amortization periods. The underwriting should also address the facility's capacity to continue to service the debt in the event that market/provider payment changes dictate that alternative/modified uses of the facility be pursued. The normal risk mitigants for transactions with a higher risk profile would also be expected. These include conservatively underwritten NOI that is well supported by historical performance, low loan to value, high debt service coverage ratio, strong principals (in terms of experience and financial capacity), and demonstrated near-term and long-term market.**

## NEW CONSTRUCTION: STAFFING SCHEDULE (FIRM COMMITMENT EXHIBIT)

**New construction firm commitment checklists include an exhibit under the Operations Section, called "Staffing Schedule". The schedule is to include job titles, salaries, and full time equivalents for the facility. In order to ensure consistency, we have developed a standardized template which includes the requested**

**information. The Staffing Schedule template (Staffing Schedule Exhibit) is attached to this email and should be submitted as part of the firm commitment application.**

## WHERE TO SEND THE ORIGINAL, FULLY SIGNED FIRM COMMITMENT

**The September 18, 2009 Email Blast and our draft Firm Commitments request that the original Firm Commitment (signed by the Mortgagor and Mortgagee) be returned to the OHP Underwriter. We are hereby revising this procedure to request that this document be sent to the OHP Closer (or the contract closer -– on Contractor-processed projects). In the future, we will revise the language in our draft Firm Commitments to reflect this revised procedure.**

## LEGAL PUNCH LIST REVISIONS EFFECTIVE JANUARY 6, 2012

**Effective immediately, please begin using the attached legal punch lists for all 232/223(f) and 232/223(a)(7) transactions. The revised legal punch lists correct two errors in earlier versions:**

1. **Review items for the organizational documents of the Mortgagor have been revised to omit references to language in the new multifamily documents as the multifamily documents are not used in Section 232 transactions.**
2. **Reference to the internal HUD document "Waiver of Exceptions to Title" has been omitted as this form is obsolete.**

**All earlier versions of these punch lists are superseded, and should not be used.**

## FROM THE CLOSING CORNER

## Construction Cost Certification—What You Need to Know For New Construction, Substantial Rehabilitation, 241a Projects!

**As noted in the November 18, 2011, email update, the Office of Healthcare Programs (OHP) requires that Lenders review all**

January 6, 2012

**Construction Cost Certification documents prior to submission to the OHP Closing Coordinator. Under the Lean 232 program, the Cost Certification review is the responsibility of the Lender. The OHP Closing Coordinator will perform an analysis of the Lender's conclusion and final mortgage determination based on the documentation provided.**

**Effective immediately, the Lender is required to submit the following documents to the OHP Closing Coordinator *no later than 45 days from the Owner's selected Cost Cut-Off Date:***

1. Form HUD-92330, Mortgagor's Certificate of Actual Cost.

2. Form HUD-92330-A, Contractor's Certificate of Actual Cost. (The General Contractor must certify if there was or is an identity of interest with the Mortgagor.)

   Subcontractors at any tier must cost certify if an identity of interest exists or comes into being between such subcontractor, equipment lessor, material supplier or manufacturer of industrialized housing and either the Mortgagor or General Contractor.

3. The Lender Narrative—Cost Certification Supplement (LNCCS) is required for Substantial Rehabilitation, 241(a), and Blended Rate projects. It is also required for New Construction projects when a mortgage increase is requested.

4. A Lender Certification is required for all long-form Cost Certifications.

5. Audited Mortgagor and Operator Financial Statements.

6. Executed Form HUD-92023, Request For Final Endorsement of Credit Instrument. (This form may need to be updated if there are material changes before final closing.)

7. Draft Maximum Insurable Mortgage Letter.

8. Invoices that have not been provided to OHP for initial closing or insured advances.

   *Note: Please provide cover sheets for invoices or documentation for each line item of the cost certification. These cover sheets*

*should identify the number and name of the line item and list all sub-categories. Additional cover sheets should be provided for each sub-category identifying the purpose of each invoice (examples: Third Party Appraiser, PCNA, Phase I, Survey). If no invoice is available a cancelled check may be provided.*

9. Updated Third Party Appraisal and Lender Narrative Appraisal section (in the case of a mortgage increase request that includes a proposed revision to value).

10. Form HUD-92451 Financial Record of Mortgage Loan Transaction or similar advance register.

**For your reference, attached are the Lender Certification form, an example draft Maximum Insurable Mortgage Letter, and the Lender Narrative Cost Certification Supplement. Please note: The Maximum Insurable Mortgage Determination Letter has replaced the form HUD-2580 Maximum Insurable Mortgage.**

**Questions? Please contact your OHP Closing Coordinator if you have any questions regarding Cost Certification requirements for your Construction Project.**

**Attachments:**

Staff Schedule
223(a)(7) Legal Punchlist
223f Legal Punchlist
LEAN Lender Narrative Cost Certification Supplement 12_2010
LEAN Lender Certification of Cost 12_2010
LEAN Maximum Insurable Mortgage Letter 7_2011

**Need to Reference Previous LEAN 232 Updates?**
**Previous E-Newsletters (Email Updates) can be found at:**

**http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters**

January 6, 2012

**Have questions about the LEAN 232 Program? Please send them to the LEAN Thinking mailbox at LeanThinking@hud.gov** <mailto:LeanThinking@hud.gov>

**Interested in getting updates on the LEAN 232 Program? Join our email list by sending your contact information to: Mike.M.Lawassani@hud.gov.**

**Have your loan servicing colleagues joined our email list? The email blasts contain information relevant to them as well. You might suggest they sign up, by contacting Mike.M.Lawassani@hud.gov**

**For more information on the LEAN 232 Program, check out: http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities**

**Or check out:**

**www.hud.gov/healthcare <http://www.hud.gov/healthcare**

November 18, 2011

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of November 18, 2011

## WE ARE REDUCING OUR UNDERWRITING QUEUES!!!! LENDERS CAN HELP

**We are quickly working our way through our underwriting queues, both in "prepping" projects while in our queues, and in the assignment of underwriters. As we move deeper into our queues, we are finding that, as can be expected, lenders are not necessarily ready to respond to our requests for information/documents. Our goal is to have as many projects as possible in the four Section 223(f) and Section 223(a)(7) queues fully prepped by Mid-December. The prep work that we are doing while projects are in the queue includes conducting the Legal Completeness Check, requesting and receiving updated financials (if applicable), processing APPS/2530 matters, and receiving any other updated information from the lender.**

**To aid in concentrating our resources on projects that are ready to move to underwriting quickly, we are following the below policy. Although we will continue to follow a FIFO process on assigning loans from the queues to underwriters as much as possible, we intend to only assign projects to underwriters that are fully prepped. Thus, it is very important that you expeditiously submit any required information/documents to fully prep your loans.**

**Please see the attached list of projects, which is a list of projects in our Non-Portfolio Section 223f Queue that we have not begun prepping.**

**A. <u>Financial Statement Information</u>. On all of these projects that have a Latest Project Status date (shown on the attached**

**spreadsheet) that is 90 or more days before the date you send the email listed in item D below to Rasheedah Dix, we will require updated financial statements. Do not submit information to HUD until the Program Specialist asks for it. See the attached sample tables. Submit the actual 2010 (if not previously submitted) and year to date 2011 financial statements, occupancy figures, and payor mixes. We ask that you supply this in the form of both the financial statement sheets and your summary of this information in tables. For clarity and ease of review, please use the attached tables taken from the revised lender narrative template. If the updated financials indicate a significant change from the data in the original submission, or if there are significant negative trends in NOI, Occupancy, and/or Payor Mix, please provide a narrative explanation of those changes.**

**B. <u>Legal Completeness Check</u>. On all of these projects, documents (including a completed Legal Punchlist) will need to be sent to the OGC reviewer in accordance with the September 1, 2011 Email Blast. Do not submit information to HUD until the Program Specialist asks for it.**

**C. <u>Confirmation/Clarification of Accuracy of Additional Items</u>. On all of these projects, please address the following. Do not submit information to HUD until the Program Specialist asks for it.**

1. **If any of the principals have changed, please prepare revised organization charts and update any other relevant exhibits**
2. **Please review your application and revise/collect any exhibits that have expired or changed while the project was in the queue. (Examples include: Lender Narrative, Facility License, Professional Liability Insurance Accord, etc.)**
3. **Please verify that the numbers in the Lender Narrative (Executive Summary and Contents) tie to the firm commitment and attachments (Examples are: mortgage amount, repairs, initial and annual deposit to the reserve for replacement account, interest rate, loan term, number and type of beds, and net operating income).**

**D. <u>Lender Confirmation that Lender is Ready to Submit Documents</u>. We will not begin prepping any of these projects until we receive an email from the lender indicating that they are ready to submit the documents required by the above process. Moreover, such documents must be able to be submitted to the appropriate parties within five business days or less of the**

**request from the Program Specialist. Such email should be sent to Rasheedah.C.Dix@HUD.GOV and contain the following:**

> **Subject: Project Ready for Queue Prep Work; Project Name; Project FHA Number**
>
> **We are ready to submit the documents required by the OGC Completeness Review (per the September 1, 2011 Email Blast), Updated Financials (if applicable), and any other updated documents. We will send these documents after we receive the email from the HUD Program Specialist so that they are received by the appropriate parties within five business days**

**We are also hereby revising the Legal Completeness Check process (as detailed in the September 1, 2011 Email Blast) slightly to ask the lender to email the Program Specialist when they send the documents to the OGC reviewer. This will also be requested in the email request to the lender from the Program Specialist.**

## REMINDER ON SUBMITTALS OF FIRM APPLICATIONS

**1. Per the September 1, 2011 Email Blast, please submit the Firm Application package to Mike Luke in the Minneapolis - Rasheedah Dix in Detroit is no longer handling this duty (Rasheedah is still receiving packages in error). Mike's address is listed in the September 1, 2011 Email Blast.**

**2. Per the September 1, 2011 Email Blast, please do not name files using special characters (\ / : * ? " < > | # { } % ~ &). We continue to see submittals that use these characters.**

**3. We are not allowing a project to enter one of our queues until all required items in our checklist (as modified by this Email Blast – if applicable) are submitted. This includes APPS/2530's, the Firm Application fee check, the draft Firm Commitment (in Word format) and the Lender Narrative (both Word and PDF versions).**

## FOLLOW-UP ON CHANGE TO OUR ELECTRONIC FIRM APPLICATION PACKAGE REQUIREMENTS

November 18, 2011

**The September 1, 2011 Email Blast set forth a legal completeness check procedure. That procedure remains in effect. The September 13, 2011 Email Blast discussed a change to our Electronic Firm Application Package requirements. (This is separate and distinct from the legal completeness check procedure.) We are revising the list of documents set forth in the September 11, 2011 Email Blast that are no longer required to be submitted to HUD with the Electronic Firm Application Package. We are removing title and survey from that list, as we intend to review these as early in the process as possible. Please see the below revised list (with strikethroughs), which reflects edits to, and supersedes, the language in the September 13, 2011 Email Blast. Note also that, at this time, the below instructions with respect to our Electronic Firm Application Package requirements do not apply to mid-size and large portfolios. The reason is that we are still requiring master lease/AR review and approval before portfolio applications can be put in the queue, and this review and approval process typically requires a review of the organization documents as well as the ML and AR documents. The revised list (with the September 13 prefatory language restated) is:**

> **Until further notice and effective immediately, the following documents from the Section 223(f) and Section 223(a)(7) Checklists are no longer required to be submitted to HUD with the Electronic Firm Application package. These documents will only be required to be submitted to HUD in advance of OGC review in the Legal Completeness Check as outlined in the September 1, 2011 Email Blast. *You are encouraged to monitor your application's position in the queue so as to ensure all legal documents from Part I of the legal punch list are submitted prior to OGC assignment.***

Section 223(f):

1. Organizational Docs of Mortgagor (**Exhibit 3-2 only**).
2. Organizational Docs for principals of Mortgagor (if applicable) (Exhibit 4-2)
3. Organizational Docs of Operator/Lessee and Entities in Operator's Signature Block (**Exhibit 5-2 only**)
4. Documents related to Operating Lease (if applicable) (Exhibit 5-11)
5. Master Lease Documents (if applicable) (Exhibit 5-12)
6. Organizational Docs of Parent of Operator (if applicable) (Exhibits 6-1 & 6-2)
7. Organizational Docs of Management Agent (if applicable) (**Exhibit 7-2 only**)
8. Management Agreement (if applicable) (Exhibit 7-4)
9. Licenses (Exhibit 8-2)

~~10. Title (Exhibit 8-3)~~

~~11. Survey (Exhibit 8-4) (full size)~~
12. Commercial Leases (if applicable) (Exhibit 8-8)
13. Ground Lease (if applicable) (Exhibit 8-9)
14. Grant and/or Secondary Financing Loan Documents (Exhibit 11-1)
15. Accounts Receivable Documents (if applicable) (Exhibit 9-12 in current Checklist – Section 12 in future Checklist)

Section 223(a)(7):

1. Organizational Docs of Mortgagor (Exhibit 11).
2. Organizational Docs for principals of Mortgagor (if applicable) (Exhibit 13)
3. Organizational Docs of Operator/Lessee and Entities in Operator's Signature Block (Exhibit 14)
4. Documents related to Operating Lease (if applicable) (Exhibit 15)
5. Licenses (Exhibit 18)
~~6. Title (Exhibit 19)~~
~~7. Survey (Exhibit 20) (full size)~~
8. Master Lease Documents (if applicable)
9. Organizational Docs of Parent of Operator (if applicable)
10. Grant and/or Secondary Financing Loan Documents
11. Ground Lease (if applicable)
12. Organizational Docs of Management Agent (if applicable) (Supplemental Checklist D)
13. Management Agreement (if applicable) (Supplemental Checklist D)
14. Accounts Receivable Documents (if applicable) (Supplemental Checklist E)

**Moreover, the portions of the Lender Narrative that discuss exhibits that are not being submitted at the time of the Electronic Submittal of the Firm Application may be omitted. The Lender Narrative submitted in advance of the Legal Completeness Check will need to be revised to fully address any previously omitted items. The email from the OHP Program Specialist, which requests the documents for the Legal Completeness Check, will request that the lender send Mike Luke an electronic version (via email or electronic storage medium) of any documents that were previously omitted or are being revised.**

**Compliance with this revised procedure is optional - lenders may choose to submit all of the documents on the checklist at the time the project enters the queue.**

## HUD SIGNATORIES AND PROGRAM SPECIALISTS FOR CLOSINGS

November 18, 2011

**The May 6, 2011 Email Blast discussed HUD Signatories for Closings and is hereby revised as follows:**

**<u>Projects Closed by OHP Closers:</u> the Signatory and Program Specialist is determined based upon the OHP Closer**

| SIGNATORY | PROGRAM SPECIALIST | OHP CLOSER |
|---|---|---|
| Michael Vaughn | N/A – Send to Closer | Jason Roth, Carol Jun, and Maria Dennard |
| Roger Lewis | Markham Stickney | Mollie Yeatts and Tarrie Eckhart |
| Tom McMillan | Mike Lawassani | John Radcliff |
| Tim Gruenes | Miranda Schoenecker | Dovid Kanarfogel and Cheryl Medeiros-Cunz |
| Patrick Berry | Rasheedah Dix | Adrienne Cohn and Spencer Ash |

**<u>Projects Closed by Contractor Closers:</u> the Signatory and Program Specialist is determined based upon the GTM U/W**

| SIGNATORY | PROGRAM SPECIALIST | GTM U/W | GTM CLOSER |
|---|---|---|---|
| Roger Lewis | Markham Stickney | Tracy Shepherd | Corley (David) Audorff |
| Tom McMillan | Mike Lawassani | Tom McMillan | Corley (David) Audorff |
| Tim Gruenes | Miranda Schoenecker | Rita Dockery | Corley (David) Audorff |
| Tim Gruenes | Michael Luke | Jennifer Tadlock | Jason Roth |
| Patrick Berry | Rasheedah Dix | Susan Gosselin | Jason Roth |

## <u>REMINDER OF LOGISTICS OF SENDING DOCUMENTS TO HUD SIGNATORIES FOR CLOSINGS</u>

**The September 1, 2011 Email Blast asked that an email be sent to the Program Specialist (or in the case of a Headquarters signing, the OHP Closer) when the documents are sent to the HUD Signatory. The OHP Closer must be cc'd on this email. We have not been receiving this notification email in all cases. Please ensure the individuals who are sending the documents (usually the lender's**

**attorney) are aware of this procedure. Moreover, make certain that you have approval from the OHP Closer before documents are sent to the HUD Signatory.**

## CLARIFICATION ON CAUTION ON SPECIAL USE FACILITIES

**The September 1, 2011 Email Blast discussed this issue. We want to clarify that the language in that Email Blast was not directed at Memory Care/Dementia Units. Please perform your normal due diligence underwriting for these type of units.**

## CONSTRUCTION COST CERTIFICATION—LENDER REVIEW REQUIRED (NEW CONSTRUCTION, SUBSTANTIAL REHABILITATION, 241a)

**The Office of Healthcare Programs requires that lenders review all construction cost certification documents prior to submission to the OHP Closer. We will be publishing detailed instructions (with documents) in the near future. In the meantime, please contact your OHP Closer to discuss construction cost certification procedures.**

## REFINANCING COSTS ARE NOT ELIGIBLE OPERATING EXPENSES

**OHP has observed a significant number of REAC FASS compliance referrals for unauthorized distributions on facilities that are in the process of, or have completed, 223(a)(7) refinancing.**
**In accordance with the Regulatory Agreement, project funds may not be used for the refinancing cost when reported as an operating expense. The compliance finding is created when the owner distributions and refinancing cost together exceed the amount of Surplus Cash available as per the year end and midyear surplus cash calculation.**

## SMALL PORTFOLIO PROJECTS AND THE PORTFOLIO NAMING CONVENTION

**We have recently encountered projects in our queues that are part of a small portfolio that are not named in accordance with our portfolio naming convention. The Certification for Electronic Submittal asks lenders to identify small, mid-sized and large portfolios. In the future, please ensure that all small portfolios are identified on the Certification for Electronic Submittal. If you have projects that are a portion of a small portfolio in one of the OHP queues and you have not identified them as such, please email Mike Luke, identifying the project names, project numbers and the queue in which they are located.**

## PORTFOLIO PROCESSING

**The language in the November 2, 2010 Email Blast related to Portfolio processing stated that each portfolio in the Portfolio Queue would be processed in batches of 1-20 projects each. OHP's policy in that respect is changing; OHP will process portfolios in batches of approximately ten each.**

## PORTFOLIO AND MASTER LEASE INTERIM GUIDANCE

**The current guidance on portfolios is HUD Housing Notice H01-03, originally issued in 2001. OHP has prepared updated definitions and requirements related to processing portfolio requests and guidance on master leases to be included in the forthcoming Section 232 Handbook (Handbook), which is currently in HUD internal review and clearance. OHP estimates that the Handbook will be put into effect in the second half of 2012. To expedite the release and application of this new guidance, OHP plans to include the contents of the Handbook chapters on portfolios and master leases in a consolidated mortgagee letter, estimated to be issued by the second quarter of 2012.**

**This email blast is designed to clarify existing policy with regard to the relationship among mortgagor entities that triggers portfolio and master lease requirements, and also to provide lenders interim information regarding future processes and requirements.**

**Portfolio and master lease procedures apply when mortgagor entities will be under common control. For portfolio and master lease purposes, "common control" means either that (a) each mortgagor entity has the same managing member, general partner**

**or other person or entity in a controlling role, or (b) over 50% of each mortgagor entity is owned by the same persons or entities.**

**With respect to new individual applications or portfolio requests, lenders may begin following certain aspects of this interim guidance (set forth below) immediately. OHP Loan Committee/Leadership would welcome applications/portfolios submitted under the interim guidance, as the new guidance is considered more conservative and, thus, an inherent risk mitigant to the FHA Insurance Fund.**

**Lenders may, at their option, incorporate the following forthcoming policies as soon as possible:**

**A. <u>Portfolios</u>**

1. **The Handbook and Mortgagee Letter will include new definitions of small, midsize and large portfolios based on a combination of number of facilities and aggregate mortgage amount. Until then, the current portfolio definitions as described in Notice H 01-03 will remain in effect with the following clarifications:**

    a. **Small portfolio: Up to forty-nine projects AND aggregate mortgage amount of up to $75,000,000. A portfolio review *is not* required for small portfolios.**

    b. **Mid-size portfolio: Up to forty-nine projects AND aggregate mortgage amount greater than $75,000,000 but less than $250,000,000. A portfolio review *is* required for mid-size portfolios.**

    c. **Large portfolio: Fifty or more projects OR aggregate mortgage amount in excess of $250,000,000. A portfolio review *is* required for large portfolios.**

2. **The portfolio professional liability insurance (PLI) review will take place concurrently with the corporate credit/portfolio review. A portfolio acceptance letter will not be issued until the PLI is verified as being in compliance with Housing Notice H 04-15 or is otherwise found acceptable to HUD via a waiver. (Please note: Housing Notice H 04-15 will be superseded by a new PLI chapter in the Handbook. Until then, the guidance included in H 04-15 will remain in effect.)**

3. **The portfolio accounts receivable financing (AR Financing) review will take place concurrently with the corporate credit/portfolio review. A portfolio acceptance letter will not be issued until the AR Financing is verified as being in compliance with Housing Notice H 08-09 or is otherwise found acceptable to HUD via a waiver. (Please note: Housing Notice H 08-09 will be superseded by a new AR Financing chapter in the Handbook. Until then, the guidance included in H 08-09 will remain in effect.)**

**B. Master Leases**

1. **A master lease will be required on any group of facilities under common control numbering three or more facilities and/or with an aggregate mortgage amount of $15,000,000 or more. This will apply to all applications for mortgage insurance pursuant to Sections 223(a)(7), 223(f) or 232 NC/SR; a transfer of physical assets; or a change in lessee or management agent.**

2. **Presently, the OHP Loan Committee may require a master lease as a condition to a firm commitment. This determination will be made on a case by case basis, where doing so appropriately addresses the risks of the particular transaction. When the three facilities/$15 million test described above becomes effective, the OHP Loan Committee may still require a master lease in other situations on a case by case basis, where appropriate as a risk mitigant.**

3. **HUD will not reach back and require existing FHA facilities to be included in a new master lease unless those facilities were submitted for financing/refinancing within the past eighteen months, or unless credit considerations on a new transaction would warrant it.**

## LENDER AND UNDERWRITER 232 PROGRAM QUALIFICATION

**The MAP Guide used by the Office of Multifamily Housing before August 18, 2011 (and still available on HUD's Section 232 Underwriting Guidance web page), sets forth standards and procedures for approval of an underwriter to underwrite a Section 232 loan under MAP. The new MAP Guide, issued August 18, 2011, does not do so. However, to participate in the Section 232 program,**

**HUD does continue to require that the lender and its underwriter be MAP approved. In particular, the policies in effect with respect to underwriter approval for the Section 232 program *prior to* the new MAP Guide's publication do remain in effect. The forthcoming Section 232 Handbook will address the process for Section 232 lender and underwriter approval fully, but in the interim some clarification of the continuing policy is needed.**

**The existing policy with respect to underwriter approval is set forth in several documents. In particular, the former MAP Guide language (language which is still being utilized in the Section 232 approval process) states, in Chapter 2, Section 2.3:**

> ***For Health Care Applications, the MAP underwriter must have within the previous five years experience in underwriting the development and operation/management of health care facilities. The underwriter's resume must demonstrate this specific experience and is submitted to the Lender Qualifications and Monitoring Division (LQMD) of the office of Multifamily Development in Headquarters for review and approval. Any MAP Lender, whose underwriter cannot demonstrate the necessary level of experience, must use Traditional Application Processing (TAP) Program when financing its health care facility.***

**In responding to Frequently Asked Questions on June 15, 2006, HUD clarified that the above-referenced experience "in underwriting the development and operation/management of health care facilities" was being construed as requiring at least three MAP skilled nursing facilities.**

**With the implementation of LEAN underwriting (rather than MAP underwriting) in the Section 232 Program, the Office of Healthcare Programs issued the following clarification on the HUD website:**

> **We require the lender to be an FHA Approved Lender, a MAP-Approved lender and the lender's underwriter must also be a MAP-Approved Healthcare underwriter. In addition, to underwrite a Lean loan, the underwriter must have attended one of our Lean training sessions or have underwritten at least two Section 232 Lean loans that have been closed.**

**OHP recognizes that some underwriters now seeking approval to underwrite Section 232 transactions will not have any MAP Section 232 experience and, in any event, Lean Section 232 experience is**

**now more relevant. Accordingly, OHP is allowing underwriters to cite either Section 232 MAP transactions or Section 232 Lean transactions toward the three transactions previously required. Additionally, if at least two of those transactions are not Section 232 Lean transactions that have closed, then the underwriter must also have attended lean underwriter training.**

**Below is guidance for the lender in packaging and submitting an application for approval. This guidance substantially tracks procedures that have previously been set forth.**

**A. Lender Approval**

**In support of a lender's application, the following information is to be provided to HUD:**

1. **Cover Letter.**

2. **Exhibit A. Name of applicant, address, employer identification number, contact person or persons, telephone and fax number, e-mail address, branch offices for residential healthcare facility business with address, telephone and e-mail address, and the FHA Mortgagee ID Number.**

3. **Exhibit B. Evidence of approval from FHA's Lender Approval Division in accordance of HUD Handbook 4060.1 REV-2, FHA Title II Mortgagee Approval Handbook, including any recertifications.**

4. **Exhibit C. Evidence of MAP approval.**

5. **Exhibit D. Lender certification that the lender will only use underwriters that have already been approved as 232 Lean healthcare underwriters or who obtain approval as set forth immediately below.**

**B. Loan Underwriter Approval**

**The lender submits the following information to HUD in support of its request for approval of a 232/Lean healthcare underwriter.**

1. **Cover Letter.**
2. **Exhibit A. Resume for healthcare underwriter which supports five years of experience in underwriting residential healthcare facilities.**
3. **Exhibit B. Evidence of approval as a MAP-approved underwriter.**
4. **Exhibit C. Evidence that the healthcare underwriter (a) has underwritten, as a trainee, three Section 232 (New Construction/Substantial Rehabilitation or 223(f)) Loans that have closed and (b) unless at least two of those loans are Section 232 Lean loans that have closed, has also participated in OHP's Lean Underwriter training. The lender is to provide to HUD the Lender Narrative, and form HUD-92264-A, Supplement to Project Analysis, for the transactions underwritten by the Healthcare Underwriter. The Lender is also to provide a copy of the Healthcare Underwriter's attendance letter from OHP for Lean training, if applicable.**

## C. Application Submission and Response Procedures

**A lender should submit two copies of its application to:**

**Office of Multifamily Development**
**Room 6134**
**HUD Building, 451 Seventh Street, SW**
**Washington, DC 20410**

**Review and approval or disapproval will take approximately 30 to 45 days from the date the application is received. The applicant will be informed in writing of the decision.**

**If you have questions on the approval process, please call Terry W. Clark at (202) 402-2663 or email Terry_W._Clark@hud.gov**

November 18, 2011

## ESTABLISHMENT OF A SECTION 232/241(a) QUEUE

**We intend to process Section 241(a) submittals in a more expeditious manner and to this end are creating a separate queue for Section 241(a) projects. We will be moving all currently submitted Section 241(a) projects to this new queue. For *all* future Firm Application submittals, please use the attached, revised Certification for Electronic Submittal, which will identify that Section 241(a) projects are categorized in a different queue.**

## ANOTHER REMINDER ON BPRS!!!

**We continue to review applications (with hard copy HUD Form 2530's) where the entities/participants have not registered in the Business Partners Registration System (BPRS). This issue has been discussed in at least three previous Email Blasts. As we will not assign projects to an underwriter until all required entities/participants have been registered in BPRS, significant delays can occur in the processing of projects that are not in compliance. If it hasn't been done previously, we ask lenders to review projects that they have in the queue that submitted hard copy HUD Form 2530's to ensure that they are in compliance. To register for BPRS, please go to: http://www.hud.gov/offices/hsg/mfh/apps/appsmfhm.cfm.**

## FROM THE CLOSING CORNER

### Tips from the Closing Team

**We all want to expedite the closings of LEAN Section 232 transactions. Ways this can be done include:**

1. **Use the closing checklists provided to you by the OHP Closer.**
2. **REMEMBER to tab all exhibits.**
3. **Closing package must document satisfaction of Firm Commitment Special Conditions specifics as written. It is helpful to put a summary page outlining each condition and how it is satisfied. If there is a question about any conditions,**

**please clarify with the OHP Underwriter *before accepting commitment* or clarify with the OHP Closer or HUD Counsel early in the closing process.**

4. **Repairs: Provide clear/labeled photos (scanned/pdf rarely works) and invoices matching the quantities required. REMEMBER to sign and date Owner's Certification If on-site materials or labor used, please let us know and remember to document.**

**Things to remember on Fidelity Bond Coverage**

**The Fidelity Bond or coverage must name the Mortgagee and HUD as additional loss payees.**

**Extensions to the Firm Commitment**

**For Lean Section 232/223(a)(7)s, a Firm Commitment is effective for 90 days. For Lean Section 232/223(f)s and 232 New Construction projects, a Firm Commitment is effective for 60 days. We encourage lenders to make every possible effort to work with the OHP Closer and closing attorney to accomplish the closing within this prescribed timeframe. However, in order to address extenuating circumstances which may arise, the lender may request a 90-day extension to the Firm Commitment ("extension request") for 232/223(a)(7)s, and a 60-day extension request for 232/223(f)s and 232 New Construction projects. The extension request must provide a justification acceptable to HUD that the extension of the Firm Commitment is warranted and necessary in order to accomplish closing by the end of the extension period. It is both cost effective and efficient for HUD and the lender to process one extension request instead of multiple 30-day extension requests. If, at the expiration of the granted extension period, the closing fails to occur, HUD reserves the right to consider the application as withdrawn. In that case, for further consideration, the application will need to be updated and submitted as a new application.**

**Changes to the Closing Process Taking Place**

**OHP is changing the method in which we scan critical documents from a closing in order to have critical documents available to the Account Executives for servicing in a timely manner. We are now requesting the Lenders/Lender Counsel to provide an electronic version of all recorded documents to the Closer, in addition to the hard copies already submitted to Headquarters. The OHP Closer will provide the Lender/Lender Counsel with a "Transaccess Scanning**

**Sheet" [SEE ATTACHED] that assigns a specific code for each recorded document used during closing. Effective immediately, all Lender/Lender Counsel will submit this "Transaccess Scanning Sheet", with the respective documents checked, with the electronic version of the file. We strongly encourage you to use zip files to accommodate the number/size of documents required to be sent simultaneously. OHP appreciates your support in this endeavor to provide timely documents for our Account Executives**

Transaccess_Scanning_Sheet-UW_and_Closer

List of Non Portfolio 223fs Not Prepped

Updated_Financials_Tables

Certification for Electronic Submittal

September 13, 2011

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of September 13, 2011

## CHANGE TO OUR ELECTRONIC FIRM APPLICATION PACKAGE REQUIREMENTS:

**Until further notice and effective immediately, the following documents from the Section 223(f) and Section 223(a)(7) Checklists are no longer required to be submitted to HUD with the Electronic Firm Application package. These documents will only be required to be submitted to HUD in advance of OGC review in the Legal Completeness Check as outlined in the September 1, 2011 Email Blast. *You are encouraged to monitor your application's position in the queue so as to ensure all legal documents from Part I of the legal punch list are submitted prior to OGC assignment.***

Section 223(f):

1. Organizational Docs of Mortgagor (**Exhibit 3-2 only**).
2. Organizational Docs for principals of Mortgagor (if applicable) (Exhibit 4-2)
3. Organizational Docs of Operator/Lessee and Entities in Operator's Signature Block (**Exhibit 5-2 only**)
4. Documents related to Operating Lease (if applicable) (Exhibit 5-11)
5. Master Lease Documents (if applicable) (Exhibit 5-12)
6. Organizational Docs of Parent of Operator (if applicable) (Exhibits 6-1 & 6-2)
7. Organizational Docs of Management Agent (if applicable) (**Exhibit 7-2 only**)
8. Management Agreement (if applicable) (Exhibit 7-4)
9. Licenses (Exhibit 8-2)
10. Title (Exhibit 8-3)
11. Survey (Exhibit 8-4) (full size)
12. Commercial Leases (if applicable) (Exhibit 8-8)
13. Ground Lease (if applicable) (Exhibit 8-9)
14. Grant and/or Secondary Financing Loan Documents (Exhibit 11-1)
15. Accounts Receivable Documents (if applicable) (Exhibit 9-12 in current Checklist – Section 12 in future Checklist)

Section 223(a)(7):

1. Organizational Docs of Mortgagor (Exhibit 11).
2. Organizational Docs for principals of Mortgagor (if applicable) (Exhibit 13)

3. Organizational Docs of Operator/Lessee and Entities in Operator's Signature Block (Exhibit 14)
4. Documents related to Operating Lease (if applicable) (Exhibit 15)
5. Licenses (Exhibit 18)
6. Title (Exhibit 19)
7. Survey (Exhibit 20) (full size)
8. Master Lease Documents (if applicable)
9. Organizational Docs of Parent of Operator (if applicable)
10. Grant and/or Secondary Financing Loan Documents
11. Ground Lease (if applicable)
12. Organizational Docs of Management Agent (if applicable) (Supplemental Checklist D)
13. Management Agreement (if applicable) (Supplemental Checklist D)
14. Accounts Receivable Documents (if applicable) (Supplemental Checklist E)

**Please note that the above list of documents is not the entire list of documents that will be submitted to the HUD Attorney for the Legal Completeness Check. Moreover, some of the above listed Section 223(a)(7) documents may not be listed on the current Section 223(a)(7) Firm Application Checklist – although they will be on a future version. When the wait time in our queues is reduced to a more manageable number of days, it is likely that we will revise this protocol.**

**The "Revised Document Submission Protocol" narrative paragraph of the September 1, 2011 Email Blast is hereby revised to read as follows:**

> **Revised Document Submission Protocol:**
> **When HUD counsel is assigned, OHP will notify the lender of the assignment and request that the lender immediately send one complete hard copy set of the following documents, tabbed and in the following order, to the assigned HUD counsel. Moreover, the OHP email to the lender will request that the lender send the OHP Program Specialist an electronic version of any documents that weren't previously sent to HUD. Please note, the below Exhibit #'s correspond to the revised Firm Application Checklists that will soon be posted to HUD.GOV – if there is no Exhibit # listed, the document is currently not on the Firm Application Checklist.**

September 13, 2011

## UPDATED CHANGES TO PROGRAM SPECIALISTS AS POINTS OF CONTACT:

**The September 1, 2011 Email Blast incorrectly stated that Miranda Schoenecker is the contact for Email Blasts – Mike Lawassani remains the contact. Below is the revised list:**

**Submitting Early Commencement Requests: (discussed in 8/24/2009 Email Blast) Miranda.J.Schoenecker@HUD.GOV**

**Email Blasts: Mike.M.Lawassani@HUD.GOV**

**Refunds of HUD Application Fees: (discussed in 3/25/2011 Email Blast) Markham.W.Stickney@HUD.GOV**

**FHA Number Requests: (discussed in 2/23/2011 Email Blast) Rasheedah.C.Dix@HUD.GOV**

**Submitting the Electronic Firm Application package (including 2 Stage submissions): (discussed in 2/23/2011 Email Blast) Michael.D.Luke@HUD.GOV**

**Please send the Electronic Firm Application package to the below address:**

**Department of Housing and Urban Development**
**Attention: Mike Luke**
**920 Second Avenue South, #1300**
**Minneapolis, MN 55402**

**To reduce duplication of effort, please only send your emails to the above individuals (do not copy other Program Specialists).**

September 1, 2011

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of September 1, 2011

## CHICAGO SECTION 232 UNDERWRITER TRAINING/KAIZEN:

**Registration for the Section 232 lender underwriter training in Chicago that is being co-sponsored by the Eastern Lenders Association and HUD is now closed. The training is at capacity – with a waiting list.**

## RESPONSE TO CMS REDUCTION IN FY 2012 MEDICARE PAYMENTS TO SKILLED NURSING FACILITIES:

**On July 29, 2011, the Centers for Medicare & Medicaid Services (CMS) announced a rule reducing Medicare skilled nursing facility (SNF) Prospective Payment System (PPS) payments in FY 2012 by $3.87 Billion (or 11.1% lower than payments for FY 2011). The basis for the reduction is to "…correct for an unintended spike in payment levels and better align Medicare payments with costs" (source: Centers for Medicare and Medicaid Services - Press Release – Details for: CMS Announces More Accurate FY 2012 Payments for Medicare Skilled Nursing Facilities - July 29, 2011). The overall 11.1% cut represents an average rate reduction, however the actual cuts disproportionately affect the higher-acuity rehab RUG categories.**

**To address this, all applications that are currently in the queue and that include underwriting based on FY 2011 Medicare reimbursement rates must be re-underwritten to reflect the FY 2012 Medicare income and expenses (i.e. "normalize" the Medicare revenue). If such revisions are necessary, the revised documents may be submitted via email to Mike Luke (Mike's email address is listed below) – please include the project name and FHA Number. Moreover, effective immediately all new applications submitted must reflect FY 2012 Medicare income and expenses. If applicable, please change underwriting as follows:**

- **Use 2011 YTD or trailing 12-month financial statements.**
- **Deduct Medicare part A revenue.**
- **Replace with revenue calculated based on underwritten census and Medicare rates effective 10/1/2011.**
- **Expenses may be adjusted to reflect management's best estimate of operational changes to compensate for the cuts**

**(please include explanation of any changes in expenses other than normal inflationary changes).**

## CAUTION ON SPECIAL USE FACILITIES:

**HUD has recently experienced several claims on Special Use Facilities. Special Use Facilities are facilities that serve a particular tenant population (e.g. individuals who are mentally ill, individuals recovering from alcohol or drug dependency, individuals recovering from eating disorders, hospice, etc.). We are concerned that certain Special Use Facilities may pose a higher risk to the FHA Insurance Fund because of inspection/regulatory regime weaknesses and concerns related to the stability of future funding sources, and therefore HUD Mortgage Insurance for these projects will not be approved, except in extraordinary situations.**

**If you are submitting an application on such a project, the lender narrative must fully address the concerns raised in the prior sentence and contain significant risk mitigation - underwritten conservatively (conservative NOI that is well supported by historical numbers, low loan to value, high debt service coverage ratio, long term debt service escrow if needed); strong (experience and financially) principals; and demonstrated market.**

## CONTRACT FOR UNDERWRITING AND CLOSING COORDINATION UPDATE:

**The Department of Housing and Urban Development's (HUD) contract for underwriting and closing coordination is in full swing! As mentioned in the July 8, 2011 Email blast, Summit Consulting, LLC (Summit) is the contractor. Summit staff were trained by HUD staff in mid-July and to date 24 223(f)'s and 23 223(a)(7)'s have been assigned to them for underwriting (two of these loans have already proceeded to loan committee and had Firm Commitments issued).**

**The contract covers Section 232/223(f) and Section 232/223(a)(7) loans only. Thus far, the loans assigned to the contractor have been taken from the Non-Portfolio 223f and Regular 223(a)(7) Queues. We will closely monitor and adjust our resources if needed to ensure that the wait time in the queue for loans in the Green 223(a)(7) Queue is shorter than the wait time in the Regular 223(a)(7) Queue. We will continue to partner with our OGC staff to close loans – the contract only covers the "Program" side of closings.**

**A. Prior to assigning an application to Summit, the following must be completed:**

**1. The Firm Application documents that OGC reviews must be sent by the lender to the OGC reviewer and comply with the new legal completeness check protocol listed below.**

**2. Updated Financials must be submitted to HUD.**

**3. Our Program Specialist must process any APPS/2530's (if applicable).**

**Our Program Specialists will contact you regarding the above as your projects near the top of the queue(s). Please provide a timely response to our requests for this information.**

**B. If your project is assigned to a contract underwriter, you will be notified where to send the hard copy Firm Application. We will also ask that you send the contractor a copy of the storage medium containing the electronic version of the Firm Application. <u>Please send the hard copy Firm Application and storage medium to the contractor via overnight mail within 48 hours of the receipt of the email request.</u>**

## <u>LEGAL COMPLETENESS CHECK:</u>

**This procedure applies to Section 232/223(f) and Section 232/223(a)(7) loans only – regardless of whether the project is being underwritten by our contractor or not. On all projects where the Firm Application documents are received by the assigned HUD Counsel on or after October 3, 2011, HUD counsel will conduct a cursory, objective legal completeness check of Part I documents prior to undertaking a full review.**

**The goals of this completeness check are:**

- **To focus HUD attention, time and resources on projects that are best prepared to close;**
- **To avoid spending time and resources inefficiently by avoiding projects that submit:**
  1. **Incomplete closing packages;**
  2. **Closing packages that do not meet current HUD requirements;**
  3. **"Dummy" documents that do not reflect the terms of the proposed deal;**
  4. **Blank copies of HUD sample documents;**
  5. **Documents that have not been preliminarily approved by all parties.**

September 1, 2011

**Completeness Check Protocol:**

**Once HUD counsel is assigned, the lender will be notified of the assignment and instructed to send the documents identified in Part I of the legal punchlist, along with a completed and signed copy of the legal punchlist to the HUD attorney. Please see the attached, revised legal punchlists (one for 223(f) and one for 223(a)(7)) – these will also be posted to HUD.GOV in the near future. HUD counsel will be copied on the notification email from OHP to the lender. If HUD counsel does not receive the package within 5 business days, the project will be set aside and remain in the queue. *Please monitor your projects' position in the queue and ensure that you are prepared to submit documents that are in compliance with this revised protocol when you receive the email from HUD requesting the documents – please do not submit revised Part I documents to HUD prior to this email notification.***

**Within four (4) business days of receipt of the documents listed in the "Revised Document Submission", below, and a legal punchlist completed by the lender or lender's counsel, HUD counsel will conduct a cursory, objective completeness check (without doing a full review of the documents).**

**If any Part I documents are missing or fail to meet the standard described below, counsel will notify (via email) the OHP Program Specialist, the lean legal coordinator, and the OGC assigner (which may be the lean coordinator, the regional counsel or their designee). Counsel will advise that the package is incomplete and not ready for legal review. Counsel will provide a brief description of why the package is incomplete, but will not provide detailed comments. The idea is to do this review quickly without getting into the substance of the deal.**

**The OHP Program Specialist will notify the lender that the submission is incomplete, and will remain in the queue until corrected (or set aside once the queue is gone).**

**To expedite this process, please ensure the following:**

- **Sticky notes are placed on the page of the organizational documents with the HUD provisions, so HUD counsel can quickly flip to that page, and note that the item appears complete.**

- **Title exceptions are clearly numbered (with a marker, if necessary). Exception documents should be marked with the same number at the top. This will allow HUD counsel to quickly glance at the pro forma and exception documents in order to determine that all exception documents have been submitted.**

- **Where a HUD sample form is available, the submitted documents shall be redlined against the HUD sample form, and the lender/lender's counsel must also submit a clean copy of the document. Any changes to the sample documents, other than the names of parties or state law requirements, must be documented in a memo, and submitted to OHP as a waiver request.**

- **The submission includes a HUD legal punchlist completed by lender/lender's counsel indicating which documents have been submitted, and which review items have been addressed. Highlight in yellow items that have been omitted and provide a justification and/or waiver request, as appropriate. Any documents not submitted or HUD language omitted must be explained with a facially compelling justification for the omission in the lender narrative and in the completed legal punchlist. For instance, if there is no operating lease submitted, the lender narrative and punchlist must explain that the project does not include an operating lease. Another example: the lender narrative may state that the HUD operating lease addendum should not be used because of certain specified, unique circumstances, and the lender should request a waiver of this item.**

- **The certification in the HUD legal punchlist must be signed by the lender or lender's counsel.**

**We will not succeed without your good faith efforts to submit complete closing packages. To this end, we strongly encourage lenders to engage counsel and have the documents reviewed by counsel before they are submitted to HUD.**

**Revised Document Submission Protocol:**

**When HUD counsel is assigned, OHP will notify the lender of the assignment and request that the lender immediately send one**

**complete hard copy set of the following documents, tabbed and in the following order, to the assigned HUD counsel. Please note, the below Exhibit #'s correspond to the revised Firm Application Checklists that will soon be posted to HUD.GOV – if there is no Exhibit # listed, the document is currently not on the Firm Application Checklist.**

Section 223(f):

1. Underwriting Narrative (Exhibit 1-2)
2. Contact List (Exhibit 1-8)
3. Organizational Docs of Mortgagor (Exhibits 3-1 & 3-2 only).
4. Organizational Docs for principals of Mortgagor (if applicable) (Exhibits 4-1 & 4-2)
5. Organizational Docs of Operator/Lessee and Entities in Operator's Signature Block (Exhibits 5-1 & 5-2 only)
6. Documents related to Operating Lease (if applicable) (Exhibit 5-11)
   A. Operating Lease with HUD Addendum
   B. Memorandum of Lease
   C. SNDA (if applicable for non-related owner and operator)
   D. Estoppel Certification
7. Master Lease Documents (if applicable) (Exhibit 5-12)
   A. Master Lease ***(with HUD Addendum when available)***
   B. Sublease
   C. HUD Master Lease SNDA or Subordination Agreement (if related owner and operator)
   D. Cross Default Guarantee of Sub-Tenants
8. Organizational Docs of Parent of Operator (if applicable) (Exhibits 6-1 & 6-2)
9. Organizational Docs of Management Agent (if applicable) (Exhibits 7-1 & 7-2)
10. Management Agreement (if applicable) (Exhibit 7-4)
11. Licenses (Exhibit 8-2)
12. Title (Exhibit 8-3)
13. Survey (Exhibit 8-4) (full size)
14. Commercial Leases (if applicable) (Exhibit 8-8)
15. Ground Lease (if applicable) (Exhibit 8-9)
16. Grant and/or Secondary Financing Loan Documents (Exhibit 11-1)
17. Accounts Receivable Documents (if applicable) (Section 12)

| |
|---|
| Revolving Loan Note |
| AR Loan Agreement and All Amendments |
| Lessee Security Agreement with FHA Lender |
| UCC-1 Filings and UCC Searches (all) |
| Guarantees (if applicable) |
| Cash Flow Chart |
| Intercreditor Agreement (ICA) between A/R Lender and FHA Lender |
| HUD Rider to Intercreditor Agreement |
| AR Lender Lock-box Agreement or equivalent control agreement |
| Accounts Receivable Financing Certifications (Format posted to HUD.GOV) |

| |
|---|
| Security Agreement with AR Lender and Amendments |

Section 223(a)(7):

1. Underwriting Narrative (Exhibit 2)
2. Contact List (Exhibit 6)
3. Organizational Chart – Mortgagor (Exhibit 10)
4. Organizational Docs of Mortgagor (Exhibit 11).
5. Organizational Docs for principals of Mortgagor (if applicable) (Exhibit 13)
6. Organizational Docs of Operator/Lessee and Entities in Operator's Signature Block (Exhibit 14)
7. Documents related to Operating Lease (if applicable) (Exhibit 15)
   A. Operating Lease with HUD Addendum
   B. Memorandum of Lease
   C. SNDA (if applicable for non-related owner and operator)
   D. Estoppel Certification
8. Licenses (Exhibit 18)
9. Title (Exhibit 19)
10. Survey (Exhibit 20) (full size)
11. Master Lease Documents (if applicable)
    A. Master Lease ***(with HUD Addendum when available)***
    B. Sublease
    C. HUD Master Lease SNDA or Subordination Agreement (if related owner and operator)
    D. Cross Default Guarantee of Sub-Tenants
12. Organizational Docs of Parent of Operator (if applicable)
13. Grant and/or Secondary Financing Loan Documents
14. Ground Lease (if applicable)
15. Organizational Docs of Management Agent (if applicable) (Supplemental Checklist D)
16. Management Agreement (if applicable) (Supplemental Checklist D)
17. Accounts Receivable Documents (if applicable) (Supplemental Checklist E)

| |
|---|
| Revolving Loan Note |
| AR Loan Agreement and All Amendments |
| Lessee Security Agreement with FHA Lender |
| UCC-1 Filings and UCC Searches (all) |
| Guarantees (if applicable) |
| Cash Flow Chart |
| Intercreditor Agreement (ICA) between A/R Lender and FHA Lender |
| HUD Rider to Intercreditor Agreement |
| AR Lender Lock-box Agreement or equivalent control agreement |
| Accounts Receivable Financing Certifications (Format posted to HUD.GOV) |
| Security Agreement with AR Lender and Amendments |

## UPDATED CHANGES TO PROGRAM SPECIALISTS AS POINTS OF CONTACT:

September 1, 2011

**We have added another Program Specialist (Mike Luke - Minneapolis), who will now be handling the electronic Firm Application packages. In the May 6, 2011 Email Blast we summarized the HUD Program Specialists to contact for various issues. We are revising this (effective immediately) as follows:**

**Submitting Early Commencement Requests: (discussed in 8/24/2009 Email Blast) Miranda.J.Schoenecker@HUD.GOV**

**Email Blasts: Miranda.J.Schoenecker@HUD.GOV**

**Refunds of HUD Application Fees: (discussed in 3/25/2011 Email Blast) Markham.W.Stickney@HUD.GOV**

**FHA Number Requests: (discussed in 2/23/2011 Email Blast) Rasheedah.C.Dix@HUD.GOV**

**Submitting the Electronic Firm Application package (including 2 Stage submissions): (discussed in 2/23/2011 Email Blast) Michael.D.Luke@HUD.GOV**

**Please send the Electronic Firm Application package to the below address:**

**Department of Housing and Urban Development**
**Attention: Mike Luke**
**920 Second Avenue South, #1300**
**Minneapolis, MN 55402**

**To reduce duplication of effort, please only send your emails to the above individuals (do not copy other Program Specialists).**

## THE BELOW COMMENTS RELATE TO SECTION 232 PROJECTS THAT ARE ADDING ADDITIONAL UNITS TO THE MARKET (INCLUDING SUBSTANTIAL REHABILITATION AND SECTION 241(A) WHERE NEW UNITS ARE BEING ADDED):

**A. Cash Requirement and Financial Qualifications of the Borrower:**
**The January 25, 2011 Email Blast provided additional clarification on the information required for the Mortgagor Entity Related to Financial Capability and Experience in applications for projects that are adding additional units to the market. There has been a significant improvement in the documentation provided to evidence the experience of participants who may be previously unknown to**

**our staff. However, documentation to support the financial needs of a new project is still lacking.**

**The previous Email Blast stated that in a significant number of cases, the financial statements for many of the newly-created entities typical to new construction/sub rehab proposals often provide only limited financial information. Therefore, effective on that date, Exhibit 3-7 of the application for Firm Commitment was to include YTD financial statements for the party who will be responsible for the financial requirements (typically the parent entity) at initial closing. If the legal entity of the Mortgagor will be capitalized by another party, the financial statements for that party(ies) must also be provided. Lenders were asked to keep in mind that our underwriting process is seeking to confirm that sufficient financial resources will be available for the cash requirements for closing and to meet any unanticipated financial needs of the project going forward.**

**The true financial needs of a project are not limited to just the numbers that are reflected under Part III of Form HUD 92264A. Although Working Capital, Initial Operating Deficit (IOD) and a Debt Service Reserve Escrow, along with any other required escrows, are presented in this document and should mirror the figures included in the Sources & Uses Statement, there may be times when an owner or principal may be required to contribute funds in the future to maintain a successful project. While it is difficult to determine when and if such an occasion may occur, it is important to us to be able to determine the willingness and ability of the principals to support their project over the long-term. Their willingness can be determined by documentation regarding their experience and relationships in the community. Their financial ability can only be evidenced by actual financial reports and evaluation of available working capital.**

**Effective immediately, Exhibit 3-7 of the application for Firm Commitment must include the last three full years and YTD financial statements for the party who will be responsible for providing the financial requirements for closing and beyond. The Lender's Narrative must include a discussion on the available working capital of this party and their ability to support the project over the long-term. In cases where an individual(s) is providing the cash requirement, one full year financial statement on each will suffice. The financial statement must meet either of the following requirements:**

1. **Personal Financial and Credit Statement, Form HUD-92417:**

- **The spouse of married sponsors or principals must also sign the form.**
- **If a spouse's signature cannot be obtained, the principal must prepare the form reflecting only those assets that are solely in their name and any liability, including those joint liabilities, for which they have any responsibility.**

**2. A substitute statement, that contains at a minimum the information contained on Form HUD-92417. This form must contain the following certifications and criminal warning:**

> I HEREBY CERTIFY that the foregoing figures and statements contained herein submitted by me as agent of the mortgagor [owner] for the purpose of obtaining mortgage insurance under the National Housing Act are true and give a correct showing of _____'s (Name of mortgagor or owner) financial position as of _____ (date of financial statement).
> Signed this ____ day of _____, 20___. Signature of authorized agent with name printed or typed under signature _____.
> Warning – HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

**For married individuals, the spouse also must sign the certification.**

**During our analysis of new construction or substantial rehabilitation proposals in which units are being added to the market, we take into consideration the financial commitment of the owner and their ability to provide financial strength when needed. This includes determining the percentage of cash that the party is putting into the transaction related to the total cost of the project. While a definitive degree of coverage is not required due to the unique nature of each transaction, a level of 20%-30% equity coverage on new construction or substantial rehabilitation projects is anticipated. Any less than 20% requires an explanation and mitigation. Effective immediately, the discussion under the Mortgagor's financial capability in the Lender's Narrative must include the percentage of owner's equity into the project.**

**<u>B. Market Studies:</u>**
**Projects that add units to a market pose a higher risk to the FHA Insurance Fund than do existing projects. Correctly evaluating the potential market for the appropriate resident type is critical to**

**making the right determination on whether or not the project is the right fit for the location. Applications that are currently in our Other Queue include projects for which a Market Study may have been completed over a year ago, at a time before the 2010 Census information was available and when a more optimistic long-term economic outlook may have been considered. In many cases the reality is that particular market areas have not rebounded, and in some cases they have continued to decline. As we personally inspect the areas during our underwriting, we sometimes find that the optimistic projections in the market studies have not come to pass. Although we are not making a blanket requirement that updated Market Studies be obtained, Lenders are strongly encouraged to re-evaluate market conditions for any application that may be in the Other Queue for projects that add units to the market. There are no repercussions for withdrawing an application that may no longer be feasible.**

**C. Debt Service Reserve Escrow (DSR):**
**The January 25, 2011 Email Blast discussed DSR's. The below language supersedes the language in the previous Email Blast.**

**We recommend that you review whether a DSR escrow should be required as additional mitigation to any new construction or substantial rehabilitation proposal that add units to a market. The DSR's that have been placed on projects of this type that have been approved by loan committee recently have had the following characteristics:**

1. **Were in an amount of six to twelve months of principal and interest payments - or longer as needed to mitigate risk.**

2. **The escrow was not mortgageable, and was funded either through cash or one or more unconditional, irrevocable letter(s) of credit issued to the lender by a banking institution.**

3. **The disbursement procedure called for in the escrow was as follows: Disbursements from the escrow are authorized monthly with written approval from the Lender's Servicer and OHP to make debt service payments. Unused portions are returned to the borrower after the project has maintained an average debt service coverage of 1.45 (including Mortgage Insurance Premium) for a twelve month period. A minimum debt service coverage of 1.25 must be demonstrated for each of the twelve consecutive months in the consecutive 12 month period used to determine the average. OHP will look to the servicing mortgagee to certify that this requirement has been**

**met, based on financial statements provided to the mortgagee by the mortgagor.**

## INITIAL OPERATING DEFICIT ESCROW (IOD):

**An IOD analysis is required on all applications where new units are being added to the subject or when the occupancy performance assumptions used in the underwriting are not presently being achieved by the subject. An escrow will be required when any period of deficit operations is identified. The escrow will provide funding for operating expenses and debt service when net income is inadequate during the initial lease-up and stabilization period. The escrow is not mortgageable, and must be funded either through cash or through one or more unconditional, irrevocable letter(s) of credit issued to the lender by a banking institution.**

**Disbursements from the escrow may be authorized monthly with written approval from the Lender's Servicer and OHP to meet any Cash Deficit in the operation of the Project. The term Cash Deficit means the shortfall between Income and Reasonable Operating Expenses. The IOD may also be used to cover Debt Service Payments and Reserve for Replacement Deposits. Expenses not accounted for in the IOD calculation should not be considered reasonable operating expenses. Unused portions will be returned to the borrower at the later of twelve months after final endorsement or when the project has demonstrated to OHP's satisfaction that the Project has achieved a debt service coverage ratio (including the Mortgage Insurance Premium) of at least 1.45 for each month of three consecutive months. OHP will look to the servicing mortgagee to certify that this requirement has been met, based on financial statements provided to the mortgagee by the mortgagor.**

**Calculating the Initial Operating Deficit:**

**A. <u>Format:</u> A prototype IOD spreadsheet has been developed for 232 applications and is attached to this email (this document will be posted to HUD.GOV in the near future). Use of this spreadsheet is mandatory for any application (that requires an IOD analysis) submitted to HUD on or after October 3, 2011 – for all other applications (including projects in the queue) use of this spreadsheet is optional. This is a template, which incorporates the rules outlined herein and will aid the lender in preparing an IOD calculation that is acceptable to the department. The IOD workbook will be a required exhibit whenever an IOD analysis is required (see above). The workbook should show the cash flows to the period of stabilized occupancy, rather than stopping at the point when a positive cash flow is achieved. Except in unusual circumstances the IOD calculation can use constant dollars, leaving the income and expenses stable without adjusting for inflation. This means that the later periods of stabilized occupancy will exhibit effective gross incomes, expenses, and net operating incomes similar to the underwritten assumptions.**

**The operating deficit represents the total of all cumulative monthly losses projected to occur until the project reaches break even operations and produces a consistently positive cash flow. These losses may not be offset by intermittent periods of positive cash flow.**

**B. <u>Absorption Rate:</u> The rate that the project is able to fill beds/units should be estimated using a net monthly absorption rate. This rate should account for both move-ins and move-outs, which are part of any normal operation. Preleases can be considered, which will result in more move-ins the first month than the monthly average. The template will delay the reimbursements for the move-ins by two months to account for a payment lag. We urge caution when forecasting or extracting absorption data from comparables –do not double count the preleases in the calculation of the monthly average. While no limit is being placed on the length of the absorption period, the viability of projects with unusually long absorption periods will be brought into question.**

**C. <u>Expenses:</u> At times the expense conclusions of the lender differ from those of the appraiser. That is because the appraiser is asked to use "market" expenses, and the lender is asked to superimpose HUD specific expense requirements over the appraiser's when calculating the maximum loan amount based on Debt Service. For purposes of the IOD calculation, it is the lender's expense estimates that should be used, rather than the appraiser's.**

**Because some expenses vary with level of occupancy and some do not, the expense estimate must be forecasted monthly by categories. Names of example categories are given on the IOD template. The names may be changed to correspond to the categories used by the appraiser, owner, lender, or HUD form 92264-HCF. There are a few basic categories that should not be renamed in the template. These categories and the reasons to account for them separately are as follows:**

**1. Ground Rent – This expense will not be charged in Interval 1 (see below).**

**2. Marketing & Promotion – The estimated amount in this category is usually derived from comparables and generally only accounts for the amount needed to maintain stabilized occupancy. The IOD template will apply this expense at 200% of normal until the stabilized occupancy has been achieved.**

**3. Insurance (property & liability) – This expense generally must be paid up front, therefore a year's worth of this expense will be paid at**

**the end of construction (Interval 2 below). Following that, a monthly amount will be impounded so another full year's payout will not be necessary.**

**4. Real Estate Taxes – This fixed expense will generally be the same regardless of occupancy. For that reason it is accounted for separately so it can be applied at 100%.**

**5. Management Fee – This expense should represent the particular arrangement defined in the management agreement. It is often calculated as a simple percentage of the Effective Gross Income once stabilized occupancy is achieved, but there are generally provisions for a different reimbursement arrangement during the initial lease-up period. The IOD worksheet should reflect those project-specific intricacies.**

**6. Replacement Reserves – This expense category is constant regardless of occupancy and is not collected during Intervals 1&2 (see below).**

> **a. Expense Floors: In conjunction with the concept that some expenses vary depending on the level of occupancy, the IOD worksheet should include expense floors. The floor is the level that a variable expense category cannot be expected to fall below. For example, the "Housekeeping & Laundry" expense may be quite low when a project is minimally occupied, but it would never be expected to fall to $0, since a minimum level of staff would need to be retained. The expense floors on the IOD template are to be entered as a percentage of the normal amount; the dollar amounts are calculated automatically. The percentages shown in the IOD template represent OHP expectations for the example expense categories. Giving justification when departing from these expectations may serve to expedite the review process.**
>
> **b. Intervals: A project will begin to incur expenses not covered by the mortgage upon receiving the certificate of occupancy. The monthly debt service payments start later, with interest only at first. Because these expenses phase in at different times there are three distinct expense intervals to consider when calculating the deficit.**
>
> > **(1) Interval 1 covers the period of time between certificate of occupancy and the end of the construction period/cost certification period. (Note that the construction period is defined as construction time plus two months for cost certification purposes). Technically this is an optional interval, because some projects may**

**have the same certificate of occupancy and construction completion dates and thus would not need an Interval 1. However it is hard to predict if that will be the case when the IOD is being prepared, so the template is set up to assume that Interval 1 will consist of a 2 month period. When calculating expenses for this Interval, no debt service is to be included as an expense. Mortgage interest for this interval is included in the mortgage (Section G Line 53 "Construction Interest"). Replacement Reserves and ground rent are not to be included in Interval 1 since ground rent during the construction period is to be included in the mortgage. This interval will only include the underwritten estimate of all of the applicable operating and leasing expenses for each period (month).**

**(2) Interval 2 begins at the end of the construction period/cost certification process (construction time plus two months) and ends at the beginning of loan principal amortization. This period can be no greater than 2 months and is also technically an optional interval. (Amortization must begin no later than 4 months after construction completion for insurance of advances and first day of second month after final endorsement for insurance of completion cases). Again, at the time the IOD calculation is made, the exact length of this period will not be known. For that reason the IOD template utilizes a standardized 2 month period for Interval 2. Debt service in this interval will include payment of interest and MIP, but not principal payments because amortization signals the beginning of Interval 3 (Section G Line 53 of the HUD-92264-HCF includes mortgage interest for the construction period plus two months). Ground rent must be included if the property is a leasehold since only ground rent during construction can be included in the mortgage, and this interval begins after construction completion. Replacement reserves are not included in interval 2. This interval will include the underwritten estimate of applicable operating expenses for each month (period).**

**(3) Interval 3 begins at the start of amortization. Amortized debt service is a mandatory expense in this interval, and must include payment to principal, interest and MIP. Ground rent, if applicable and replacement reserves are also mandatory in interval 3. This interval will include the underwritten estimate of applicable operating expenses for each month (period).**

**c. Commercial Income Where commercial facilities are included in the project, a separate operating deficit estimate should be made. The lender will ensure that expenses included in the residential deficit estimate are not duplicated in the commercial operating deficit estimate so as to unfairly penalize the property. The commercial space operating deficit is added to the residential operating income deficit to determine the total project escrow that will be necessary. Any positive income attributable to the commercial space during the deficit period will not offset the residential operating deficit requirements.**

## REVISIONS TO TWO DOCUMENTS:

**We are hereby revising the "Certification for Electronic Submittal" and the "Lenders FHA Number Request Form" to aid in our efficient handling of FHA Number requests and Firm Application submittals. Please use the attached documents immediately. These documents will be posted to HUD.GOV in the next week.**

## ORGANIZATION OF THE MEDIA CONTAINING FIRM APPLICATIONS:

**To ensure accurate and timely uploading of Firm Application submittals, please organize the Firm Application exhibits into folders on the media in accordance with the various sections on the Firm Application checklist. Please see the below examples (based on the current checklists):**

**Section 223(f):**
**01_UW**
**02_Third_Party_Reports**
**03_Mortgagor**
**04_Mortgagor_Principal**
**05_Operator**
**06_Operator_Parent**
**07_Management_Agent**
**08_Real Estate**
**09_Operations**
**10_PLI**
**11_Additional Funding Sources**

**Section 223(a)(7):**
**01_UW**
**Supplemental Checklist A (or B, or C, etc IF you submit one of the supplemental checklists)**

**As indicated in the above examples, please use an underline in place of spaces and do not use special characters (\ / : * ? " < > | # { } % ~ &) in the file names as our system (we use Sharepoint) does not recognize these characters. Questions can be directed to Mike Luke - see the email address listed above.**

## REVISION TO FEBRUARY 23, 2011 EMAIL BLAST LANGUAGE ON MINIMUM LEASE PAYMENTS:

**The language in the February 23, 2011 Email Blast related to minimum lease payments required liability (PLI) insurance in the calculation of the minimum lease payment. As the PLI premiums are paid by the operator, we have removed them from the calculation. Please see the below revised language - we have decided to leave the remainder of the language intact. Moreover, please note that this language does not apply to Section 223(a)(7)'s.**

> **During the closing of Section 232 loans, OHP and OGC have encountered confusion on the minimum lease payment required for closing documents and operating leases. For the actual leases, we are requiring that the annual lease payment be calculated using a minimum of a 1.05 coverage ratio - annual principal + annual interest + annual mortgage insurance premium + annual reserve for replacement deposit + annual property insurance + annual property taxes times a multiplier of 1.05. This minimum coverage level required for executed leases is different than the test measurement used in the 223 F Lender's Narrative, which remains unchanged - it will continue at the 1.17 coverage level.**

## CHANGES WITH NEW CONSTRUCTION CLOSINGS:

**In the February 23, 2011, Email Update, we shared with you our plan for handling Section 223(a)(7) and Section 223(f) Closings with the establishment of specific Closing Queues. As our business with New Construction, Sub-Rehab, 241(a) and Blended Rates loans increase, we have made adjustments to our team of Closing Coordinators. Tarrie Eckhart has now joined Mollie Yeatts working on New Construction, Sub-Rehab, 241(a) and Blended Rate loan closings. Effective immediately, a Closing Queue has been established for these transactions once firms are issued. Projects will be assigned "first in, first out" from this queue. Please feel free to contact Kate Murray, Closing Workload Manager, at Kate.F.Murray@hud.gov if you have any questions.**

## EXTENSIONS OF FIRM COMMITMENTS WHILE PROJECTS ARE IN THE CLOSING QUEUE:

**The May 6, 2011 Email Blast discussed a procedure for requesting extensions to Firm Commitments while projects are in the Closing Queue. As we have substantially reduced the time from Commitment issuance to assignment of an OHP Closer, we are rescinding this. Extensions of Firm Commitments will only be done by our OHP Closers. If you have a project where an extension of the Firm Commitment is necessary prior to assignment of an OHP Closer, please email Kate Murray, Closing Workload Manager, at Kate.F.Murray@hud.gov.**

## HARD COPY HUD FORM 2530'S:

**Please ensure all hard copy submittals of HUD Form 2530's are submitted on the July 2009 version of the form – we've received many submittals recently that were on the previous version of the form. Moreover, we continue to receive applications (with hard copy HUD Form 2530's) where the entities/participants have not registered in the Business Partners Registration System – this has been in many previous Email Blasts. We strongly encourage lenders to review projects that they have in the queue that submitted hard copy HUD Form 2530's to ensure that they are in compliance with these issues. To register for BPRS, please go to: http://www.hud.gov/offices/hsg/mfh/apps/appsmfhm.cfm.**

## LOGISTICS OF SENDING DOCUMENTS TO HUD SIGNATORIES FOR CLOSINGS:

**When sending documents to the HUD Signatories identified in the May 6, 2011 Email Blast, please send an email with the following information to the individual who will be receiving the documents (copying the OHP Closer or on projects closed by our contractor the GTM Closer and the Contract Closer).**

- **Subject: Project Name; Project Number; Closing Documents for Signature**
- **The date the documents will be received.**
- **The date the documents must be received by the entities working on the recording/closing.**

**Such email should be sent as early as possible, but no later than the day the documents are sent. The emails of the individuals identified in the May 6, 2011 Email Blast are as follows:**

**Jason.P.Roth@HUD.GOV**

**Markham.W.Stickney@HUD.GOV**

September 1, 2011

Rasheedah.C.Dix@HUD.GOV

Miranda.J.Schoenecker@HUD.GOV

Mike.M.Lawassani@HUD.GOV

## SUBMISSION OF FULLY EXECUTED FIRM COMMITMENTS FOR ALL SECTION 232 PROJECTS:

**After the mortgagor and mortgagee have signed the Firm Commitment, please scan and email a copy to the OHP Underwriter (or the Contract Underwriter on contractor underwritten projects). Moreover, please send the original to the same individual.**

## QUALITY OF CARE ISSUES ON SECTION 223(A)(7)'S:

**If applicable to the project, quality of care issues (state surveys) will be analyzed and considered in the underwriting of Section 223(a)(7) projects – particularly if there is a term extension requested.**

## POSTING OF THE SUPERSEDED MAP GUIDE:

**Multi-family has replaced their original MAP Guide posting with a new MAP Guide. As the new MAP Guide does not contain information on Section 232, OHP will be posting the superseded MAP Guide to its HUD.GOV website in the next week. Please use this reference until OHP is able to post its Section 232 Handbook – this document is in internal clearance.**

## AIA B108 AND NEW HUD AMENDMENT:

**On any project entering the Other Queue on or after September 12, 2011, the AIA B181, Owner/Architect Agreement, and related HUD Amendment, shall be replaced by the new AIA B108, Standard Form of Agreement Between Owner and Architect for a Federally Funded or Federally Insured Project, and new HUD Amendment. Until OHP obtains OMB approval of their version of the HUD Amendment, please use the form HUD-92408-M that is posted to HUDCLIPS. New Construction, Substantial Rehabilitation, and 241(a) documents will be updated accordingly, and posted to HUD.gov in the near future. The lender may choose to use either the B181 or the B108 (and related Amendment) for any project submitted to HUD prior to September 12, 2011.**

September 1, 2011

# UPDATED "LENDER'S PRECONSTRUCTION CONFERENCE DUTIES," "LENDER'S PRECONSTRUCTION CONFERENCE AGENDA," AND CONSTRUCTION PERIOD IMPROVEMENTS:

**A. For all New Construction, Substantial Rehabilitation, and 241(a) loans closed on or after September 12, 2011, the following shall apply:**

**Final Construction Sets of Plans and Specifications:**

**The three construction sets of Plans and Specifications shall be prepared according to the attached updated "Lender's PreConstruction Conference Duties" document, which states:**

**At the PreConstruction Conference, the attached "Cover Pages for PDF Version of 'HUD Master Set' of Plans and Specifications," and two (2) sets of the plans and specifications, shall be prepared and distributed as follows:**

**"HUD Inspection Set" of Plans and Specifications:**

- **Legible, half-size set of Plans, and full-size Specifications manual, annotated, "HUD Inspection Set" on each.**
- **Both shall be signed and dated on the front sheet of the plans and cover of the specifications by the Architect, General Contractor, General Contractor's Surety (if applicable), and the Mortgagor/Owner.**
- **Sent to the HUD Contract Inspector.**

**"HUD As-Built Set" of Plans and Specifications:**

- **Full-size set of Plans, and full-size Specifications manual, annotated, "HUD As-Built Set" on each.**
- **Both shall be signed and dated on the front sheet of the plans and cover of the specifications by the Architect, General Contractor, General Contractor's Surety (if applicable), and the Mortgagor/Owner.**
- **Given to the General Contractor.**
- **This set is not to be used for construction purposes, but rather is red lined as any changes are made to the original documents.**

**"HUD Master Set" of Plans and Specifications:**

- **The attached, "HUD Master Set – Plans," cover sheet shall be executed, and electronically "attached" to the front of a PDF version of Plans (Plans identical to those used for the Inspection and As-Built Sets above).**

- **The attached, "HUD Master Set – Specifications," cover sheet shall be executed, and electronically "attached" to the front of a PDF version of Specifications (Specifications identical to those used for the Inspection and As-Built Sets above).**
- **PDF's shall be sent on a flash drive, CD, or DVD, to the OHP Construction Manager, Michael Peeler.**

**If the Lender or others desire similar copies of the final Plans and Specifications, they shall be prepared per the Lender's direction. It is the PreConstruction Conference Coordinator's responsibility to ensure the above Plans and Specifications are distributed immediately following the Initial Closing, as described above.**

**B. Effective immediately, the following shall be applicable to all projects with Insured Advances:**

**<u>HUD-92437, Request for Construction Changes for Project Mortgages:</u>**
**Change Order procedures shall follow the most up to date version of the Lender's PreConstruction Conference Agenda. Rather than the Lender sending one original hardcopy of the Change Order package to OHP's Construction Manager, Michael Peeler, they shall create a color PDF version, and send it via email to Mike.Peeler@hud.gov for review, execution, and distribution.**

**<u>HUD-92464, Request for Approval of Advance of Escrow Funds:</u>**
**When requesting the release of escrow funds for demolition, off-site improvements, and change orders, the Lender shall create a color PDF version of the package, and send it via email to Mike.Peeler@hud.gov for review, execution, and distribution.**

**<u>HUD-92485, Permission to Occupy Project Mortgages:</u>**
**Permission to Occupy (PTO) procedures shall follow the most up to date version of the Lender's PreConstruction Conference Agenda. Rather than the Lender sending one original hardcopy of the PTO package to OHP's Construction Manager, Michael Peeler, they shall create a color PDF version, and send it via email to Mike.Peeler@hud.gov for review, execution, and distribution.**

**Questions regarding these changes can be directed to Michael Peeler, OHP Construction Manager, at Mike.Peeler@hud.gov**.

**Attachments:**
**Lender's PreConstruction Conference Duties**
**Lender's PreConstruction Conference Agenda**

September 1, 2011

## CHANGES TO ACCEPTABLE EMERGENCY CALL SYSTEMS:

**HUD regulations require all care facilities to have an emergency call system. In the past, the Office of Healthcare Programs has only allowed personal pendant-style systems as a redundant system to a system with stations permanently installed in all sleeping areas and bathrooms. However, given advances in technology and changes in healthcare philosophy, pendant-style systems alone will now meet HUD's emergency call system requirement.**

**Exhibit D of the Lender's Architectural Reviewer and Cost Analyst's Statement of Work (SOW) has been updated to reflect this change – see attached. The revised SOW, which is dated May 5, 2011, will be posted in the near future to HUD.GOV.**

**This change is also applicable to Section 232/223(f) and 232/223(a)7, where compliance with the intent of Chapter 1 of HUD's Minimum Property Standards (which references emergency call systems) is required.**

Initial Operating Deficit Escrow Calculation Template

Certification_for Electronic Submittal

Lenders_FHA_Number_Request_Form

Lender Pre-con Duties 8-11-2011

Lender's Preconstruction Conference Agenda 8 11 11

2-4_2-5_Lender_ArchCost_Reviewer_SOW

223(f)_Legal_PunchList

223(a)(7)_Legal_PunchList

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of July 14, 2011

## Upcoming Section 232 Underwriter Training/Kaizen:

The upcoming Chicago Underwriting Training (September 13th – 15th) is now open to all lenders, third parties, and attorneys on a first come, first serve basis. *There is no limit to how many additional people can be registered but once the cutoff point is reached, we will not be able to accept any more registrations.* (We will work to send another Email Blast as soon as we know this cutoff is reached.)

The room reservation deadline has been extended from July 10th through the end of July. You can make room reservations until the end of the month and still receive the $289/night rate, as long as rooms remain in our reserved block.

For those who are new to the Section 232 Underwriting program, this training can be used as a part of the approval requirements, but attendance is not required to become approved or continue to be approved if a previous training was attended.

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of July 8, 2011

**Contract for Underwriting and Closing Coordination:**

The Department of Housing and Urban Development (HUD) has awarded a one-year contract to Summit Consulting, LLC (Summit) to support Section 232 underwriting efforts within the Office of Healthcare Programs (OHP). Summit, an 8(a) qualified contractor, will perform the analytical review and due diligence required by OHP's standardized underwriting process for Section 232/223(f) and 232/223(a)7 applications. Completed forms and due diligence materials will be evaluated by designated OHP Government Technical Monitors (GTM's) for approval before submission to OHP's Loan Committee. The contractor will work to reduce the pending applications down to a 30-day backlog.

Summit contractors will be required to successfully complete a training course provided by OHP prior to beginning underwriting review activities. HUD staff will assign queue applications to Summit team members and provide the necessary oversight and guidance needed to perform the required steps and analysis outlined within Section 232 Lean Processing punch lists. The ultimate goal is to reduce the 232 Program "Queue" by approximately 400 applications within a period of six to nine months.

Responsibility for the Section 232 residential care program was transferred from the Office of Multifamily to OHP in July 2008. However, due to insufficient staff levels coupled with rapidly growing demand, the Section 232 application queue began to grow and increase substantially each year to over 400 applications in 2011.

June 28, 2011

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of June 28, 2011

**Upcoming Section 232 Underwriter Training/Kaizen:**
**The Eastern Lenders Association will be sponsoring a Section 232 lender underwriter training in Chicago in September of 2011. Training details:**

Dates:
Tuesday, September 13th (starts at 1:00 pm)
through Thursday, September 15th (ends at 12:00 pm).

- Location:
  - Swissotel Chicago: 323 E. Wacker Drive, Chicago, IL 60601
  - **http://www.swissotel.com/EN/Destinations/USA/Swissotel+Chicago/Hotel+Home/Hotel+Home.htm**
  - Overlooks Navy Pier and Lake Michigan

- Who Should Attend:
  - Lenders (**max 4 per company**) – Priority should be given to underwriters.
  - Third Party Vendors (**max 2 per company**)
  - Attorneys (**max 2 per company**)
  - REGISTRATION is limited to 300 people, exclusive of HUD staff

- Registration and Cost:
  - Cost is $300 per person, excluding HUD staff.
  - Please send one check per company made payable to Eastern Lenders Association along with a completed Registration Form (see attached) to the attention of Jane Pruett (Administrative Assistant for Jeff Allshouse, ELA Secretary):

    Ms. Jane Pruett
    Prudential Huntoon Paige
    3560 Lenox Road, Suite 1400
    Atlanta, GA 30326
    **jane.pruett@prudential.com**

June 28, 2011

- Hotel Room Reservations:
  - Rate of $289/night plus tax
  - Limited number of rooms available for those arriving Monday, September 12th, available on a first come, first serve basis.
  - A large block of rooms has been reserved for Tuesday and Wednesday nights, but is on a first come, first serve basis.
  - Reserve Online: **https://resweb.passkey.com/go/leantraining**
  - Reserve by Phone: Call 888.737.9477. Mention "LEAN Training" group rate.
  - **RESERVATIONS MUST BE MADE BY July 10, 2011**

- The following topics are anticipated to be discussed (subject to change):
  - Update of Policy Issues and our Queues
  - Update on Underwriting and Closing Contract
  - HUD OGC and 3rd Party Attorney Roundtable
  - Appraisals, Valuation, Market and Economic Analysis
  - New Construction
  - Accounts Receivable Financing and DACA's
  - Master Lease and Subordination Agreements
  - Risk Mitigation
  - Professional Liability (PLI) and Property Insurance
  - Lean Underwriting Process and Frequently Encountered Underwriting Deficiencies
  - Portfolio Transactions
  - OHP Environmental Review Guidance
  - Section 223(a)(7) Issues and Processing

- Questions:

  Jon Camps (President, ELA)
  Love Funding
  **jcamps@lovefunding.com**

  OR

  Nicole Rollenhagen
  **Nicole.M.Rollenhagen@HUD.GOV**

June 28, 2011

**In addition, HUD will be having a Kaizen immediately following this training – the afternoon of Thursday, September 15, 2011 and the morning of Friday, September 16, 2011. The Kaizen topics have not been finalized as of the date of this writing. We believe we'll have a need for a number of our lender partners to be in attendance at this Kaizen. As we are likely to have only a limited number of slots available, please email Nicole Rollenhagen (see email above) if you are interested in attending the Kaizen.**

May 6, 2011

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of May 6, 2011

**COMPLETION OF RISK ASSESSMENT WORKSHEET NO LONGER NECESSARY:**

**The December 18, 2009 Email Blast required lenders to complete a Risk Assessment Worksheet on Section 223(f)'s. Effective immediately, lenders are no longer required to complete this worksheet.**

**STATUS OF OUR QUEUES AND HUD.GOV:**

**In the March 25, 2011 Email Blast we asked that you contact one of our Program Specialists for status of projects in our queues. We have been inundated with requests and it is clear that we need to develop a different procedure for handling this until such time as we are able to timely post our queues on HUD.GOV. Therefore, we are establishing a separate list of email addresses that includes only lenders who are interested in receiving a weekly email with our queues attached. To be included in this list, please email Queueupdate@hud.gov with a subject line that reads "Please include me on the Queue Update Emails". To ease our burden, we ask that lenders consider having one contact that receives this and distributes the email to others within their organization. As soon as we are able to make timely postings to HUD.GOV, we will post our queues to HUD.GOV and announce via Email Blast. In the meantime, we are attaching our underwriting queues to this email blast.**

**IT'S OFFICIAL! DCA AND DAISA SUBMISSION REQUIREMENTS FOR INSURANCE OF ADVANCES PROJECTS ARE FINALIZED:**

**For all Insurance of Advances projects where the Deposit Account Control Agreement (DACA) and/or the Deposit Account Instructions Service Agreement (DAISA) were not approved by HUD prior to Initial Endorsement, the final and executed DACA and/or DAISA**

**must be submitted to the project's OHP Closing Coordinator and HUD office of General Counsel (OGC) when the project reaches 70% construction completion. The final and executed documents must be approved prior to HUD's approval of the Permission To Occupy (PTO).**

**REVISION TO DOCUMENTS SENT TO HUD CLOSING ATTORNEY ON A SECTION 223(A)(7) ON A 232:**

**We are hereby immediately revising the documents sent to the HUD Closing Attorney on Section 223(a)(7)'s on Section 232's – as originally discussed in the September 18, 2009 Email Blast. Please see the below revised list (one copy is required on all exhibits):**

1. **Underwriting Narrative (2)**
2. **Contact List (6)**
3. **Organizational Chart – Mortgagor (10)**
4. **Organizational Documents of Mortgagor**
5. **Organizational Documents for each entity in Mortgagor's signature block (if applicable)**
6. **Organizational Documents of Operator/Lessee (if applicable)**
7. **Organizational Documents of Entities Included in the Operator's Signature Block (if applicable)**
8. **Operating Lease and HUD Addendum, Estoppel Certificate, Memorandum of Lease and SNDA or Subordination Agreement (whichever is appropriate)**
9. **Accounts Receivable Financing Documents (if applicable) (Supplemental Checklist E-1 through E-13)**
10. **Ground Lease (if applicable)**
11. **Secondary Financing Documents (if applicable)**
12. **Commercial Space Leases (if applicable)**
13. **Management Agent Documents (if applicable)(Supplemental Checklist D-2)**
14. **Master Lease/SDNA Agreement (if applicable)**
15. **Nursing Home Assisted Facility/Board and Care License (18)**
16. **Title Report, Title Policy (ALTA 2006) and Exception Documents (19)**
17. **Survey (if applicable) (20) (full size)**
18. **Waivers (if applicable)**

**EXTENSIONS OF FIRM COMMITMENTS ON PROJECTS IN ONE OF OUR CLOSING QUEUES:**

May 6, 2011

**Requests for extensions of Firm Commitments in one of our closing queues should be sent to the Program Specialists below:**

**Section 223(a)(7)'s: Markham.W.Stickney@HUD.GOV**
**All Other Projects: Miranda.J.Schoenecker@HUD.GOV**

**Please note that prior to an OHP Closer being assigned, we will only entertain amendments to extend the Firm Commitment – all other amendment requests will be handled once the OHP Closer is assigned. At this time, we will entertain longer extension requests – 60 or 90 days.**

**HUD SIGNATORIES FOR CLOSINGS:**
**Effective immediately, the HUD signatory on closings will be based upon the assigned OHP Closer:**

**OHP Closers: Headquarters Closers**
**Documents will be signed by Michael Vaughn**
**Send the documents to:**
**Jason Roth, Closing Coordinator**
**Office of Healthcare Programs (OHP)**
**451 Seventh St., SW, Room # 2247**
**Washington, DC 20410**
**202-402-8373**

**OHP Closers: Mollie Yeatts, Tarrie Eckhart, Kathy Budny**
**Documents will be signed by Roger Lewis**
**Send the documents to:**
**Markham Stickney**
**HUD – Seattle Field Office**
**909 First Avenue, Room 430**
**Seattle, WA 98104**
**206-220-6676**

**OHP Closers: Adrienne Cohn and Corley Audorff**
**Documents will be signed by Patrick Berry**
**Send the documents to:**
**Rasheedah Dix**
**HUD – Detroit Field Office**
**477 Michigan Ave., Room #1670**
**Detroit, MI 48226**
**313-226-7900 Ext. 8901**

**OHP Closers: David Kanarfogel, Gary Golding, Cheryl Cunz**
**Documents will be signed by Tim Gruenes**
**Send the documents to:**
**Miranda Schoenecker**
**HUD-Minneapolis Field Office**
**920 Second Avenue South, Suite 1300**
**Minneapolis, MN 55402**
**612-370-3000 Ext. 2271**

**OHP Closers: John Radcliff, Susan Gosselin, David Cole**
**Documents will be signed by Tom McMillan**
**Send the documents to:**
**Mike Lawassani**
**HUD – San Francisco Field Office**
**600 Harrison Street, 3rd Floor**
**San Francisco, CA 94107**
**415-489-6682**

**REMINDER OF NOVEMBER 2, 2010 EMAIL BLAST:**
**Per the November 2, 2010 Email Blast "submittals of a medium or large portfolio batch must be a complete submittal – we will not allow a batch to enter the queue until all Firm Applications in the batch are submitted and are fully complete". Any submittals that do not contain all the projects in a batch will be adjusted so the entire batch will have a date entered queue date equal to the date of HUD receipt of the last submittal in the batch.**

**PROGRAM SPECIALISTS TO CONTACT:**
**In previous Email Blasts we have listed the HUD Program Specialists to contact for various issues. Below is a recap and an update of who to contact:**

**Submitting Early Commencement Requests: (discussed in 8/24/2009 Email Blast) Miranda.J.Schoenecker@HUD.GOV**

**Email Blasts: Mike.M.Lawassani@HUD.GOV**

**Refunds of HUD Application Fees: (discussed in 3/25/2011 Email Blast) Markham.W.Stickney@HUD.GOV**

**FHA Number Requests: (discussed in 2/23/2011 Email Blast) Rasheedah.C.Dix@HUD.GOV**

May 6, 2011

**Submitting a Firm Application: (discussed in 2/23/2011 Email Blast) Rasheedah.C.Dix@HUD.GOV**

**Extensions of Firm Commitments while projects are in the Closing Queue (per above):**

**Section 223(a)(7)'s: Markham.W.Stickney@HUD.GOV**
**All Other Projects: Miranda.J.Schoenecker@HUD.GOV**

**To reduce duplication of effort, please only send your emails to the above individuals (do not copy other Program Specialists).**

April 12, 2011

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of April 12, 2011

=

## SECTION 232 LEADERSHIP CHANGES:

**As some of you may have heard, Roger Miller recently announced certain leadership changes within the Section 232 Program. Further, we have heard from some of you that the Section 232 leadership announcements made internally within HUD needed further clarification to the industry. To ensure accurate communication, we wanted to share these important changes with our business partners through this Email Blast. Thanks so much for your input, and below is additional information, announced by Roger Miller and effective immediately:**

### MICHAEL VAUGHN, NAMED ACTING DIRECTOR OF THE SECTION 232 PROGRAM:

**Michael has been named Acting Director of the Section 232 Program. Michael has served exceptionally well in his leadership role of the 232 asset management division and in an overall leadership capacity for the Office of Healthcare Programs (OHP). Michael is uniquely experienced to lead the entire Section 232 Program with his prior HUD and mortgage lending experiences and with his educational background from Georgetown and Yale Universities.**

### WILLIAM LAMMERS, HEALTH SYSTEMS ADVISOR, WILL CONTINUE IN AN INTEGRAL ROLE WITH THE SECTION 232 PROGRAM AND WITH OHP.

**Bill, who has provided strong and enthusiastic leadership as the Acting Director of the Section 232 Program for the past 3 years and has been a tireless advocate for Lean process improvement, will continue to be involved in the Section 232 Program in very important ways. Bill will continue**

**to serve on the Section 232 Loan Committees, in policy development and Lean Processing activities, and as a key advisor to Michael Vaughn and other 232 leaders in all aspects of the Section 232 Program. Roger Miller has also asked Bill to provide important advisory services to the Section 242 Program and to the overall OHP leadership team, as necessary.**

**OTHER CRITICAL SECTION 232 LEADERSHIP POSITIONS IDENTIFIED FOR INTERIM, TRANSITIONAL PERIOD.**

**Other OHP key leadership positions will be posted over the next several months for qualified individuals to apply. For the interim period of time, OHP has initiated personnel actions for the following individuals to serve as follows:**

**Roger Lewis, Acting 232 Development Director**
**Kelly Haines, Acting 232 Asset Management Director**
**John Hartung, Acting 232 Policy Director**
**Kate Murray, Workload Manager for Closing Coordination**

**OTHER LEADERSHIP TRANSITIONS.**

**Renee Greenman was honored with a certificate of thanks from the Commissioner and an inscribed vase from the OHP staff in Seattle for her leadership service in the Section 232 Program, particularly in the development area and in assisting OHP in implementing Lean Processing. We wish Renee continued success as she returns to Multifamily Housing full time.**

**Mark Williams was thanked for his service in OHP and congratulated for being tapped for the Office of Risk Management staff. In his new position, Mark will work closely with OHP and all of its healthcare programs.**

**Nathan Dean was welcomed to OHP as Nate will be bringing his investment banking experience from the Office of Risk Management and transitioning into a new role with OHP.**

March 25, 2011

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of March 25, 2011

**RENEE' TO CONCENTRATE ON MULTI-FAMILY:**
**We regret to announce that Renee' Greenman will no longer be working on OHP initiatives – she will be concentrating on her Multi-family work (including process improvement initiatives). As you know, Renee' has filled the role of National Acting Director for 232 as well as the Multi-family Hub Director of the Seattle Hub since the inception of Lean processing of Section 232's in 2008. We want to thank Renee' for her tireless work in the development of the Lean Section 232 processing program. Needless to say, Renee's energy and leadership have been instrumental in the development of this program!**

**ADDITIONAL THANK-YOU:**
**The OHP team also wants to publically thank Kristine Martin and Pat West in the Seattle office for their contributions. Kristine has done an excellent job in coordinating our Email Blasts – this will now be coordinated by Mike Lawassani. Pat did an excellent job in the planning and logistical efforts for our previous Kaizens and training sessions in Seattle (amongst other things).**

**DO YOU HAVE A QUESTION ON THE STATUS OF A PROJECT IN ONE OF OUR QUEUES?**
**Please contact one of our Program Specialists if you have a question on the status of a project in one of our queues. Their contact information is listed below:**

**Mike.M.Lawassani@HUD.GOV**
**Rasheedah.C.Dix@HUD.GOV**
**Miranda.J.Schoenecker@HUD.GOV**
**Markham.W.Stickney@HUD.GOV**

**CONSOLIDATION OF OUR REGULAR 223F AND GREEN 223F QUEUES:**
**Our current Risk Assessment worksheet has not been an effective tool in identifying the less risky 223f projects and our Workload**

March 25, 2011

**Managers are having a difficult time in allocating resources between these queues. For these reasons, we have found it necessary to consolidate our Regular 223f and Green 223f Queues. The consolidated queue will be named "223f Non-Porfolio Queue". The underwriters working on this consolidated queue are the same ones that had been previously working on the Regular 223f and Green 223f queues.**

**Please use the attached revised Certification for Electronic Submittal immediately. This document will be posted to HUD.GOV in the future.**

**<u>ADDITIONAL INFORMATION ON REFUNDS OF HUD APPLICATION FEES:</u>**
**The February 23, 2011 Email Blast discussed the new process for handling refunds. Effective immediately, please email Markham Stickney in the Seattle office when you are requesting a refund of an application fee. Markham's contact information is listed below:**

**Markham.W.Stickney@HUD.GOV**

**<u>ADDITIONAL CLARIFICATION ON MINIMUM LEASE PAYMENTS:</u>**
**The February 23, 2011 Email Blast discussed Minimum Lease Payments. Please note that this language does not apply to Section 223(a)(7)'s.**

**<u>LEAN THINKING:</u>**
**With our continued staffing shortage in OHP, we strongly encourage you to send all general questions and questions related to projects that are not currently assigned to an OHP Underwriter or OHP Closer to Leanthinking@hud.gov. It is important to use Lean Thinking as it allows us to be more consistent in our responses, gives you a written record of the communication that you can submit with the Firm Application should you choose to submit, and helps in our development of our Frequently Asked Questions.**

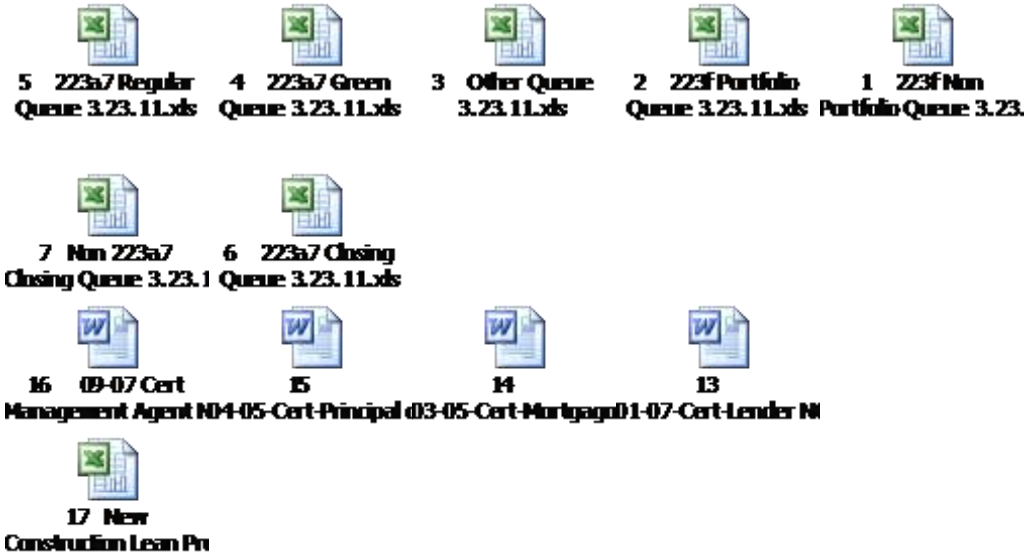
March 25, 2011

**<u>UPDATE ON HUD.GOV:</u>**
**Unfortunately, we are continuing to have problems in getting up-to-date documents posted to HUD.GOV. Until we are able to more consistently update HUD.GOV, please see the below:**

**One area on HUD.GOV where none of the links currently work is "Sample Closing Documents". We hope to have these links re-established in the next couple of weeks. In the meantime, if you need an electronic version of these documents, please email Miranda Schoenecker (Miranda.J.Schoenecker@HUD.GOV).**

**Attached to this email are the following:**

- **Our current underwriting queues (numbered 1 through 5)**
- **Our current closing queues (numbered 6 and 7)**
- **New Construction documents where the links do not currently work (numbered 13-16)**
- **Current listing of Lean new construction and substantial rehabilitation projects (numbered 17)**



February 23, 2011

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of February 23, 2011

**NEW ALTA SURVEY STANDARDS EFFECTIVE FEBRUARY 23, 2011:**
**To address the revised ALTA survey standards that are effective February 23, 2011, we have revised the Lean 232 Survey Instructions and the Owner's Survey Certification (used when submitting a pre-existing or expired survey). This revised document is attached to this email blast and will be posted to HUD.GOV in the future – previously these were two separate documents. The acceptability of surveys issued prior to February 23, 2011 will be judged under the old standards, but after this date the new standards are to be followed.**

Survey_Instructions
_and_Owners_Cert.d

**REVISED PROCEDURES ON FHA NUMBER REQUESTS AND ELECTRONIC FIRM APPLICATION SUBMISSIONS:**
**The November 20, 2009, January 15, 2010, and November 2, 2010 Email Blasts discussed our procedures for requesting FHA Numbers and Electronic Firm Application submissions. Effective immediately, we are modifying our procedures related to this as discussed below. In the past, Amee Welch in Seattle has processed all of these requests. Amee will be transitioning to working on Multifamily process improvement initiatives – among other items. We want to thank Amee for her outstanding contributions to our team – she has done an incredible job!**

- **FHA Number Requests: The lender requests (via email) assignment of an FHA Project Number from Rasheedah Dix in Detroit (Rasheedah.C.Dix@HUD.GOV). Such request attaches the completed FHA Project Number request form that can be obtained from the HUD.GOV website. Rasheedah Dix emails the lender with the assigned FHA Project Number.**

- **Submitting Firm Applications (project enters queue): When the Lender has a Firm Application (including an Initial Submittal on a 2**

**Stage Firm process) that is completely assembled, the items below are sent to Rasheedah Dix (also see below address):**

**1. Completed Certification for Submission of Electronic Firm Application (including referenced attachments).**

**2. Completed Check Transmittal Letter Template**

**3. Check for the FHA application fee, and**

**4. Storage medium containing the electronic version of the Firm Application**

**Rasheedah's address is:**

**Rasheedah Dix**
**Dept. of HUD**
**McNamara Federal Building**
**Room #1670**
**477 Michigan Avenue**
**Detroit, MI 48226**

- **<u>Final Submittals on 2 Stage Firm Submissions:</u> When the Lender has a completely assembled package, below are the procedures for submittal:**
  - **The items below are sent to Rasheedah Dix (see above address):**

    **1. Completed Certification for Submission of Electronic Firm Application (including referenced attachments).**

    **2. Storage medium containing the electronic version of the Firm Application**
  - **Rasheedah will email the OHP Underwriter and Workload Manager informing them that the electronic application has been submitted.**
  - **OHP Undewriter will contact the lender to request the hard copies of the application. Final Submittals bypass the queue and go directly to the underwriter.**

February 23, 2011

**MARK WILLIAMS' MOVE TO THE OFFICE OF RISK MANAGEMENT:**
**Effective February 28, 2011, Mark Williams will be moving from OHP to the Office of Risk Management. We want to congratulate Mark and thank him for all his work in OHP - his contributions have been instrumental in the development of the Lean Section 232 processing program! We also want to encourage you to send any questions that previously would have been directed to Mark to leanthinking@hud.gov. Our team is meeting weekly to discuss Lean Thinking questions and are currently averaging replies within our target response period of 7 days.**

**LOW INCOME HOUSING TAX CREDITS AND SECTION 232 NEW CONSTRUCTION/SUBSTANTIAL REHABILITATION PROJECTS:**
**Provided the Firm Applications are submitted in a timely manner, HUD reserves the right to adjust its Other Queue to give preference to processing new construction and substantial rehabilitation Section 232's that include Low Income Housing Tax Credits (LIHTC) to meet placed in service deadlines on specific projects. We encourage lenders to submit the Firm Applications on these projects in such a manner that will allow as much time as possible for HUD to act on the applications – including reviewing whether our 2 Stage Firm Application process will provide for such.**

**CHANGES TO OUR PROCEDURE FOR HANDLING SEASONING OF DEBT:**
**The April 10, 2009 Email Blast discussed our definition of Eligible Debt and the two and five year seasoning rules. Although this language was silent on the date that the seasoning is based upon, we have consistently required that the two or five year period must have passed prior to the application being submitted (entering our queue). Because of the length of time that projects are spending in our queues, we are changing how we will handle this. Effective immediately, the two and five year time period will be based upon when a project is assigned to an OHP Underwriter (exits our queue). Lenders may choose to submit a project prior to the seasoning period expiring, however, if the project reaches the top of the queue prior to the debt being properly seasoned, the project will be placed on hold. Lenders submitting projects in such a manner must regularly monitor the project's progression through the queue and contact a Workload Manager at HUD (prior to the project being assigned to an OHP Underwriter) if it becomes evident that the project will be assigned prior to the seasoning period expiring.**

February 23, 2011

**REFUNDS OF HUD APPLICATION FEE:**

**We understand that HUD is no longer issuing refund checks - all refunds are being handled by Direct Deposit. To accommodate this procedure, when requesting refunds in the future, please use the attached document as a template for your letter requesting the refund. This document will be posted to HUD.GOV in the future.**

Template for Request of Overpayn

**MANAGEMENT AGENT AND OPERATOR GRID:**

**Please see the attached grid. This document addresses HUD's closing document requirements for operators and management agents to ensure that HUD has a valid security and regulatory interest in the project assets of the healthcare facility. Particularly of note, this grid addresses the document signing requirements of the operator and/or management agent for the operating lease, license, equipment, provider agreements, deposit accounts and facility repairs. This document will be posted to "Sample Closing Documents" on HUD.GOV in the future.**

Management_Agent _and_Operator_Grid.

**STALE DATE ON PHASE I ENVIRONMENTAL REPORTS:**

**We have been asked numerous times in the past few months to waive the stale date on Phase I Environmental Reports – listed in the endnotes on our Checklists. We have turned down all such requests as we are unable to waive this requirement.**

**CLOSING QUEUE:**

**We will soon be posting our closing queues to HUD.GOV. Until these are posted, please see the attached two spreadsheets, which list the projects in our closing queues. Projects will be assigned from the top to bottom of the spreadsheets. Currently we have three closing coordinators working on the non 223(a)(7) queue (one of these individuals concentrates on Insured Advances projects).**

February 23, 2011

Section a7 Closing Queue 2.23.2011.xls

Non 223a7 Closing Queue 2.23.2011.xls

**CLARIFICATION ON MINIMUM LEASE PAYMENTS:**

**During the closing of Section 232 loans, OHP and OGC have encountered confusion on the minimum lease payment required for closing documents and operating leases. For the actual leases, we are requiring that the annual lease payment be calculated using a minium of a 1.05 coverage ratio - annual principal + annual interest + annual mortgage insurance premium + annual reserve for replacement deposit + annual property and liability insurance + annual property taxes times a multiplier of 1.05. This minimum coverage level required for executed leases is different than the test measurement used in the 223 F Lender's Narrative, which remains unchanged - it will continue at the 1.17 coverage level.**

**REVISED CONSTRUCTION SPECIFICATION TEMPLATE:**

**OHP will be following the revised construction specification template discussed in HUD Mortgagee Letter 2010-41 – see attached. All Firm Applications submitted to HUD on or after April 25, 2011, must use the new CSI MasterFormat 2010. Future revisions to our checklists and other documents posted to HUD.GOV will reflect this revised document.**

Mortgagee Letter 10-41.pdf

**CHANGES TO OUR STANDARD DOCUMENTS:**

**Please do not change Lean Approved exhibits posted on HUD.GOV. This includes, but is not limited to, submitting exhibits in MS Excel or QuattroPro when they are to be in original Word format, adding or subtracting fields of information in current documents, and changing language in Firm Commitments. When these changes are made it takes Underwriters and Closing Coordinators extra time to identify and mitigate these unapproved changes and is contrary to the standardization required under Lean. We will be following the February 19, 2010 Email Blast and requesting a revision to the Firm Application when this situation is present.**

**In addition, if a section of the Lender Narrative or an exhibit is not applicable to your project, please note that it is "not applicable" and explain why you believe this is not applicable. No sections are to be left blank or deleted from the Template. Your cooperation with this request will help us process your application more quickly.**

**MARKET INTEREST RATE ABOVE RATE USED IN SECTION 223(A)(7) APPLICATIONS:**

**Given the recent rise in interest rates, interest rates proposed in applications under Lean Section 223(a)(7) may not longer be achievable. Please advise your assigned OHP Underwriter if this is the case so you can work to ensure your application is consistently updated throughout to reflect a more accurate interest rate at the time of Firm Commitment issuance. For applications still in the queue that are no longer feasible due to interest rate hikes, lenders can opt to withdraw their application and have the application fee returned.**

January 25, 2011

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of January 25, 2011

**CORRECTION TO THE NOVEMBER 2, 2010 EMAIL BLAST:**
**The Certification for Electronic Submittal that was attached to the November 2, 2010 Email Blast has been revised to remove 5. b., which required pre-approval of master lease, account receivable and/or other important legal documents as identified by HUD on small portfolios. As the language in the November 2, 2010 Email Blast indicates, this is only required on medium and large portfolio applications (as defined by Notice H 01-03). Please use the revised (attached) certification immediately. This revised certification will also be posted to HUD.GOV in the next several weeks.**

**Although pre-approval of the documents mentioned in the first paragraph is not required on projects that are not part of a medium or large portolio, we urge lenders and outside counsel to have fully developed/vetted documents on other projects as early in the process as possible. This will reduce the time from Firm Commitment issuance to closing and will make HUD's review faster (helping to ease the resource constraints that HUD currently faces in OHP and in OGC).**

**Closing Queue:**
**As a result of our continued staffing shortage in OHP and in an effort to keep the number of active projects assigned to each OHP closer at a manageable number, we are establishing two separate closing queues – one for Section 223(a)(7) projects and one for all other Section 232 projects. The logistics of the closing queue are as follows:**

- **Effective immediately, after a Firm Commitment is issued, if there is not capacity with an OHP Closer, the project will enter the appropriate closing queue.**

- **During a project's wait in the closing queue, lender's counsel should contact the OGC reviewer to determine whether the legal review of the draft closing documents can commence prior to the assignment of an OHP closer. The OGC reviewer may reserve the right to delay the legal review of the draft documents until an OHP closer is assigned.**
- **When a project reaches the top of the queue and an OHP closer has capacity, the proposed OHP Closer will contact the lender and request the draft closing documents. The lender will have five business days to submit the draft closing documents to the OHP Closer and OGC reviewer (if not already sent to OGC). If the draft closing documents are not submitted within the five day period, or if the draft closing documents are found to be substantially incomplete or incorrect, the project will be placed back in the closing queue. If a project is placed back in the queue, the OHP Closer will notify the lender via email about the procedure the lender may follow when they have a complete package prepared. Note: To be considered complete, the draft closing package must address all special conditions and provide all required evidence that critical repairs have been completed.**
- **The email the OHP Underwriter sends to the lender after a Firm Commitment is issued, will be revised to include the following for all Section 232's (previously we had a diferent procedure on Section 223(a)(7)'s) :**

  > **Once the firm commitment has been signed by both the lender and the borrower, please return a pdf copy of it to the OHP Underwriter. Please retain the signed original until a Closing Coordinator has been assigned, at which time you may forward it to the Closing Coordinator.**

**<u>THE BELOW COMMENTS RELATE TO A SECTION 223(A)(7) REFINANCE OF A SECTION 232 PROJECT, EFFECTIVE IMMEDIATELY (EXCEPT WHERE NOTED OTHERWISE):</u>**

**<u>A. Establishment of a Green Lane for Section 223(a)(7) Applications with No Extension of Loan Term, Accounts Receivable Financing or Change of Entities:</u>**

**Due to the rapidly increasing volume of Section 223(a)(7) refinancing, and in an effort to expedite processing of the queue, we are establishing a Green Lane. Applications that do not propose extension of the current loan term do not require as much scrutiny with respect to determining whether they inure benefit to the FHA Fund; accordingly, these applications will move to the Green Lane as a separate queue. In addition,**

**applications that do not propose a Transfer of Physical Assets (TPA), Change of Operator/Agent or Accounts Receivable Financing for HUD approval concurrent with the Section 223(a)(7) transaction require less underwriter and legal review and accordingly, will also be placed in the Green Lane queue. The (a)(7) Green Lane queue will be assigned underwriters on a priority basis over applications requesting approval of a loan term extension, TPAs/Change of Operator or Agent or Account Receivable Financing. We have revised the attached Certification for Electronic Submittal document to differentiate between Green Lane and regular Section 223(a)(7) applications.**

**B. Loan Term Extension Requests on Section 223(a)(7)'s:**
**In an effort to ensure sound risk management of the FHA Fund for the Lean 232 Program, OHP Underwriters will carefully review requests for an extension of the existing loan term in a Section 223(a)(7) refinance to determine if the additional term will inure benefit to the insurance fund. Accordingly, underwriters will focus on, and may request supplemental information, as follows based on the proposed application:**

- **Debt Service Coverage calculation without a term extension and/or Debt Service Coverage calculation with a reduced term extension than proposed in the Firm application;**
- **Extent of mortgagor contributions to the reserve for replacements, including additional deposits and increases of annual deposits;**
- **Age and configuration of facility;**
- **Renovations that have occurred to update the facility.**
- **Strength of Owner/Operator and Market**

**C. Reserve for Replacement Schedules on Section 223(a)(7)'s:**
**When considering the risk management of the proposed reserve schedule under the Section 223(a)(7) refinance, OHP Underwriters will review the proposed reserve schedule in a manner consistent with current Lean Asset Management guidelines, using a $1,000 per unit "soft" minimum for at least years 1 through 10.**

**D. Occupancy on Section 223(a)(7)'s:**
**Consistent with the Email Blast issued 8/19/10, OHP Underwriters will be requesting current occupancy information when the application is under Firm review for Section 223(a)(7). In addition, if occupancy numbers are low,**

**underwriters may request information on census trends, and supplemental information on how low census numbers are being addressed by owner/operator/manager. This is in order to ascertain the project's current risk profile so that any appropriate asset management risk mitigation activities are initiated.**

**E. Interest Rate Locks:**
**On Section 223(a)(7)'s, lenders are advised against having the mortgagor lock the interest rate until the HUD closing coordinator has advised them to proceed. The closing coordinator works in concert with the HUD closing attorney to communicate the closing schedule to the lender. Please work closely with the HUD Closing Coordinator.**

**F. Extensions to the Firm Commitment:**
**For Lean Section 232/223(a)(7)s, a Firm Commitment is effective for 90-days. We encourage lenders to make every possible effort to work with the HUD closing coordinator and closing attorney to accomplish the closing within this prescribed timeframe. However, in order to address extenuating circumstances which may arise, the lender may request a 90-day extension ("extension request") to the Firm Commitment. The extension request must provide a justification acceptable to HUD that the extension of the Firm Commitment is warranted and necessary in order to accomplish closing by the end of the 90-day extension period. It is both cost effective and efficient for HUD and the lender to process one 90-day request instead of three 30-day extension requests. If, at the expiration of the granted 90-day extension, the closing fails to occur, HUD reserves the right to consider the application as withdrawn. In that case, for further consideration under the Section 223(a)(7) program, the application will need to be updated and submitted as a new application in the Lean 223(a)(7) queue.**

**G. Revised Project Capital Needs Assessment (PCNA) Guidelines for Section 223(a)(7) Projects:**
**The February 6, 2009 Email Blast discussed situations when a PCNA is required on Section 223(a)(7) projects. That Email Blast required a PCNA complying with the 223f LEAN Guidelines when either of the following is the case at the time the Section 223(a)(7) application is submitted to HUD:**

**1. A term extension is being requested. HUD will consider waivers on a case by case basis where justified. The lender should request the waiver in the mortgage insurance application cover letter and in the Lender Narrative.**

**2. At least 10 years of the existing FHA-Insured loan's amortization period has passed and a PCNA has not been submitted to HUD in the previous 10 years.**

**Effective for any Section 223(a)(7) project entering the queue after March 25, 2011, a PCNA is also required if the project does not currently meet the fire sprinkler requirements for projects participating in the Medicaid or Medicare programs that must be in place by August 13, 2013 - see the 1999 edition of the National Fire Protection Association's (NFPA) "Standard for the Installation of Sprinkler Systems" (NFPA 13).**

**A revised Statement of Work for the Limited Scope PCNA for Section 223(a)(7) will be posted to HUD.GOV in the next few weeks, which addresses these sprinkler requirements (as well as a revised Lender Narrative and Firm Application Checklist).**

**H. FHA Application Fees on Section 223(a)(7)'s:**
**While the loan application fee paid at time of application is equal to .3% of the mortgage amount, please use .15% in the Criterion 10 maximum mortgage calculation on the 92264a, as half of the fee is refundable upon endorsement of the loan under Section 223(a)(7).**

**THE BELOW COMMENTS RELATE TO SECTION 232 PROJECTS THAT ARE ADDING ADDITIONAL UNITS TO THE MARKET (INCLUDING SUBSTANTIAL REHABILITION AND SECTION 241(a) WHERE NEW UNITS ARE BEING ADDED):**

**A. Information on the Mortgagor Entity Related to Financial Capability and Experience:**

**Exhibit 3-7 of the Firm Commitment Checklist for New Construction requires the year-to-date financial statements for the proposed Mortgagor entity. In the case of new**

**construction deals, a significant number of Mortgagor entities are newly-created for the sole purpose of developing, owning and operating the new facility. The financial statements for such an entity, if they exist, often provide only limited information. Similarly, Exhibit 4-3 of the Checklist requires a Resume for each principal of the Mortgagor. In many cases the principal entities are newly-created companies, again for the sole purpose of owning and operating the new facility. A number of applications have been submitted with deficient parent financial history or experience for the parties responsible for the transaction.**

**Supporting Documentation of Financial Capability:**

**Effective immediately, Exhibit 3-7 of the application for Firm Commitment must include YTD financial statements for the party who will be responsible for the financial requirements (typically the parent entity) at the initial closing. If the legal entity of the Mortgagor will be capitalized by another party, the financial statements for that party(ies) must be provided. The requirements of Footnote 5 of the Checklist apply to all financial statements submitted. Please keep in mind that the underwriting process is seeking to confirm that sufficient financial resources will be available for the cash requirements for closing, and the Lender must provide the information needed to make such a determination.**

**Supporting Documentation of Appropriate Experience:**

**Also effective immediately, Exhibit 4-3 of the application for Firm Commitment must include complete information on the individuals and/or entity that will be bringing appropriate experience to the project. Appropriate experience is 3 to 5 years successful practice in developing, owning and/or operating board and care facilities, assisted living facilities and/or skilled nursing facilities. This requirement has been in place for a number of years and continues under LEAN. If an entity or its principal does not have the appropriate experience, it may contract with a third party experienced operator. Evidence of appropriate experience should be provided which includes specific project examples**

**including project name, type of care provided, location, unit/bed count, year opened and key operating metrics (fill pace, occupancy, net operating income margins) and specific responsibilities for the management and operation of the example health care facility. The Office of Healthcare Programs (OHP) is seeking assurance that the developers and other stakeholders are committed to the long-term success of their project and have the requisite experience to operate and manage the project.**

**In addition to the requirements under Exhibits 3 and 4 of the application package, the Lender Narrative must also provide a complete discussion on the Mortgagor's commitment to the project, both financially and in a business sense over the long term as well as his/her experience.**

**For applications that are currently in the processing queue, the OHP Underwriter will request this information from you once the project has been assigned for processing. Lenders should be prepared to provide this information in an expeditious manner at that time. When we revise the New Construction, Substantial Rehabilitation, and Section 232/241(a) documents posted to HUD.GOV, we will revise the Lender Narrative Templates and Firm Application Checklists to reflect these changes.**

**B. Debt Service Reserve Escrows:**

**Projects that add units to a market pose a higher risk to the FHA Insurance Fund than do existing projects, particularly with the difficult economic climate we are currently experiencing. Therefore, all Section 232 projects recently approved by the Loan Committee to add additional units to the market have included the added risk mitigation of a debt service reserve escrow. Typically these escrows require that six to twelve months of principal and interest payments be held until the underwritten debt service coverage is met for twelve consecutive months. We recommend that you review whether a debt service reserve escrow should be added as additional mitigation to all such loans. If you wish to revise a project that has already been submitted, please work with the OHP Underwriter (once assigned) to revise your application.**

January 25, 2011

**AUTHORIZED SIGNATURES:**

**HUD's Lender Qualification and Monitoring Division (LQMD) maintains a list of lender staff who are authorized to sign on behalf of the lender. Please ensure that all documents signed by the lender (including those signed at closing) are signed by a person who is on this list. As this list is an internal document to HUD, if you have questions about which individuals from your company are on this list, please contact LQMD.**

**CLARIFICATION TO THE TWO STAGE FIRM SUBMITTAL PROCESS:**

**As has been mentioned in several Lender Conferences/Trainings, if the Initial Submission stage does not result in a Firm Commitment being issued, the lender may request a refund of 50% of the HUD Application fee paid upon submission.**

**RESERVE FOR REPLACEMENT DEPOSITS ON ALL SECTION 232 LOANS:**

**The Statement of Work for the PCNA for Section 223(f) (at IV. D. 13. b.) and for Section 223(a)(7) (at V. D. 9. b.) states the following:**

> **It is the Needs Assessor's responsibility to assess the condition of major capital items, and major movable equipment. This assessment will include a proposed replacement and cost schedule over a 15-year period. The Mortgagee will then use this analysis to determine the required initial and annual deposits to the Replacement Reserves for Capital Items and Major Movable Equipment.**

**To ease future asset management of the project, HUD strongly recommends that the annual deposits proposed by the lender in the narrative remain at the same amount for the first 10 years of the loan. Moreover, as a reminder, on December 1, 2008, OHP implemented the recommended minimum account balance to be maintained in the Reserve for Replacement Account of $1,000 per unit for all Section 232's. The initial and annual deposits proposed by the lender in the narrative on all Section 232 projects should take into account this recommended minimum account balance.**

**REVISION AND CLARIFICATION TO AUGUST 19, 2010 EMAIL BLAST:**

January 25, 2011

**The August 19, 2010 Email Blast discussed "Lender Inspection of 232 Projects". In this language, we asked you to obtain pre-approval for a qualified construction site inspector by emailing Amee Welch. We are revising this procedure to ask that you send the appropriate request (with resume) to LeanThinking@HUD.GOV. Moreover, the Email Blast stated that the qualifed construction site inspector must be employed by the lender. We are hereby clarifying that the qualified construction site inspector must be an employee of the lender (we have had requests for approval of third party individuals, which we have not approved).**

**CLARIFICATION TO MAP GUIDE SECTION 3.11 A.:**

**There has been some confusion related to the language on Section 232/223(f)'s in the MAP Guide at Section 3.11 A, which OHP is following. The language states that "projects with additions completed less than 3 years previous are eligible as long as the addition was not larger than the original project in size and number of beds". We want to clarify that both tests (size and number of beds) must be met in order for a project with an addition to be eligible for Section 232/223(f).**

**ABOVE-GROUND STORAGE TANKS:**

**HUD is required to qualitatively evaluate the risks associated with proximity to hazardous facilities (MAP Guide, Section 9.5.H). OHP reviews on Section 232 applications will consider the potential danger presented by liquid fuel and gas storage tanks, even in cases of refinance where the tanks are pre-existing, and may at times require mitigation. Whenever above ground tanks exist on site, whether containing liquid fuel (over 100 gallons in size), or containing pressurized gas (stationary tanks of any size), a conformance letter from the governing Fire Department/District will be required. The letter must specifically address the safety of the storage tanks. In cases where new units are being added, and where off-site tanks are in close proximity to the subject building, or where safety letters cannot be obtained, a calculation of the Acceptable Separation Distance (ASD) must be included in the application. A useful tool for calculating ASDs can be found at http://www.hud.gov/offices/cpd/environment/asdcalculator.cfm.**

**LENDER NAME CHANGES:**

**Please be certain that your current name is reflected on all documents in the firm application submission. These documents include the draft firm commitment (including all attachments) as well as the lender narrative and any lender certifications.**

**In addition, please note that when a lender who is approved to do Section 232 loans merges with a lender who is not approved to do Section 232 loans, or a transfer in ownership occurs, or the lender changes its name, a new MAP lender approval application must be submitted to the Lender Qualification and Monitoring Division (LQMD). The certification in Exhibit L of the MAP lender approval application must be signed and dated by an authorized official and contain the following language:**

> **WARNING: HUD will prosecute false claims and statements. Convictions may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)**

**Any name change, merger or transfer of ownership involving an FHA - approved lender must be reported to Jacqueline Jones in the Lender Approval and Recertification Division at HUD Headquarters. In such cases, lenders are required to keep their existing mortgagee identification number.**

## HUD SIGNATURE ON REGULATORY AGREEMENT RIDERS:

**Effective immediately, HUD will no longer sign Regulatory Agreement Riders – they will continue to be signed by the Mortgagor and Operator (along with the Regulatory Agreements themselves). HUD will continue to sign the Regulatory Agreements.**

## RELEASE OF INITIAL OPERATING DEFICIT (IOD) ESCROW FUNDS:

**OHP's benchmark measurement for releasing remaining IOD escrow funds will be the property maintaining at least three consecutive prior months with a debt service coverage (including Mortgage Insurance Premium) ratio of at least 1.45. OHP will look to the servicing mortgagee to certify that this benchmark has been met, based on financial statements provided the mortgagee by the mortgagor.**

## IMPORTANCE OF TIMELY SUBMISSION OF FIRM APPLICATION DOCUMENTS TO HUD OGC REVIEWER:

**OHP believes that allowing time for legal review prior to Firm Commitment will significantly expedite the closing process after the Firm has been issued. Therefore, effective immediately, a hard copy of the Firm Commitment Application documents must be received by both the OHP Underwriter and HUD Counsel prior to the start of review of the application. We are not changing the 9/18/2009 Email Blast, which lists the hard copies sent to the OHP Underwriter and HUD Counsel. When a project is assigned from the queue, OHP will make every effort to obtain a prompt assignment of HUD counsel. As soon as counsel is assigned, the HUD Underwriter will communicate the assignment and contact information to the Lender.**

## HUD INSPECTION FEES ON SECTION 232/223(F)'S:

**There has been some confusion on the correct calculation of inspection fees on Section 232/223(f)'s. Below is the correct calculation:**

- **If the total cost of the critical, non-critical and borrower-proposed repairs is equal to or less than $3,000 per unit or bed (whichever is higher), the HUD Inspection Fee shall be $30 per unit or bed (whichever is higher). This includes projects where there are no repairs.**

- **If the total cost of the critical, non-critical and borrower-proposed repairs is greater than $3,000 per unit or bed (whichever is higher), the HUD Inspection Fee shall be 1% of the total cost of the critical, non-critical and borrower-proposed repairs.**

## PHASE I ENVIRONMENTAL ASSESSMENTS ON SECTION 232/241(A)'S AND SECTION 232 SUBSTANTIAL REHABILITATION TRANSACTIONS:

**The current checklists for Section 232/241(a) and Section 232 Substantial Rehabiliation projects posted to HUD.GOV allow for the Phase I Environmental Assessment to be omitted in certain situations. Effective for any Section 232/241(a) or Section 232 Substantial Rehabilitation project submitted to HUD (entering the queue) after March 25, 2011, and to comply with HUD MAP environmental guidelines, a Phase I Environmental Assessment will be a required exhibit for all Section 232/241(a) or Section 232 Substantial Rehabilitation projects. When we revise the Section 232 Substantial Rehabilitation and Section 232/241(a) documents posted to**

**HUD.GOV, we will revise the appropriate documents to reflect this change.**

**CLARIFICATIONS RELATED TO SEVERAL FORMS THAT ARE ATTACHED TO THE FIRM COMMITMENT:**

**There has been confusion related to the completion of several forms that are attached to Section 232 Firm Commitments. Therefore, please see the below clarifications/revisions. We encourage following these revisions/clarifications immediately, however, these revisions/clarifications will become mandatory for any project entering the queue after February 8, 2011.**

**Form HUD-92264-HCF:**
**We will no longer require that Form HUD 92264-HCF be submitted for Section 223f transactions. The Lender's Narrative already covers the items that are on this form. The requirements remain unchanged for all other Section 232 loan types regarding this form. When we revise the Section 223f documents posted to HUD.GOV, we will revise the appropriate documents to reflect this change.**

**Form HUD-92264-A:**
**The following language applies to all Section 232 loan types and supersedes the language in the 2/19/2010 and 9/18/2009 Email Blasts, which asked lenders to show the more restrictive maximum insurable mortgage (value or cost) on Criteria 3.**

**Please use the new Form HUD-92264A that can be found at:**
http://www.hud.gov/offices/adm/hudclips/forms/files/92264-a.pdf

**As has been previously conveyed, the percentage of value used in Criterion 3 on line (a) of the HUD-92264a should be the loan to value in the Section 232 Statute/Regulations. The lender narrative will contain a discussion of the actual underwritten LTV (including discussion of justification/mitigation if the underwritten LTV exceeds the Lean Benchmarks summarized in the February 19, 2010 Email Blast).**

**In addition, the attached "92264-A Attachment" must be submitted together with the Form HUD 92264-A to assure that additional LEAN criteria have been considered in determining the mortgage amount. (Those criteria are not mandatory, but should be used unless mitigation has been offered and**

**discussed in the lender narrative.) This document will be attached to the signed Firm Commitment.**

**92264A_Attachment_12.15.2010.xls**

**An itemized breakdown of the transaction costs that make up Criteria 7 or Criteria 10 maximum insured mortgage should be provided when applicable. These can be included at the bottom of page 2 or on page 4 of the new form.**

**An additional calculation for the initial deposit for the reserve for replacement should be provided for projects with an existing reserve for replacement account. It should show that the existing balance plus the additional deposit equals the total initial deposit. Consistent with current practice, only the additional deposit can be included in eligible transaction costs.**

**There has been confusion about when to use the appraiser's Net Operating Income (NOI), and when to use the Lender's NOI, which sometimes differs in terms of replacement reserve amounts, taxes, and/or management fee. Except when the lender is correcting for errors, the value used in Criteria 3 on Form HUD-92264-A is to be the market value as determined by the appraiser. Conversely, the NOI used in Criteria 5 will be the lender's amount, which was derived using facility specific expense amounts for replacement reserves, taxes (when exempt) and management fee.**

**The 92264-A Attachment will be posted to HUD.GOV under each loan type. Moreover, when we revise the documents posted to HUD.GOV, we will revise the appropriate documents to reflect this change.**

## REAC INSPECTIONS ON PROJECTS BEING REFINANCED THAT ARE CURRENTLY INSURED BY HUD:

**Any project (that is already in our FHA Insurance portfolio) submitted for a Section 223(a)(7) or Section 223(f) refinance (entering the queue) after March 25, 2011 will be required to have the PCNA address the most recent HUD REAC Physical Inspection and whether deficiencies (if any) identified in the**

**inspection report have been corrected. The Lender Narrrative Template for Section 223(a)(7), the PCNA Statement of Work (SOW) for Section 223(a)(7), and the PCNA SOW for Section 223(f) will be revised to reflect this and posted to HUD.GOV in the next few weeks. When we revise the Lender Narrative Template for Section 223(f) in the future, we will address this issue – in the meantime, please address under the PCNA section.**

**A NEW TOOL RELATED TO NURSING HOMES:**

**The Office of Healthcare Programs has commenced using Team TSI's nursing home data analysis & dashboard web application. This web application and reporting tool will provide new analysis tools and reporting capabilities to underwriters, account executives, and lenders/servicers. Each user will have the ability to review, monitor, and analyze in a proactive and real-time mode. The web application called IntelliLogix™ enables each HUD user or lender/servicer to access a nursing home's complete survey, watch list or special focus designation, cost reporting elements, five star rating, and other vital historical data elements related to the operation of nursing home facilities throughout the United States. For a lender to obtain access to the portal to view their existing FHA insured portfolio, please email the request to surveyresults@hud.gov. There is no charge for the lender to access this site for their existing FHA insured portfolio. However, if a lender would like to obtain information on facilities that are not currently FHA insured, they will need to contact TEAM TSI CORPORATION at 1-800-765-8998 for separate pricing information. The additional cost to include non-FHA insured properties will be the obligation of the requesting lender.** ***Disclaimer: Team TSI is one of many companies in the industry that provide this type of information for a fee. The reference to this company should not be interpreted as an endorsement by HUD to the expertise of the company or quality of the product provided.***

**QUEUES AND STAFFING RELATED TO SECTION 232 PROCESSING:**

**Below is a snapshot of our current underwriter staffing that we have allocated to each queue and our goal for monthly output from each underwriter. As has been previously mentioned, OHP hopes to hire additional staff in early 2011 – to address underwriting and the OHP program side of closing. We intend**

**to closely monitor our staffing allocation and make adjustments when necessary.**

- **<u>Green Lane Queue and 223f Regular Queue:</u> currently 6 underwriters assigned to work on these queues. We intend to closely monitor both of these queues and allocate resources as needed to ensure that Green Lane projects are processed as quickly as possible. We estimate 1.5 to 2 projects brought to loan committee per underwriter per month.**

- **<u>Other Program Queue:</u> currently 3 underwriters assigned to this queue. We estimate 1.5 projects brought to loan committee per underwriter per month.**

- **<u>Portfolio Queue:</u> currently 6 underwriters assigned to this queue. Please see the 11/2/2010 Email Blast for timing estimates on this queue.**

## <u>HUD.GOV:</u>

**As many of you know, we have experienced significant problems with our HUD.GOV website over the past month. We are working diligently to fix the problems that remain. As of the writing of this email blast, below is the latest:**

- **We have fixed the broken links to the New Construction and Early Commencement documents posted to HUD.GOV.**

- **Updated "Lender Duties Related to the PreConstruction Conference" has been posted. The document's date that is listed on HUD.GOV is being changed to November 15, 2010. The duties in this document have been updated to reference both Originating and Servicing Lenders.**

- **Updated, "Lender's PreConstruction Conference Agenda" has been posted. The document's date that is listed on HUD.GOV is being corrected to September 30, 2010. The Agenda has been updated, including Item #16, Permission to Occupy, to reference possible related Firm Commitment Special Conditions. The Agenda was also updated to replace a number of old OIHCF references with OHP.**

- **We have separated the documents posted to HUD.GOV for the 2 Stage Firm Submittal Process between new construction and substantial rehabilitation documents. We are revising the format of the posting, however, documents for New Construction Initial**

**Submittal, New Construction Final Submittal, and Substantial Rehabilitation Initial Submittal are posted to HUD.GOV. We will post the documents for Substantial Rehabiliation Final Submittal in the next few weeks.**

- **We are working on posting the latest Weekly Statistical Report (along with archive versions of this document) and a spreadsheet that contains detailed information on each of the Section 232 loans that OHP closed in Fiscal Year 2010.**

- **We are working on posting a list of the projects in each of our queues. Only FHA project numbers will be listed – except the portfolio queue, which will also list batch numbers. Projects are listed in the order we received the Firm Application submission – with those listed at the top having earlier submission dates. The posting of the Section 223(a)(7) queues will lag several weeks behind the posting of the four other queues. We intend to update this frequently in the future.**

- **We are working on re-establishing the links to the Sample Closing Documents.**

November 2, 2010

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of November 2, 2010

## *NEW QUEUE APPLICATION PROCESSING STRATEGIES AND PROJECTED PROCESSING TIMES FOR SECTION 232/223 (F) APPLICATIONS*

## SUMMARY

The Office of Healthcare Programs (OHP) conducted a Lean Processing Training/Kaizen event September 14-16, 2010, in Seattle, WA. Based on input from that event, OHP has decided to implement revised queue application procedures to expedite processing and to address significant increases in a number of types of applications.

Further, OHP completed an in-depth review of the Section 232 projects that currently reside in the underwriting queue, as well as the estimated number of new applications that OHP expects to receive over the next 12-18 month period. The objective of this review was to project the approximate wait times for Section 232 mortgage insurance applications from the time they are received by OHP until the applications are assigned to Lean underwriters for processing.

**QUEUE PROCESSING CHANGES** - Given the significant increase in demand for the Section 232 Program, OHP will revise the queue system into five separate queues, as follows:

1. **223f Regular Queue** – containing all Section 232/223f projects that do not meet the Green Lane criteria (see section titled **SECTION 232/223F – ELIGIBILITY OF GREEN LANE PROCESSING** in this memo) and are not a part of a Large or Midsize Portfolio (as defined by HUD Notice H 01-03);

2. **223f Green Lane Queue** – containing all Section 232/223f projects that meet the Green Lane criteria (see section titled **SECTION 232/223F**

**– ELIGIBILITY OF GREEN LANE PROCESSING** in this memo)and are not a part of a Large or Midsize Portfolio;

3. **223f Portfolio Queue** – containing projects that are a part of a Large or Midsize Portfolio, previously approved under HUD Notice H 01-03;

4. **Other Program Queue** – containing all Section 232 New Construction, Section 232 Substantial Rehabilitation, Section 232/241a and Section 232 Blended Rate applications;

5. **Section 223a7 Queue** – containing all Section 232/223a7 applications.

Each of the five separate queues will have a team of underwriters dedicated to processing applications of the specified type. Therefore, these queues will run concurrently.

**PROJECTED PROCESSING TIMES FOR 223(F) APPLICATIONS -** OHP performed an analysis of historical and expected processing times, from submission to closing, for Section 232/223f applications. This analysis was designed to provide an estimate of queue wait times given the current queue volume, underwriting resources, and new Section 232 mortgage insurance applications expected to enter the queue over the next 12-18 months. This information has been summarized below in the chart, Range of Estimated Processing Times-Submission to Closing, for the period September 2010 to October 2011.
**Please Note: These numbers are only estimates based upon the most current information on project submissions, processing times and staff resources.**

Based on data as of October 1, 2010:

***CHART IS SHOWN IN ATTACHED PDF FILE (below)***

**Range of Estimated Processing Times 091**

After studying the above trends and volumes for Section 232 mortgage insurance applications, OHP has decided to make adjustments to its current underwriting systems and processes to more effectively and efficiently process applications, given limited underwriting resources and continued high demand for the 232 programs. OHP has carefully analyzed its

processing systems and reviewed, with the Office of General Counsel (OGC), OHP staff and Lenders, the complexity and time delays currently being encountered during processing and closing of Section 232 transactions. OHP's objective is to refine underwriting and closing processes to effectively process applications from all applicant groups in a fair and efficient manner.
As a result of this analysis and review, OHP will implement the following modifications to the Section 232 underwriting processes.

## PORTFOLIO PROCESSING

**1. OHP will create a separate 223f Portfolio Queue for large/midsize portfolio applications**. To improve efficiency in both processing and closing, each portfolio in the Portfolio Queue will be processed in batches of approximately 15-20 projects each. The applications to be included in each batch will be coordinated between the lender and OHP. Please contact Tom McMillan (Thomas.McMillan@HUD.GOV) to coordinate the assembly of batches for applications for any large/midsize portfolios that either have been submitted or will enter the queue in the future. In addition, each batch will be processed only when all applications included in that batch are deemed fully complete. The language in this Email Blast supersedes the language under "Portfolios and Placeholders" in the August 19, 2010 Email Blast with the exception of the following language which still applies: "no individual portfolio application, for midsize and large portfolios, will be allowed to be submitted and to enter the queue prior to the actual date of the portfolio approval letter to the lender".

**2. Certification of "complete" applications for medium and large portfolio applications**. For portfolios with master lease, accounts receivable (AR) financing and/or any special conditions specified in the portfolio approval letter, HUD needs assurance that the FHA Lender, Owner, Operator, Master Tenant, and AR Lender (all signatories to the pertinent documents) will sign a form of master lease or AR financing documents, or additional important legal issues or documents identified by HUD, or specified in the portfolio approval letter, that have been reviewed and found acceptable to OHP and OGC. Once all private parties have finalized the documents, and those documents have been reviewed and accepted by OHP and OGC (contact Tom McMillan - Thomas.McMillan@HUD.GOV – if you have questions about the logistics of the review by HUD), the lender may submit the executed master lease, AR financing, and/or other important legal documents identified by HUD, or attach copies of the unexecuted documents with a certification, signed by all signatories to the pertinent document, that the attached documents will be executed at closing without changes, except for stipulating the final lease payment amount. The certification will require that all parties to the master lease, the AR financing and/or other important legal documents, such as the Deposit Account Instructions Service

Agreement and Deposit Account Control Agreement, have given final approval to these documents. The certification can only be given on documents that have been reviewed and accepted by OHP and OGC, and must be received by OHP in order to issue a Firm Commitment. **Future projects will not be allowed to enter the queue until they have complied with this paragraph.** This certification requirement is designed to avoid lengthy delays in processing that further aggravate and lengthen the queue, and serve to delay processing and closing of fully completed applications. For any projects currently in the queue that do not have master lease, AR financing documents and/or other important legal issues or documents identified by HUD or specified in the portfolio approval letter that have been accepted (or are currently under review) by OHP and OGC, the lender will be notified of this requirement and have 30 days after receipt of the notification to submit the documents for OHP and OGC review. If documents are not submitted within the 30 day period, the portfolio's Firm Applications will not be assigned to an OHP Underwriter until the documents have been submitted for OHP and OGC review. Should OHP determine that the legal documents or the projects have unresolved issues after processing has begun, processing of that portfolio batch and of the entire portfolio will be suspended until those issues have been resolved.

**3. Portfolio Batch Processing.** Once portfolio batches have been established as described in paragraph 1 above, portfolio projects will be processed in batches in the order they have been submitted in the queue, subject to a rotation process, described below, for portfolios submitted within a short time of each other.

OHP will identify every portfolio in the portfolio queue that was submitted within a 45-day period of the earliest portfolio submission in the queue at that time. For example, assume there are three (3) portfolios submitted identified as portfolios A, B, and C; that the first portfolio has 40 applications; and that the remaining two (2) portfolios each have 20 applications. 4 batches of 20 applications each will be created out of this to be numbered 1-4. These applications will be processed in the following order:

- Portfolio A - 20 applications out of 40 submitted (Batch 1)
- Portfolio B – 20 applications (Batch 2)
- Portfolio C - 20 applications (Batch 3)
- Portfolio A - Remaining 20 applications (Batch 4)

A second batch from the same portfolio will not be processed until each portfolio submitted within the chosen 45-day time period has had one batch completely processed.

Once all the applications selected within the 45-day time period have been processed, OHP will go back into the queue and select all of the portfolios which were submitted within the next 45-day time period and repeat the above ordering process.

A medium or large portfolio batch that is in the queue on the date that this Email Blast is issued, will be considered to be ready for processing when the last application from that batch has been submitted to OHP and all applications are fully complete. All future submittals of a medium or large portfolio batch must be a complete submittal – we will not allow the batch to enter the queue until all Firm Applications in the batch are submitted and are fully complete.

## REVISION TO OUR ELECTRONIC SUBMISSION POLICY

The below language replaces the language in the November 20, 2009 and January 15, 2010 Email Blasts related to our requirements for the electronic submission of the Firm Application package.

To enter OHP's Firm Application processing queue, we require submission of all of the following:

a. Completed Certification for Submission of Electronic Firm Application (including referenced attachments) - this Certification is attached to this email and is posted to HUD.GOV


b. Completed Check Transmittal Letter Template

c. Check for the FHA application fee, and

d. Storage medium containing the electronic version of the Firm Application

## SECTION 232/223F – ELIGIBILITY OF GREEN LANE PROCESSING

Individual and small portfolio Section 232/223f's will continue to be eligible for processing in the 223f Green Lane Queue. The criteria for eligibility for green lane processing is as follows: passing the risk assessment; no regulatory waivers requested; no outstanding or unresolved underwriting issues; and for those projects with Firm Applications submitted after August 16, 2010, forms HUD-92530 submitted using APPS. Green lane processing will not be permitted for projects in the Portfolio Queue due to the complexity of underwriting and closing those transactions. However, HUD will still require completion of the Risk Assessment Worksheet on all Section 223f applications which are part of any size portfolio. HUD will continue to

use this worksheet for lender/appraiser quality control and as an internal workload management tool. OHP expects that lenders will conservatively underwrite projects in order to expedite the OHP underwriting process.

## DETAILED ANALYSIS OF QUEUE AND CLOSING WAIT TIMES FOR SECTION 232/223F APPLICATIONS

The 223f analysis, referred to in the Summary section above, focused on the historical queue in two main categories: (1) the 223f Regular Queue applications; and (2) the 223f Green Lane Queue and 223f Portfolio Queue applications. Applications for New Construction/Substantial Rehabilitation and Section 223a7 refinancing were excluded from the above-referenced analysis.
The forecasted number of applications for the large/midsize portfolios is primarily based on the current group of accepted medium and large portfolios and on projections from lenders as to when these portfolio applications are expected to be submitted. A modest projection of estimated new applications in this category has also been included. For the Small Portfolios/Individual Applications, the projections are based on historical volume (approximately 70 applications per quarter).
As of October 1, 2010, there were 85 projects in the 223f Regular Queue category. Given the projected future applications and the number of estimated underwriters, the 223f Regular Queue is expected to consistently range from 80 to 93 applications, and the wait times are projected to be about 8 to 8 months in the queue (from application submission to assignment to an underwriter) over the next twelve-month period.

Similarly, for the 223f Green Lane Queue and 223f Portfolio Queue categories, there were 170 applications in the queue on October 1, 2010, and, given future volume and processing times, OHP expects these queues to increase by about 10 projects per quarter and wait times to be about 9 to 10 months in the queue (from application submission to assignment to an underwriter) over the next twelve-month period.

OHP also reviewed queue wait times, which recently were approximately 7 months. However, for the previous two quarters, the queue wait time had been around 4 to 5 months and, therefore, queue times have been trending up. In OHP's new queue analysis, we project the queue to level off at about 9 to 10 months because we are expecting that the realignment of current staff will permit us to process approximately 2.5 applications per underwriter per month for both the 223f Green Lane and Portfolio Queues and 1.5 applications per underwriter per month for the 223f Regular Queue. OHP will continually monitor actual queue processing times along with updated

application submission projections and adjust the queue wait times, as necessary.

This analysis also focused on recent trends in the time frame needed to close a project transaction, once a firm commitment has been issued. The closings that have occurred to date in the most current quarter took an average of 98.7 days to close. This is up sharply from the average 60 days to close in the previous 2 quarters, and this increase can be attributed, in part, to the recent increase in portfolio transactions, many of which require additional documents, such as master leases and AR financing. OHP conducted a training session with regional OGC representatives during the week of September 13, 2010, to address closing issues, especially related to master leases and AR financing, including processes for earlier approval of these documents. Therefore, by implementing new review processes related to these closing issues, we expect the time frames needed to close transactions to decrease in the future.

---

## Need to Reference Previous LEAN 232 Updates?

**Previous E-Newsletters (Email Updates) can be found at:**
**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters**

## LEAN Thinking Mailbox – LeanThinking@hud.gov

**Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov**

## Interested in getting updates on the LEAN 232 Program?

**Join our email list by sending your contact information to:**
**Kristine.Martin@hud.gov**

## For more information on the LEAN 232 Program, check out:

**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232**

**Or check out:**
**www.hud.gov/healthcare**

August 19, 2010

# HUD's LEAN 232 Program
# Office of Healthcare Programs (OHP)
# Update as of August 19, 2010

**Portfolios and "Placeholders":**
**The November 20, 2009 Email Blast (under "Logistics of our Queue") stated that on midsize and large portfolios, "once the portfolio is approved by Headquarters and the lender receives verbal approval, the lender may submit one application upon finalization of the review but prior to receipt of the approval letter. This individual submittal will then secure the position in the queue for all of the applications for that tranche". Midsize and large portfolios are defined in HUD Notice H 01-03.**

**We would like to call your attention to two important changes to Lean Processing of portfolios:**

**First, to ensure fairness and consistency and to remove any confusion, effective immediately, no individual portfolio application, for midsize and large portfolios, will be allowed to be submitted and to enter the queue prior to the actual date of the portfolio approval letter to the lender. A copy of the signed, dated portfolio approval letter should accompany the first application submittal.**

**Second, to improve the speed and quality in processing applications, we are no longer allowing placeholders (as discussed in the November 20, 2009 Email Blast) – an individual submittal securing the position in the queue for all the applications in that portfolio or tranche. All projects currently in the queue or entering the queue in the future must have submitted electronic copies of all Firm Application packages in that portfolio or tranche (whether the portfolio is small, midsize or large). Moreover, on portfolios submitted in tranches, the place in the queue will be based upon the date HUD receives electronic Firm Applications for all projects in that tranche – not the date the original tranche of that portfolio was submitted. There is no change to our requirement of a Firm Application Fee check prior to entry into the queue. If you have a portfolio that is currently in the queue on which you did not submit electronic copies of all applications in that portfolio or tranche, please email Amee Welch (amee.welch@hud.gov) by August 24,**

**2010 with your timeline for submittal of any missing electronic Firm Applications.**

**<u>Addendum to Operating Lease has been Posted!</u>**
**A HUD Addendum to Operating Lease is posted to HUD.GOV under "Sample Closing Documents". We strongly urge you to use this addendum on all applicable projects as soon as possible. This document will be a Firm Commitment condition for all projects with Operating Leases where a Firm Commitment is issued on or after September 30, 2010. This document is also posted under "Loan Servicing Guidance" as HUD OPERATING LEASE ADDENDUM. This document is required when there is a Transfer of Physical Assets which affects the lease or there is a change in the lessee.**

**<u>Two Stage Firm Submittal Process:</u>**
**As long as the Final Submission is submitted to HUD prior to the Firm Commitment's expiration date (including approved extensions), HUD will not regulate when the Final Submission may be submitted to the OHP Underwriter.**

**<u>OIHCF is now OHP:</u>**
**The Office of Insured Healthcare Facilities is now officially known as the Office of Healthcare Programs (OHP).**

**<u>Sinking Funds:</u>**
**We are following MAP Guide Section 3.9 J on Sinking Funds. Any project that meets the criteria in the MAP Guide should include a special condition in the Firm Commitment that is submitted with the Firm Application package requiring the establishment of the appropriate escrow and discuss this issue in the Lender Narrative under Risk Factors. Please note, the revised 223(f) Narrative Template briefly discusses this issue under "Income Capitalization Approach" "Revenue" and "Welfare (Medicaid)". Future versions of the Lender Narrative templates will likely address this situation in Risk Factors as a yes/no question.**

**<u>Indemnification Provisions:</u>**
**All forms of mortgagor entities are to be treated the same regarding indemnification provisions in their organizational documents. Thus,**

**the indemnification restriction in the MAP Guide, Chapter 12.1.4.F.2.e, applies to corporations, partnerships and LLCs.**

> **Corporate articles of incorporation and bylaw provisions which make the corporation responsible for indemnifying its officers and/or board members are not acceptable, except to the extent mandated by state law and/or to the extent that such indemnification is limited to liability insurance coverage or distribution approved by HUD from residual receipts or surplus cash.**

**Reminder on Reporting Requirement:**

**OHP Loan Servicing would like to remind mortgagees they are all required to electronically report mortgage delinquencies, defaults, reinstatements, assignments, elections, withdrawals of assignment elections, and related mortgage information electronically in the MDDR system. Moreover, HUD needs this data to be input timely - it is not acceptable for servicers to enter the 30-day, 60-day and 90-day delinquencies for a property simultaneously. The only exception in the Regulation is for mortgagees that hold or service fewer than 10 multifamily mortgages. These mortgagees may report the required information in writing on Form HUD-92426 only with specific HUD approval. HUD will grant approval, upon application from the mortgagee, for reasons of hardship due to insufficient resources. (Mortgagee Letter 02-18)**

**Revised AFHMP:**

**There is a revised Affirmative Fair Housing Marketing Plan (HUD-935.2A) posted to HUDCLIPS – dated 5/2010. Please use this form for all future submittals requiring this form.**

**Lender Inspection of 232 Projects:**

**In the September 18, 2009, Email Blast, we stated that "OIHCF will require the site inspection be done by either the Lender's Underwriter or Lender's qualified construction site inspector, so long as this individual is not connected with the loan origination". We are revising this language as indicated below:**

***On projects involving the addition of beds/units (through new construction, substantial rehabilitation, or Section 241(a))*, the Lender's Lean Approved Underwriter of record on the project must**

**inspect not only the subject site but also the market competitors and/or comparables from the appraisal/market study. HUD is not requiring inspection of all comparables listed in the appraisal/market study – it is up to the Underwriter to determine which comparables will give them enough information to become familiar with the market.**

***On Section 223(a)(7)'s*, there is no change to the February 6, 2009 Email Blast, which only required a lender inspection on 223(a)(7)'s submitted without a new Property Capital Needs Assessment. However, we do want to clarify that such inspection can be performed by either the Lender's Lean Approved Underwriter of record or by a <u>qualified</u> construction site inspector employed by the lender (so long as this individual is not connected with the loan origination).**

***On Section 232/223(f)'s*, the site inspection must be performed by either the Lender's Lean Approved Underwriter of record or by a <u>qualified</u> construction site inspector employed by the lender (so long as this individual is not connected with the loan origination).**

**HUD pre-approval of the <u>qualified</u> construction site inspector is required – email resume' to Amee.Welch@hud.gov.**

**<u>Assessment Fees on 232 Projects:</u>**
**There has been confusion on whether assessment fees are allowed on 232 projects. Assessment fees are paid upon entry to the facility for the purposes of covering the cost of assessing new residents' need for services. These fees are different than "founders fees" or "life care fees", which are prohibited in FHA Insured projects. If you have a project that you are underwriting that charges an assessment fee, the lender narrative should document that the fee charged is typical for the market, what the fee amount is per new resident, whether or not any of it is reimbursable ( and if so what the terms are), and that the amount of the fee is based upon the cost of performing such an assessment.**

**<u>Lean Thinking:</u>**
**OHP staff are now meeting weekly to discuss questions sent to leanthinking@hud.gov. As a result of this, we are now able to provide better response times to questions than we have in the past. Thus, we ask that <u>all</u> questions/comments relating to Section**

**232 projects that haven't been assigned to an OHP Underwriter or relating to Section 232 Lean Processing issues be sent directly to the Lean Thinking mailbox. This will enable us to ensure consistency in our responses and will aid in our upcoming compilation of previous questions and answers into an updated FAQ (to be posted to HUD.GOV).**

**Owner Architect Agreement (B181 vs. B108):**
**HUD has not officially transitioned from the B181 to the B108 document. OHP continues to require the B181, where applicable. As soon as the B108 (and related HUD Amendment) are approved, we will make the required changes to HUD.GOV and announce such changes via an Email Blast.**

**COMPLETION OF FORM HUD-2453, Commitment to Insure Upon Completion (SECTION 232/223F):**
**Prior to the submission of your firm commitment application, all forms must be carefully reviewed to insure that the information entered is correct. Specifically, the draft firm commitment (form HUD-2453) must be completed correctly. All information entered on this form must be accurate and the numbers must be consistent with other underwriting forms. Also, please remember to add the Mortgagor's Name to the first paragraph of the commitment. Errors and omissions can delay the issuance of the firm commitment and delay loan closing.**

**Postings to HUD.GOV:**
**We have posted the following documents to HUD.GOV recently (some of the changes are listed below also):**

> **FHA Number Request Form: added "Number of Memory Beds" and now asking whether the project is a small sized portfolio (per Notice 01-03).**
>
> **Lender Duties Related to the PreConstruction Conference: Changes include inviting the Office of Healthcare Programs' Closing Coordinator and Account Executive to the PreCon, as well as a more detailed description of preparing the required three sets of Plans and Specifications for the PreCon and Initial Closing. In addition, OHP is now requesting legible**

**reduced-size sets of the "HUD Master Set," and "HUD Inspection Set" Plans.**

**<u>HUD Labor Relations Protocol:</u> Changes include identifying the OHP Underwriter as the primary contact during Firm Commitment processing, the OHP Closing Coordinator as the primary contact during Initial and Final Closing, and the OHP Construction Manager as the primary contact during the Construction Phase.**

**<u>Lender's PreConstruction Conference Agenda:</u> A number of additions/clarifications have been added, including:**

- **Reminder for Lender to transmit PDF copy of Monthly Requisitions to the HUD Construction Manager**
- **Change Orders: Architect's Certification, and number of copies to send to HUD**
- **Clarification regarding the Construction Progress Schedule**
- **Permission to Occupy: attachments, and number of copies to send to HUD**
- **Updated bullet list of issues that must be completed prior to scheduling the Final HUD Inspection**

**<u>Revised Closing Checklists for Section 223(a)(7) and Section 223(f):</u> checklists now only require two copies of closing documents.**

**<u>Updated List of Lean Projects with New Construction Units:</u> we are currently working on filling in the data on number and types of units/beds.**

**<u>Queue Update:</u> most recent and previous versions that weren't posted have now been posted.**

**<u>HUD Signatory Closing Documents:</u>**
**Effective immediately for all Section 232 projects processed by OHP, the maximum number of copies of HUD signatory closing documents, such as Regulatory Agreements, letters, et cetera, that may be submitted for signature is four. We will not sign more than four copies of each type of closing document.**

August 19, 2010

**<u>Updated information on 232/223f Projects:</u>**
**Once a 232/223f project is assigned from the queue, we will be requesting the Lender's Underwriter to provide updated occupancy, NOI and existing indebtedness figures (with applicable certifications) – if the lender has not already submitted updated information while the project was in the queue per our appraisers' request. Your ability to provide this quickly will help in expediting our review.**

**<u>Occupancy Information on 232/223a7's:</u>**
**Once a 232/223a7 project is assigned from the queue, we will be requesting the Lender's Underwriter to provide current occupancy information.**

**<u>Firm Commitment Amendments-232/223f Transactions:</u>**
**The HUD closer will allow (without further investigation) small increases (less than $10,000) to the reserve for replacement account to avoid small mortgage reductions as a result of cost certification. Any proposed increase to the replacement reserve account above that amount should include an explanation of the proposed uses (line item and timing) for the additional deposit.**

May 4th, 2010

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)
# Update as of May 4th, 2010

**Revised Section 232/223(f) Documents Posted and Criteria for Green Team processing:**

**We have posted the revised Section 232/223f documents on HUD.GOV. They are posted under "Revised Section 232/223(f) Documents" and "Lender Tools for Firm Application". Use of these documents is mandatory for all Section 232/223f projects submitted to HUD on or after August 16, 2010. Until this date, lenders may use these new documents if they so choose. Moreover, as mentioned below, our criteria for eligibility for "Green Team" processing will change for any Section 232/223f submitted to HUD after August 16, 2010 – to be eligible, all 2530's must have been submitted electronically via APPS.**

**Two Stage Firm Submittal Process on those projects that are adding units to the market:**

**As the March 26, 2010 Email Blast discussed, documents for the Initial Submission stage of this process have been posted to HUD.GOV. You may now submit projects in accordance with this procedure. Please note, that these documents are subject to change. Moreover, we are still working on the Final Submission stage documents. The documents currently posted were based upon the New Construction checklist. To date, we have not developed separate documents for Substantial Rehabilitations that are adding units to the market. If you have such a project that you are going to submit in accordance with the Two Stage Submittal process, please email Patrick Berry (patrick.berry@hud.gov) – Patrick will work with you on the submittal (we will ask that you provide us with a draft revised Checklist). Submitting a project "Direct to Firm" is always an option - in fact, because of our staffing shortage, we encourage you to do so whenever possible. Although our posting to HUD.GOV mentions a two stage submittal on Section 241a's, we would prefer to do all Section 241a's as "Direct to Firm".**

May 4th, 2010

**Green Team:**

**As you may know, in January we created a "Green Team" to process Section 232/223f's that pass the Risk Assessment and do not have any Regulatory Waivers (and for projects submitted after August 16, 2010, have all 2530's submitted electronically via APPS). The initial results of the Green Team have been promising. The average days from OIHCF Underwriter assignment to Firm Issuance/Rejection have been 19 days. Moreover, projects processed by the "Green Team" are spending considerably less time in our queue – the last projects assigned to the "Green Team" were in the queue for 77 days vs. the last projects assigned that are not being processed by the "Green Team" were in the queue for 140 days.**

**Lenders who submitted small, mid-size or large portfolios with a mixture of projects with passing and failing Risk Assessments will receive an email from Tom McMillan (Leader of the Green Team). This email will give the lender the following three options:**

1. **If the projects can close separately, we'll process those that passed the Risk Assessment with the "Green Team" and those that failed the Risk Assessment will stay in queue and not be processed by the "Green Team", or**

2. **If the projects must close together, the projects will stay in the queue and not be processed by the "Green Team", or**

3. **Restructure the submittals so all loans pass the Risk Assessment:**
   - **This can be done while a project is in queue (whether part of a portfolio or not).**
   - **Please see the 12/18/09 Email Blast for the required revised documents.**
   - **We've had borrowers bring in additional equity to make the projects pass the Risk Assessment.**
   - **If you are restructuring a project that has already been submitted, please email Amee Welch (amee.welch@hud.gov) with the revised documents.**

**Business Partners Registration System:**

**We are still receiving applications where the participants have not registered in the Business Partners Registration System. Participants who have correctly submitted their**

**2530's via APPS will have completed this process – Lenders should concentrate on whether participants who have submitted paper 2530's have completed this process. Please ensure that each project that is in the queue or that you are working on is in compliance with this requirement. To register, please go to: http://www.hud.gov/offices/hsg/mfh/apps/appsmfhm.cfm.**

**LEAN Thinking Mailbox – LeanThinking@hud.gov**

**As you know, we have had difficulty in the past in providing timely responses to Lean Thinking questions. In an attempt to provide you with better service, we now have a set time weekly whereby the Workload Managers discuss the more difficult questions. If you have any unresolved questions, we would appreciate it if you would re-send them to LeanThinking@hud.gov. We will address them as soon as possible.**

**Firm Documents to HUD Closing Attorney:**

**The September 18, 2009 Email Blast discusses the documents that are sent directly to the HUD Closing Attorney at the time of Firm Application review – this is precipitated by an email from the OIHCF Underwriter. When sending future packages to the HUD Closing Attorney, we ask that on the top of the submittal you include a copy of the email that the OIHCF Underwriter sent you that lists the documents – and order the documents in the order listed in the email.**

**Itemized Breakdown of Costs on HUD-92264a:**

**Per the February 19, 2010 Email Blast, on Section 232/223f's, please ensure that all submittals of Form HUD-92264a include an itemized breakdown of the costs of the transaction that make up the Criterion 7 or Criterion 10 maximum insured mortgage – this breakdown can be included at the bottom of page 2 or on page 4 of the form HUD-92264a. There have been recent submittals (particularly amendment requests) that don't follow this.**

May 4th, 2010

**<u>Risk Assessments:</u>**
**The Risk Assessment spreadsheets in Step 1, #4 ask for the subject's NOI for the most recent 12 month period. Please note when completing this portion of the Risk Assessment, one must use the project's actual historical performance – not prospective numbers. Both calendar year and trailing 12-month NOIs are acceptable, but it is not acceptable to annualize a partial year's NOI for this entry. Please revise and resubmit any Risk Assessments that were completed using prospective numbers that have already been submitted.**

April 15th, 2010

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)
# Update as of April 15th, 2010

## Interested in Participating in the next LEAN 232 Kaizen June 29th – 30th 2010?

**Looking for 4-6 Stakeholders interested in participating in the next LEAN 232 Kaizen event *tentatively* scheduled for June 29th-30th. Topics to be discussed include Streamlining Portfolio processing in the Field and the redesign of the 2264A to meet the LEAN 232 requirements and needs. If you are interested, please send an email to LEANThinking@hud.gov Include in the subject line – "LEAN 232 Kaizen in June 2010". You will be notified by the LEAN Team when details and participation are finalized.**

**Need to Reference Previous LEAN 232 Updates?**
**Previous E-Newsletters (Email Updates) can be found at:**
**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters**

**LEAN Thinking Mailbox – LeanThinking@hud.gov**
**Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov**

**Interested in getting updates on the LEAN 232 Program?**
**Join our email list by sending your contact information to: Kristine.Martin@hud.gov**

**For more information on the LEAN 232 Program, check out:**
**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page**
**Or check out:**
**www.hud.gov/healthcare**

March 26th, 2010

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)

# Update as of March 26th, 2010

## New Postings to HUD.GOV:

**Two Stage Firm Submittal Process on those Projects with New Units: The documents for the Initial Submittal of Firm have been posted to HUD.GOV. Please note, we are still working on the format of the revised Firm Commitment. It is likely that these documents will be revised after we complete our Beta Test. If you have any questions on this process, please email Lean Thinking *at* *LEANThinking@hud.gov***

## Queue Updates:

**At the bottom of the Underwriting Guidance page, we have added a posting entitled "Queue Updates", which will periodically update you on our various queues (including size and assignments made out of the queues).**

## Interested in finding out what other properties HUD has in its inventory in a given market?

**From time to time we respond to questions from researchers about what other properties HUD has in its inventory in a given market. This information can be accessed on-line at:**

**http://www.hud.gov/offices/hsg/comp/rpts/mfh/mf_f47.cfm**

**Although the database does not include information on insured hospitals, it does include all 232 projects. At the bottom of the page, select the option "Access 2000 Format". At the next prompt, click "Save". Choose where you want to store the file on your computer. It will then be saved as a compressed file. Right click on the new file and select Winzip then extract here. An unzipped file will appear. Double click the uncompressed file and Microsoft Access will open. Three options will appear on the left. The first is simply the date the information was extracted. The second is the glossary**

**of SOAs (Section of the Act or loan type). The third is the data file. It contains all projects in the HUD portfolio and can be sorted in many ways including, by location or type. If you are only interested in 232s, scroll down the SOW column to the projects that begin with the letters RN. All of these will be 232s. This information will make it easy for you to determine what HUD has in its portfolio in any given market. The information is updated quarterly. Give it a try.**

## Updated Statistics for the LEAN 232 Program

**Fiscal Year-To-Date through March 26, 2010**

| Section 232 Activity | *FY 2010 YTD* | *FY 2009 YTD* |
|---|---|---|
| **Applications Received** | | |
| New Const/Market Acceptance /Pre-App | 60 | 64 |
| Refinancings 223(f) | 159 | 180 |
| New Const/Sub Rehab - Firm | 10 | 8 |
| 223 (D)2 | | 3 |
| 223 (A7) | 38 | 16 |
| **TOTAL** | **267** | **271** |
| **New Const/Market Acceptance /Pre-App** | | |
| Market Acceptance Letter Issued | 21 | 32 |
| Market Rejection Letter Issued | 27 | 5 |
| **TOTAL** | **48** | **37** |
| **Commitments Issued** | | |
| Refinancings 223(f) | 80 | 119 |
| New Construction - Firm | 7 | 4 |
| 223 (D)2 | 1 | 1 |
| 223 (A7) | 44 | 8 |
| **TOTAL** | **132** | **132** |
| **Commitments Rejected** | | |
| Refinancings 223(f) | 17 | |
| New Construction - Firm | 1 | |
| 223 (D)2 | | 2 |
| **TOTAL** | **18** | **2** |
| **Total Commitments Considered** | **150** | **134** |
| **Closings** | | |
| Refinancings 223(f) | 66 | 79 |
| New Construction - Firm | 1 | 3 |
| 223 (D)2 | | 1 |
| 223 (A7) | 28 | 5 |
| **TOTAL** | **95** | **88** |
| **Applications currently in underwriting review:** | **63** | **48** |
| **Applications in queue (not yet assigned):** | **161** | **60** |

February 19th, 2010

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)

# Update as of February 19th, 2010

## HOT OFF THE PRESS – form HUD-92438, Itemization of Costs on form HUD-92264a, and Amendment Requests:

Effective immediately, you are no longer required to submit a HUD Form 92438 (Underwriting Summary Report) on LEAN 232 submittals. We are no longer requiring this form because all of the items included on the 92438 are reflected elsewhere in our Firm Commitment and its attachments. The Lender Firm Application Checklists will be revised to remove this document in the future. On Section 232/223f's, please ensure that all submittals of form HUD-92264a include an itemized breakdown of the costs of the transaction that make up the Criterion 7 or Criterion 10 maximum insured mortgage – this breakdown can be included at the bottom of page 2 or on page 4 of the form HUD-92264a. Moreover, when submitting an amendment request that includes a change in the payment amount, please include the monthly principal and interest amount in the amendment request cover letter.

## Requests for Clarification/Revisions on Firm Applications:

On some projects we spend a substantial amount of time going back and forth with lenders in an attempt to craft a project that is an acceptable risk to the FHA Insurance Funds. Because of our severe staffing shortage and in the spirit of LEAN, we have chosen to expedite this process in the future, as the current process increases the time in queue for all other projects. On projects where the OIHCF Underwriter needs clarifications/revisions, the email from the OIHCF Underwriter requesting such clarifications/revisions will give a timeline whereby a

response is required. If a **full** response (partial responses add time to our process) is not received by the stated timeline, the project will be brought to Loan Committee in its current state. **As we will only be allowing one timely response of a clarification/revision**, it is important that the lender response is fully researched and thoughtfully assembled – taking into account the overall risk of the project to the FHA Insurance Fund.

## Summary of Underwriting Benchmark LTV's and DSCR's Contained in Other Email Blasts:

Below is a summary of the LEAN Underwriting Benchmarks for Loan to Value (LTV) and Debt Service Coverage Ratio (DSCR). These have been discussed in previous Lender Email Blasts – most recently in the 11/20/09 version. Please note the 9/18/09 Lender Email Blast that limits the maximum insurable mortgage (MIM) amount on new construction loans to 90% of replacement cost. This test applies to the HUD Replacement Cost, as calculated in Section H of HUD Form 92264, not the cost approach of the appraisal, which generally does not factor in Davis Bacon wages. Since the 92264a form only has one space for both the "cost" and "value" tests to be shown in Criteria 3, **show the more restrictive MIM in that space, and summarize both tests in the Lender Narrative.**

| Type of Unit | New/Existing Units | Mortgagor Type | Max. LTV* | Min. DSCR* |
|---|---|---|---|---|
| SNF/ILU | Both | For Profit | 80% | 1.45 |
| SNF/ILU | Both | Non-Profit ** | 85% | 1.45 |
| ALF | New | For Profit | 75% | 1.45 |
| ALF | New | Non-Profit ** | 80% | 1.45 |
| ALF | Existing | For Profit | 80% | 1.45 |
| ALF | Existing | Non-Profit ** | 85% | 1.45 |

SNF = Skilled Nursing Facility
ILU = Independent Living Unit
ALF = Assisted Living Facility

* Maximum loan to values and minimum debt service coverage ratios are set by the Section 232 Statute and Regulations. Any submittal above the LTV's listed in this Email Blast or below the DSCR's listed in this Email Blast will require justification/mitigation as discussed in the July 24, 2009 and November 20, 2009 Email Blasts.

** To qualify for the higher Non-Profit benchmarks, the owner/operator must demonstrate a successful operating track record, significant project operating and management experience, an a solid financial track record.

## Searchable Version of Previous Email Blasts:

We have posted a searchable Word version of the previously issued Email Blasts to HUD.GOV under "Previous E Newsletters".

## Keep in Mind when Dealing with Participant Changes Under the LEAN 232 Program…

**Participant changes done in conjunction with a new Section 232 loan (on a project that is currently insured):**

**New Loans that are Section 223(f), Section 232 NC/SR; Section 223(d); and Section 241 (a):**

As long as the revised/new participants are fully evaluated in the Firm Application for the new loan, there is no need for a separate Transfer of Physical Assets (TPA) application. The Lender Narrative should discuss the participant changes that are being made.

**New Loans that are Section 223(a)(7)'s:**

For Section 223(a)(7)'s, as long as the revised/new participants are fully evaluated in the Firm Application for the new loan, there is no need for a separate Transfer of Physical Assets (TPA) application. However, please include a completed form HUD 92266 and a narrative to explain the transaction. This concurrent review of a TPA with the underwriting of the refinance deal is in line with the general intent of an 223(a)(7)-- to provide an expeditious means to streamline refinance while further stabilizing and minimizing risk to the FHA portfolio. If you have a revision to the previously approved participants, please contact the underwriter assigned to your (a)(7) or the (a)(7) Workload Manager to discuss further.

## Now Available – Handicapped Accessibility Matrix for LEAN Section 232 Program!

The attached Matrix describes the applicability of the Fair Housing Amendments Act, Uniform Federal Accessibility Standards and Section 504, and the Americans with Disabilities Act, to the various Section 232 programs. Lenders and their Third Party Needs Assessors and

February 19th, 2010

Architectural Reviewers should find the Matrix a useful tool in determining when and how the various accessibility standards apply to Purchase/Refinance, New Construction, and Substantial Rehabilitation transactions.

Questions or comments regarding the Matrix can be directed to Michael Peeler, Senior Account Executive, at Mike.Peeler@hud.gov.

Attachment located on SharePoint at:
http://hudsharepoint.hud.gov/sites/main/HSNG/IHCF/DEVL/ap/Forms/AllItems.aspx

## Need to Reference Previous LEAN 232 Updates?

**Previous E-Newsletters (Email Updates) can be found at:**
**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters**

## LEAN Thinking Mailbox – LeanThinking@hud.gov

**Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov**

## Interested in getting updates on the LEAN 232 Program?

**Join our email list by sending your contact information to:**
**Kristine.Martin@hud.gov**

## For more information on the LEAN 232 Program, check out:

**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page**

**Or check out:**
**www.hud.gov/healthcare**

February 5th, 2010

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)

# Update as of February 5th, 2010

## Chicago Lender Training a Success!

**Last week, the OIHCF staff, in coordination with the Eastern Lenders Association hosted the 3rd LEAN 232 Lender Training since the beginning of this program in July 2008. Discussion topics included working with portfolios, appraisal issues, the new "Green Team" and much, much more. Stay tuned for future email updates sharing more of topics and discussions presented at this training.**

## Early Commencement of Construction – Preliminary HUD Notification

**In an effort to facilitate participation in the required HUD Pre-Construction Conference, as well as HUD inspections, the Lender shall complete the attached data sheet *(see below)* for the proposed project, and send it via email to Mike.Peeler@hud.gov no later than 45 days prior to the submission of the Early Commencement of Construction application. The Lender's email shall also include the name and contact information of their proposed Pre-Construction Conference Coordinator.**

## Requirement of a Separate Deposit Control Agreement on Projects with Governmental Receipts

**As discussed in the September 18, 2009 Email Update, HUD is requesting Deposit Control Agreements (DCA) on 232 project Operating Account(s). The Operator needs to set up two such accounts on projects with governmental receipts**

**(Medicaid/Medicare) – one for government receipts, and one for private pay/commercial insurance/miscellaneous receipts where the funds from the governmental account are swept. This will result in the need for two Deposit Control Agreements – commonly referred to as a DAISA (Deposit Account Instru ctions Service Agreement for governmental receipts) and a DCA (for non-governmental receipts). HUD has a sample DCA posted to HUD.GOV under "Sample Closing Documents". HUD is currently vetting a sample DAISA – until such time that this sample is posted to HUD.GOV, if you have questions on this, please work with the assigned HUD Closing Attorney. For a sample DCA used in Accounts Receivable Financing transactions, check hud.gov under "Accounts Receivable Financing Documents."**

## Updates on 223f projects assigned from the Queue

**Please be advised that you may be contacted by the OIHCF Underwriter, once a 223f project is assigned from the queue, requesting the Lender's Underwriter to provide updated NOI figures through 12/31/2009. Your ability to provide this quickly will help in expediting our review.**

## New Member to the OIHCF Team

**We would like to introduce the newest member of the OIHCF Team – Scott Werdal. He joins us as an Appraiser/Underwriter. Welcome to the Team, Scott.**

## Need to Reference Previous LEAN 232 Updates?

**Previous E-Newsletters (Email Updates) can be found at:**
**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters**

## LEAN Thinking Mailbox – LeanThinking@hud.gov

**Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov**

February 5th, 2010

## Interested in getting updates on the LEAN 232 Program?

**Join our email list by sending your contact information to:**
**Kristine.Martin@hud.gov**

## For more information on the LEAN 232 Program, check out:

**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page**

**Or check out:**
**www.hud.gov/healthcare**

……..

## Early Commencement Data Sheet

| *PROJECT DESCRIPTION* | |
|---|---|
| PROJECT NAME: | FHA Project No.: |
| ADDRESS: | Type of Facility (High-rise, Walkup, Row, etc.): |
| Number of Dwelling Units/Bedrooms/Beds: | Number of Buildings: |
| Section of the Act: **232** | Number and Type of Accessory Buildings: |
| Type of Project (New Const., SubRehab., or 241a): | Foundation System (Slab on Grade, Crawl Space, Basement, etc): |
| Structural System (Wood Frame, Steel, Concrete, etc.): | Offsite Work (explain): |
| | |
| **Proposed Initial Closing Date:**<br><br>**Proposed Start of Construction Date:** | **Scheduled Construction Period (months):**<br>**__ months** |
| | |
| PROJECT OWNER | DESIGN ARCHITECT: |

February 5th, 2010

| | |
|---|---|
| CONTACT PERSON & TELEPHONE NO. | CONTACT PERSON & TELEPHONE NO. |
| SUPERVISORY ARCHITECT: | BUILDER: |
| CONTACT PERSON & TELEPHONE NO. | CONTACT PERSON & TELEPHONE NO |

| | | |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

January 29, 2010

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)

## Update as of January 29, 2010

**Next Email Update Coming February 5th!**

**Stay tuned as we will be sharing exciting updates from the LEAN 232 Lender's Training that took place in Chicago this week!**

## Need to Reference Previous LEAN 232 Updates?

**Previous E-Newsletters (Email Updates) can be found at:**
http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters

## LEAN Thinking Mailbox – LeanThinking@hud.gov

**Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov**

## Interested in getting updates on the LEAN 232 Program?

**Join our email list by sending your contact information to:**
Kristine.Martin@hud.gov

## For more information on the LEAN 232 Program, check out:

http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page

**Or check out:**
www.hud.gov/healthcare

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)

## Update as of January 15, 2010

## Happy New Year!

**The Office of Insured Health Care (OIHCF) is as busy as ever as we start this new year. We are excited to share the following updates as we continue to strive to provide quality customer service and timely processing. Topics to share with you today include:**

### UPDATE - Chicago LEAN 232 Lender Underwriter Training:

- **Dates and Times: The dates of the training are different for each audience.**
  - **a. Monday January 25th is only for HUD Staff**
  - **b. Tuesday January 26th 8am to 12pm is only for HUD Staff and Third Party Appraisers and Market Analysts. Office of General Counsel (OGC) Round Table Discussion /3rd Party training will also be taking place at this time.**
  - **c. Tuesday January 26th; 1PM Sharp to 5:30 PM; All parties, including Lenders, Third Party Providers, Attorneys, and HUD Staff.**
  - **d. Wednesday January 27th; 8AM to 5:45 PM; All parties as noted in c. above.**

e. **Thursday January 28th; 8AM to 2:00 PM, plus 2:00 PM – 3:00 PM for Final Q&A; All parties as noted in c. above.**

- **Cost; $300 *per person* for the conference.**
  a. **Attach the final list of names who will be attending to the check.**
  b. **If you already filled out your registration form and sent it in, you do not have to fill it out again. If not, it is attached here and please send it back to the Eastern Lenders Association.**
  c. **Final Confirmation of receipt of checks will be mailed out in a series of group emails, from the Eastern Lenders Association.**

**Checks only Should Be Remitted To:**
**Eastern Lenders Association**
**c/o Paula Quigley**
**M&T Realty Capital Corporation**
**25 South Charles Street**
**17th Floor**
**Baltimore, MD 21201**
**410-545-2494**
**pquigley@mtb.com**

- **Hotel: Sheraton Chicago Hotel and Towers, 301 East North Water Street Chicago, Illinois 60611**
  a. **Reservation Code is "LEAN Training"**
  b. **Phone is (312) 464-1000 x0 (In-House Reservations), 1-877-242-2558 or 1-800-325-3535**
  c. **Reservations must be made by 1/18/10**

- **Who can attend and how many?**

a. **At this time participants are not limited per organization**
b. **Please remember Underwriter attendance should be a priority. However, since many of the policies established for underwriting have been adopted by Office of Insured Health Care Facilities' Servicing, Lenders may consider sending a limited number of their Loan Servicing staff as well.**
c. **Please confirm, to the Eastern Lenders Association, how many people will be attending on Tuesday as seating is more limited on Tuesday.**

- **Topics (Actual Agenda to Follow in subsequent email)**
  a. **Introduction and a Briefing on the FHA Commissioner's Recent Meeting in Seattle**
  b. **Appraisals, Valuation, Market and Economic Analysis**
  c. **Professional Liability (PLI) and Property Insurance**
  d. **Accounts Receivable Financing and Lockboxes**
  e. **Master Lease & Subordination Agreements**
  f. **Risk Management & Risk Mitigation**
  g. **Basics of the Lean Underwriting Process & Frequently Encountered Underwriting Deficiencies**
  h. **New Construction Updates**
  i. **Portfolio Transactions**
  j. **OIHCF Lean Environmental Review Guidance**
  k. **Lean Closings – Closing Coordinator**
  l. **A 7 Issues and Processing**

m. **Asset Management Surplus Cash + What Financial Statements are Required for Asset Mgt. Review**
n. **Discussion of Possible New Lean/OIHCF Policies**
o. **Question & Answer Session – Seminar Conclusion**

**Questions regarding the Lender Training can be addressed to either:**

**Wendy Stamnas**
**Vice President**
**FHA Chief Underwriter**
**Metropolitan Funding Corp.**
**28 West 44th Street, Suite 222**
**New York, NY 10036**
**Direct: (212)-983-1502**
**Cell: (603)-828-2832**
**wstamnas@metropolitanfunding.com**
**www.metropolitanfunding.com**

**or**

**Michael Peeler**
**Senior Account Executive**
**Office of Insured Health Care Facilities**
**909 1st Avenue, Suite 190**
**Seattle, WA 98104**
**(206) 220-5181**
**Mike.Peeler@hud.gov**

**Further information will be sent out in group emails.**

**Revised URL for FHA.gov Website - Please Bookmark!**

January 15, 2010

**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page**

## Efforts to Streamline Processing Time –

✓ **Assignment of HUD Reviewers for LEAN 232 Projects in the Queue**

**In an attempt to speed our overall processing time, we will begin assigning HUD environmental and OGC legal staff while projects are in the queue. To this end, you may receive an email from OIHCF requesting the following be completed:**

- **One hard copy of the environmental related documents be sent directly to the HUD environmental reviewer, and**
- **One hard copy of the documents identified in the September 18, 2009 Email Blast be sent directly to the HUD Closing Attorney.**

**The email from OIHCF will include all the details you need – including the addresses of the HUD reviewers - to send the needed documents to the assigned reviewers.**

✓ **NOTE - Changes to Electronic Submissions**

**When you have a completely assembled Firm Application package and you are sending the electronic version to Amee Welch in Seattle, in your cover letter please indicate whether the subject project is part of a portfolio (whether it be a small, medium, or large portfolio). Note, the November 20, 2009 Email Blast also requested that the cover letter include a statement that the application is completely assembled according to Lean requirements.**

## Need to Reference Previous LEAN 232 Updates?

**Previous E-Newsletters (Email Updates) can be found at:**
**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters**

## LEAN Thinking Mailbox – LeanThinking@hud.gov

**Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov**

January 15, 2010

## Interested in getting updates on the LEAN 232 Program?

**Join our email list by sending your contact information to:**
**Kristine.Martin@hud.gov**

## For more information on the LEAN 232 Program, check out:

**http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232**

**Or check out:**
**www.hud.gov/healthcare**

December 18th, 2009

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)

## Update as of December 18th, 2009

**HOT OFF THE PRESS!**

**As a result of this week's Kaizen, and feedback from our Lender participants as we re-evaluate how best to provide customer service and timely processing while we continue to experience a severe shortage of staffing resources, the following changes are being implemented immediately:**

1. **NO FURTHER PRE-APPLICATION SUBMISSIONS WILL BE ACCEPTED. For New Construction projects, applications may still be submitted direct to firm. We are working on a process whereby we can provide more timely and higher quality feedback for new construction projects. The process is being finalized and will be communicated via email blast. Our goal is to have this process rolled out by the upcoming Lender training.**

2. **In order to serve you better on all the Section 223f's in the queue, please provide a completed Risk Assessment to Amee Welch (Amee.Welch@hud.gov) – no later than 12/31/09. Also, please include the completed Risk Assessment in all future electronic submissions. Submissions that pass the Risk Assessment and have no Regulatory waivers will receive accelerated processing. We will allow revisions to the previously submitted loan amount to make the submittal more conservative. Any revision will require a new Lender Narrative, Firm Commitment and its attachments.**

   **Also, upon receipt of the Risk Assessment, we will immediately run the project through APPS to determine whether there are any flags.**

**Should you have any questions on the Risk Assessment or how to fill it out, please contact Wayne Harris, OIHCF Appraiser, at: wayne.d.harris@hud.gov**

**Learn more about these and other LEAN 232 program updates at the upcoming Lender Conference in January 2010. More details on this conference can be found below.**

##########

## Mark your Calendars for the Upcoming Lender Training – January 27th-29th, 2010!

**The next Lender Training will be held January 27th – 29th, 2010, at the Sheraton Chicago Hotel and Towers. Interested in receiving more information on this event? Please contact:**

**Wendy Stamnas**
**Vice President**
**FHA Chief Underwriter**
**Metropolitan Funding Corp.**
**28 West 44th Street, Suite 222**
**New York, NY 10036**
**Direct: (212)-983-1502**
**Cell: (603)-828-2832**
**wstamnas@metropolitanfunding.com**
**www.metropolitanfunding.com**

##########

## Happy Holidays!

**Thank you for your continued interest and support in the LEAN 232 Program. We look forward to working with you in 2010. Wishing you and your staff a wonderful holiday season!**

## Next LEAN Email Update will be sent out on

## January 15th, 2010!

##########

## Need to Reference Previous LEAN 232 Updates?

**Previous E-Newsletters (Email Updates) can be found at:**

http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL

## LEAN Thinking Mailbox – LeanThinking@hud.gov

**Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov**

## Interested in getting updates on the LEAN 232 Program?

**Join our email list by sending your contact information to: Kristine.Martin@hud.gov**

## For more information on the LEAN 232 Program, check out our FHA.GOV website at:

http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL

**Or check out:**
www.hud.gov/healthcare

December 11th, 2009

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)

## Update as of December 11th, 2009

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of December 11th, 2009, we would like to share with you the following:**

## New Postings to FHA.gov

**The Sample Closing Documents folder on FHA.GOV contains many revised and new documents. Please pass this along to any attorneys working on Lean closings.**

## More information on Upcoming Lender Training – January 27th-29th, 2010:

**It has been confirmed that the next Lender Training will be held January 27th – 29th, 2010, at the Sheraton Chicago Hotel and Towers. Further details will be sent out next week from the Eastern Lenders Association. Interested in receiving more information on this event? Please contact:**

**Wendy Stamnas**
**Vice President**
**FHA Chief Underwriter**
**Metropolitan Funding Corp.**
**28 West 44th Street, Suite 222**
**New York, NY 10036**
**Direct: (212)-983-1502**
**Cell: (603)-828-2832**
**wstamnas@metropolitanfunding.com**
**www.metropolitanfunding.com**

December 11th, 2009

## New Staff Join HUD 232 Team!

**We would like to welcome the a new member to our LEAN 232 HUD Team:**

- **Dave Goldammer – Appraiser/Underwriter in Minneapolis**

## Guidance for Lenders for Market Rate Projects in Areas with Significant Adverse Economic Impacts:

**The following is guidance to LENDERS regarding temporary risk management initiatives that have been implemented by OIHCF regarding the review of new construction market rate projects in areas that have been impacted by significant adverse economic conditions. In essence, OIHCF has received a number of applications for projects in areas that have been hard hit by the current economic crisis. After a thorough review of the current conditions in those areas most affected by adverse economic events, OIHCF has determined that the approval of certain market rate projects in those areas would place the FHA insurance fund at an elevated risk for higher defaults and an increase in potential insurance claims.**

**OIHCF recently directed one of our most experienced appraisers to Florida and Arizona to assess the prevailing market conditions for "market rate" assisted living projects. The assessment conducted in Florida was mainly contained to the area south of Tampa including the Bradenton and Sarasota areas. We are aware that the Miami, Orlando and Ft. Myers/Naples markets as well as other areas of Florida have also been severely impacted by the housing crisis and are similarly impacted. Our analysis of those areas has demonstrated a very high rate of foreclosures, a high rate of delinquent properties not yet in foreclosure, higher unemployment rates and increasing stress with the commercial real estate portfolio. OIHCF has determined that the market for assisted living projects in those areas may be far weaker than the current marketing data otherwise indicates.**

**With respect to Arizona, OIHCF reviewed and analyzed the potential assisted living market for the major urban areas of the state. The conclusion of our analysis indicated that the potential market for market driven assisted living was severely impacted by the housing crisis, with large numbers of vacant properties, severe price reductions and serious evolving problems with commercial real**

**estate. It is also noteworthy that many of the Section 232 applications had weak operating entities that had little or no experience with assisted living projects.**

**OIHCF staff has noticed that some recently reviewed Market Acceptance/pre-applications and their attached market have been projecting optimistic market data from 2-3 years ago which has been projected forward without fully accounting for the current serious economic realities that have altered the market characteristics for those and other markets.**

**As a result of the findings of our appraisal staff, OIHCF is instituting the following action:**

**For example, but not limited to the following geographic areas, OIHCF has determined that all market driven assisted living projects in California, Florida, Arizona, Nevada, Michigan, Ohio, Indiana, and Illinois are to be underwritten with FULL RISK MITIGATION. All mortgage insurance applications for properties in those states will be subjected to a full appraisal review and a full review of the market study and if necessary, a more thorough economic analysis. Market studies must take into account the changing economic conditions of the market areas where the facility is located, and both Lender and OIHCF reviews should reflect that reality.**

**With respect to nursing homes, lenders and OIHCF staff will review the fundamentals of each project. If the nursing homes are contemplated to have a high percentage of private pay residents or otherwise have unusual marketing issues, OIHCF staff will also undertake full risk mitigation. However, if nursing home applications have Certificates of Need, a patient mix that reflects the current market, and other positive underwriting characteristics, then processing will proceed without any change to the current instructions.**

**OIHCF will continually review the prevailing market conditions and will make appropriate changes as market circumstances dictate.**

## LEAN 232 Pipeline as of December 11th, 2009

**The current activity of our 232 pipeline for the week ending December 11th, 2009 is outlined in the attached table for your reference.**

December 11th, 2009

## Need to Reference Previous LEAN 232 Updates?

**Previous E-Newsletters (Email Updates) can be found at:**
**http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

## LEAN Thinking Mailbox – LeanThinking@hud.gov

**Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov**

## Interested in getting updates on the LEAN 232 Program?

**Join our email list by sending your contact information to:**
Kristine.Martin@hud.gov

## For more information on the LEAN 232 Program, check out our FHA.GOV website at:

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

**Or check out:**
**www.hud.gov/healthcare**

November 20th, 2009

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)

## Update as of November 20th, 2009

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of November 20th, 2009, we would like to share with you the following:**

**Logistics of our Queue:**
**The June 12, 2009 Email Blast established the procedures for our queue. Because of the size of the queue, we have discontinued the need for Lenders to email Amee Welch when a project is approximately 5 days from submittal. Per the June 12, 2009 Email Blast, submittals must still be completely assembled prior to entering the queue. We have found that some Lenders are submitting incomplete applications to secure a place in the queue. We do not believe this is fair to other Lenders who follow LEAN requirements and only submit complete applications. Thus, *for all future electronic submittals going into the queue, please include a statement in your cover letter that the application is completely assembled according to LEAN Requirements.* Applications determined to be incomplete will be rejected and we'll focus on next application.**

**Moreover, we have revised our stance on projects needing HUD Headquarters' mid-size and large-size portfolio reviews. Individual Firm applications may not be submitted while the portfolio review is in process in Headquarters. However, once the portfolio is approved by Headquarters and the lender receives verbal approval, the lender may submit one application upon finalization of the review but prior to receipt of the approval letter. This individual submittal will then secure the position in the queue for all of the applications for that tranche.**

November 20th, 2009

**Below is a summary of the procedures for submitting a LEAN 232 project:**

- **The Lender requests via email assignment of an FHA Project Number from Amee Welch in Seattle (Amee.Welch@HUD.GOV). Such request attaches the completed FHA Project Number request form that can be obtained from the FHA.GOV website. Amee Welch emails the Lender with the assigned FHA Project Number.**

- **When the Lender has a Pre-application or Firm Application that is completely assembled, the electronic version is sent to Amee Welch in Seattle (for Firm Applications, the application fee check and Lender check transmittal letter will also be submitted). In your cover letter please include a statement that the application is completely assembled according to LEAN requirements. *The date that Amee receives the electronic submittal and the check shall be considered the receipt date for the Pre-application or the Firm Application and shall constitute the date of submittal for third party reports, credit reports, etc.***

- **If the underwriting workload management system has no spare capacity at the time of electronic submittal, the project will be placed in a queue. The Lender will receive notification stating that the project has been placed in the queue and the number the project currently is in the queue. Lenders may obtain an update on the status of their project while it is in the queue by emailing Amee Welch at the above email address.**

- **When underwriting capacity becomes available, the Workload Manager will assign the first project in the queue to an underwriter (OIHCF is following a first in, first out approach).**

- **When assigned a new project, the OIHCF Underwriter will contact the Lender via email and tell them where to submit the hard copies of the submittal - the Underwriter will follow the procedures outlined in the September 18, 2009 Email Blast.**

- **Once an OIHCF Underwriter is assigned, they become the Lender's primary contact regarding the project.**

November 20th, 2009

**Our Processing Queue:**

**Currently we have 124 projects in the queue – 43 Preapplications and 81 Firm Applications. The latest projects assigned out of the queue have been in the queue for 9 weeks before being assigned an underwriter. While we still have not received the staffing resources originally anticipated, we are continuously re-assessing how we can best deploy our limited resources to better serve you. To this end, we have recently established a separate team to process Section 223(a)(7)'s and Section 223(d)'s on Section 232's. Mary Walsh is Team Leader for the Section 223(a)(7)Team. Please continue to follow the above established procedure when you have a Section 223(a)(7) or Section 223(d) on a Section 232 that is ready to be submitted – contact Amee Welch. On a positive note, we recently added an appraiser to our team and anticipate adding several more in the near future. With these additional appraisal resources, we expect to eliminate the current several week backlog in getting the market study/appraisal reviewed for projects that are now in processing. The elimination of the appraisal backlog will allow projects to complete the underwriting process and move to the Loan Committee weeks faster.**

## Guidance for Lenders for Market Rate Projects in Areas with Significant Adverse Economic Impacts:

**The following is guidance to LENDERS regarding temporary risk management initiatives that have been implemented by OIHCF regarding the review of new construction market rate projects in areas that have been impacted by significant adverse economic conditions. In essence, OIHCF has received a number of applications for projects in areas that have been hard hit by the current economic crisis. After a thorough review of the current conditions in those areas most affected by adverse economic events, OIHCF has determined that the approval of certain market rate projects in those areas would place the FHA insurance fund at an elevated risk for higher defaults and an increase in potential insurance claims.**

**OIHCF recently directed one of our most experienced appraisers to Florida and Arizona to assess the prevailing market conditions for "market rate" assisted living projects. The assessment conducted in Florida was mainly contained to the area south of Tampa including the Bradenton and Sarasota areas. We are aware that the Miami, Orlando and Ft. Myers/Naples markets as well as other areas of**

**Florida have also been severely impacted by the housing crisis and are similarly impacted. Our analysis of those areas has demonstrated a very high rate of foreclosures, a high rate of delinquent properties not yet in foreclosure, higher unemployment rates and increasing stress with the commercial real estate portfolio. OIHCF has determined that the market for assisted living projects in those areas may be far weaker than the current marketing data otherwise indicates.**

**With respect to Arizona, OIHCF reviewed and analyzed the potential assisted living market for the major urban areas of the state. The conclusion of our analysis indicated that the potential market for market driven assisted living was severely impacted by the housing crisis, with large numbers of vacant properties, severe price reductions and serious evolving problems with commercial real estate. It is also noteworthy that many of the Section 232 applications had weak operating entities that had little or no experience with assisted living projects.**

**OIHCF staff has noticed that some recently reviewed Market Acceptance/pre-applications and their attached market have been projecting optimistic market data from 2-3 years ago which has been projected forward without fully accounting for the current serious economic realities that have altered the market characteristics for those and other markets.**

**As a result of the findings of our appraisal staff, OIHCF is instituting the following action:**

**<u>For example, but not limited to the following geographic areas, OIHCF has determined that all market driven assisted living projects in California, Florida, Arizona, Nevada, Michigan, Ohio, Indiana, and Illinois are to be underwritten with FULL RISK MITIGATION</u>. All mortgage insurance applications for properties in those states will be subjected to a full appraisal review and a full review of the market study and if necessary, a more thorough economic analysis. Market studies must take into account the changing economic conditions of the market areas where the facility is located, and both Lender and OIHCF reviews should reflect that reality.**

**With respect to nursing homes, lenders and OIHCF staff will review the fundamentals of each project. If the nursing homes are contemplated to have a high percentage of private pay residents or otherwise have unusual marketing issues, OIHCF staff will also**

**undertake full risk mitigation. However, if nursing home applications have Certificates of Need, a patient mix that reflects the current market, and other positive underwriting characteristics, then processing will proceed without any change to the current instructions.**

**OIHCF will continually review the prevailing market conditions and will make appropriate changes as market circumstances dictate.**

**New Revised MAP Guide Chapter 9:**

**As announced by Mortgagee Letter 09-27 and Housing Notice 09-14, the MAP Guide, Chapter 9, Environmental Review has been revised. *OIHCF is utilizing the revised chapter in completing environmental processing for all Section 232 applications.* The revised Chapter 9 includes options for remediation of contaminated sites, instead of requiring the removal of the contamination in its entirety or the approval of a Headquarter's environmental waiver request. ASTM E 1527-05 is referenced, in terms of Environmental Site Assessments and preparer's qualifications.**

**The revised Chapter 9 can be found on:**
**http://www.hud.gov/offices/hsg/mfh/map/mapguide/chap09.pdf**
**Moreover, the below link discusses the implementation of this new guidance:**
**http://www.hud.gov/offices/hsg/mfh/map/mapguide/mapguide.cfm)**

**232/223f Firm Application Checklist Being Revised!**

**We are revising the Firm Application Checklists to specify that we want the Lender's Narrative included with the Firm Application submittal to be a Word document. In the meantime, we ask that you submit a Word version of the Lender's Narrative in your electronic Firm submittals (if you wish, you may still submit the PDF version). *Please also submit closing documents in Microsoft Word 2007. This will allow attorneys to compare two documents electronically to see if any changes have been made from one version to another.* This will speed up our processing of projects.**

**Future Lender Training:**

November 20th, 2009

**Through your industry associations, many of you had become aware that there was a proposed Lender Training that was postponed. *Lender Training is now scheduled for the week of January 18th, at the Sheraton Towers in Chicago.* OIHCF will provide you with additional information as soon as possible via Email Blast.**

**Stay Tuned!**
**Updated Lender Narrative and other documents for the LEAN 232/223f Program will be released here shortly.**

**Clarification for completing form HUD-92264:**
**The OIHCF has received several questions from Lenders on how to appropriately fill out the form HUD-92264. *Lenders should view the form HUD-92264 as a document that summarizes the Lender Narrative.* Many Lenders are using the form as it was used under MAP, to summarize the appraisal conclusions. Since LEAN allows the Lender to depart from the appraisal conclusions under certain conditions, such as when lenders require higher reserves for replacements, the form HUD-92264 should now *reflect the Lender's conclusions*, not the appraiser's. The form should be signed by the Lender, not the appraiser.**

**One of the biggest challenges Lenders may face is filling out the expense portion. The expense categories in the Lender Narrative do not match those in Section F of the HUD 92264. For example, the Lender narrative does not require a breakdown of salaries. For this reason, we are no longer requiring lenders to fill out Section D of the form HUD 92264. The new categories of the Lender Narrative were an attempt to show the data in a format that is more conventional in today's market. We do not expect Lenders to spend a great deal of time transposing the expenses, *but the totals should correspond to their conclusions.* In regard to Section H of the form HUD 92264 if the appraiser did not utilize the cost approach, you are not required to fill out this section.**
**In the future, LEAN processing may have a more permanent solution, but for now, please, do your best to make the *form HUD 92264 summarize the c*
*onclusions in the Lender Narrative.***

**Accounts Receivable Financing – Please Keep in Mind:**

- ✓ **Any changes to the lending CAP (loan limit) in an existing Accounts Receivable (AR) Agreement must be approved by OIHCF staff. For projects currently in development, please contact your HUD Underwriter. For those projects that have closed and are currently in the LEAN 232 inventory, please contact your Account Executive in the Asset Management Division. OIHCF will be reissuing Notice 08-09 with a revised Intercreditor Agreement in the near future.**

- ✓ **Should there be a transfer of Operator, a Transfer of Physical Assets (TPA), change in Operator, or for those existing projects that are obtaining an AR loan for the first time, the OIHCF staff will need to review the AR Loan documents to ensure requirements of Notice H08-09, ("Accounts Receivable Financing") are being met. OIHCF requires that all operators of Section 232 projects must meet the requirements of Notice H08-09.**

- ✓ **If an Owner or Operator submits a request for approval of AR financing shortly after origination, the AR financing document package should be submitted to the HUD Account Executive, not the HUD Closing Attorney that closed the loan.**

- ✓ **The two items below are misperceptions by Lenders as to when AR Financing Notice H08-09 applies. *Please note that in each case, the AR Financing Notice does apply*:**

    - **Not perfecting the Operator's Collateral. Some owners claim that HUD approval is not required for AR Financing if the Operator's collateral is not perfected, (i.e. UCC not filed, no DACA). The claim is that since there is no actual "encumbrance" to the property, there is no HUD approval required. This is not accurate because the Owner and Operator's Regulatory Agreements require HUD approval for a pledge of project assets.**

    - **AR Financing not provided by "traditional" AR Lenders. Owners also claim that Notice H08-09 is designed for**

**traditional AR Lenders (i.e. Large Banks, GE Capital, Etc.) for "Working Capital" loans. They claim the Notice is not applicable if the AR Financing is provided by a related sister company, and is not a working capital, but is a more specific purpose loan. Notice H08-09 applies if the Owner/Operator or Operator seeks to pledge its governmental or private and commercial receivables regardless of the type of lender providing the AR financing.**

**Operator Agreements – Please Note Requirements**

**OIHCF has recently reviewed several applications that were submitted for review with Operator Agreements that will expire within 5 years or less. The underwriting criteria used by both OIHCF and the Lender is based on the current Operator. Lenders need to provide HUD with information in their application regarding any changes to the Operator that will occur within the next five years. This plan of action is needed to ensure that the quality and experience of any potential new Operator will be comparable or better than the current Operator. For assisted living facilities (ALF), it is important to reemphasize that operators need to be experienced and have a proven track record with the operation, marketing and lease up of ALF facilities. The five year lease expiration issues does not apply to lessees that have lease renewal options.**

**New Staff Join HUD 232 Team!**

**We would like to welcome the four new members to our LEAN 232 HUD Team:**

- **Ani Ramos – Appraiser/Underwriter in New Jersey**
- **Mike Glasgow – Underwriter in Denver**
- **Kate Murray- Account Executive/Attorney-will help to coordinate A(7) transactions in HQ**
- **Robert Wolfrey- CPA-financial, statistical and contract management support in HQ**

**Closing Updates:**

**After a Firm Commitment is issued on a project, HUD will email the lender with the name of the individual who will be handling the Program side of closing. If there are deadline issues relating to**

**when a project must close by, please immediately highlight this via email to the HUD Closing Coordinator.**

**Signatory Authority**

**As many of you know, we recently had complications relating to the signing of many of our documents in the field. We have now addressed this issue and have returned to the procedure we were using initially – with some additional flexibility. The OIHCF Closing Coordinator will coordinate and communicate with the Lender and their Closing Attorney regarding who will sign closing documents. We anticipate that most 232 and 223(F) closing documents will be signed by Renee' Greenman in Seattle, with most A(7) closing documents signed by William Lammers or Roger Miller in Washington DC.**

**Update on Market Deterioration:**

**We have seen evidence of continued erosion of the single family residential resale market in a number of areas. This adversely affects the amount of and/or timing of the receipt of the equity available to seniors selling their homes. Please ensure that your submittals address this issue when needed – particularly on projects that are adding units or experiencing downward trends in occupancy.**

**LEAN 232 Pipeline as of November 19th, 2009**

**The current activity of our 232 pipeline for the week ending November 19th, 2009 is outlined in the attached table for your reference.**

**Need to Reference Previous LEAN 232 Updates?**

**Previous E-Newsletters (Email Updates) can be found at:**
**http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

**LEAN Thinking Mailbox – LeanThinking@hud.gov**

**Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov**

November 20th, 2009

**Interested in getting updates on the LEAN 232 Program?**
**Join our email list by sending your contact information to:**
Kristine.Martin@hud.gov

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**
**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

October 2nd, 2009

# HUD's LEAN 232 Program
# Office of Insured Health Care Facilities (OIHCF)

## Update as of October 2nd, 2009

## Stay tuned for exciting news to be shared in our October 9th Email Update!

**Need to Reference Previous LEAN 232 Updates?**

**Previous E-Newsletters (Email Updates) can be found at:**

**http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

**LEAN Thinking Mailbox – LeanThinking@hud.gov**

**As of 9/30/09, we have responded to all known outstanding Lean Thinking Mailbox questions. If you still have an outstanding Lean Thinking question that hasn't been addressed, please email the Lean Thinking Mailbox with the question - we have done our best to respond to them all, however there were two to three hundred questions over the past six months. Moreover, we encourage you to submit all future questions (not handled by an assigned OIHCF Underwriter relating to a specific project they are reviewing) via Lean Thinking Mailbox. *We appreciate your patience.***

**Interested in getting updates on the LEAN 232 Program?**

**Join our email list by sending your contact information to:**

Kristine.Martin@hud.gov

October 2nd, 2009

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

**Kristine M. Martin**
**Information Specialist**
**Seattle Multifamily Hub**
**206-220-5180; toll-free1-877-741-3280, x5180**

## HUD's LEAN 232 Program
## Office of Insured Health Care Facilities (OIHCF)

## Update as of September 18th , 2009

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of September 18th, 2009, we would like to share with you the following:**

- **CORRECTION!**

**In the September 4, 2009, email blast, we stated that a Lender Underwriter site visit is required on all Pre-applications. Although we recommend that the Lender Underwriter site visit be performed as early in the process as possible, we are revising our requirement to require that the site visit be performed prior to submittal of the Firm Application. OIHCF will require the site inspection be done by either the Lender's Underwriter or Lender's qualified construction site inspector, so long as this individual is not connected with the loan origination.**

- **New Staff Join HUD LEAN 232 Development Team!**

October 2nd, 2009

**We would like to welcome two new members to our LEAN 232 HUD Development Team:**

- **Susan Barton**
- **Terry Bessette**

**Susan and Terry join our LEAN 232 HUD Development Team as Appraisers.**

**Welcome aboard Susan and Terry!**

- **<u>Portfolio Review Clarification:</u>**

**When working with portfolios, Lender should keep in mind that a HQ Portfolio Review is required if there are more than 10 properties included in the portfolio *<u>AND</u>* if the loan amount of the portfolio exceeds $75 million. Both thresholds must be reached in order for a Portfoilio Review to be required. That means that an owner/operator could have in excess of 11 projects and still qualify for "small portfolio" if the loan amount did not exceed $75 MM.**

- **<u>Deposit Control Agreement on LEAN 232 Closings (Update):</u>**

**As mentioned in the April 10, 2009 Lender Email Blast, due to changes made to Article 9 of the Uniform Commercial Code in 2001, a Deposit Control Agreement is necessary in order for the FHA Lender to perfect its security interest in project funds that reside in a depository bank (other than with the FHA Lender). Therefore, on <u>all</u> Section 232 LEAN closings, HUD will request a Deposit Control Agreement (DCA) for the Operating Account(s). This is the account that receives funds from Medicaid/Medicare and private pay sources. There are often two such accounts—one for government receipts and one for private pay.**

**For your convenience, sample Deposit Control Agreements are posted on FHA.GOV under "Accounts Receivable Financing Documents" and "Sample Closing Documents." Please note, there is a separate sample agreement for projects with and without**

**accounts receivable financing. *These are only samples.* You may submit the form DCA that is used by the depository bank to the HUD Closing Attorney for review. If you have questions on this issue, please work with the assigned HUD Closing Attorney.**

- **Your Project Has Been Assigned a HUD Underwriter…Now What?**

**For projects that are being assigned out of the queue, the OIHCF Underwriter will be contacting the Lender directly when they are assigned the project and will request the hard copies of the application (if not already submitted). The OIHCF Underwriter will be requesting hard copies be sent to the following items listed below, the addresses of which will be provided by the OIHCF Underwriter in the email:**

**To the OIHCF Underwriter:**

- **One original version of the entire application package, and**
- **One additional copy of the lender narrative, appraisal, PCNA, and market study - if applicable**

**To the assigned HUD Closing Attorney:**
**One copy of the following documents (on Firm Application submittals only):**

**Section 232/223f's:**

1. **Underwriting Narrative (1-2)**
2. **Contact List (01-08)**
3. **Organizational Docs of Mortgagor (3-1 & 3-2).**
4. **Organizational Docs for principals of Mortgagor (if applicable) (4-1 & 4-2)**
5. **Organizational Docs of Operator/Lessee (5-1 & 5-2)**
6. **Operator Lease, Memorandum of Lease, & Estoppel Certificate, (if applicable) (5-11)**
7. **Organizational Docs of Parent of Operator (if applicable) (6-1 & 6-2)**
8. **Organizational Docs of Management Agent (if applicable) (7-1 & 7-2)**
9. **Licenses (8-2)**
10. **Title (8-3)**

11. **Survey (8-4) (full size)**
12. **Evidence of compliance (8-5)**
13. **Commercial Leases (if applicable) (8-8)**
14. **Ground Lease (if applicable) (8-9)**
15. **Accounts Receivable Docs (if applicable) (9-12)**
16. **Master Lease Documents (if applicable) (not on checklist)**

**<u>Section 223(a)(7) on a 232:</u>**

1. **Underwriting Narrative (1)**
2. **Contact List (6)**
3. **Organizational Chart – Mortgagor (10)**
4. **Organizational Docs of Mortgagor (11).**
5. **Organizational Docs for principals of Mortgagor (if applicable) (13)**
6. **Organizational Docs of Operator/Lessee (14)**
7. **Operator Lease, Memorandum of Lease, & Estoppel Certificate, (if applicable) (15)**
8. **Licenses (18)**
9. **Title (19)**
10. **Survey (if applicable)(20); (full size)**
11. **Evidence of compliance (21)**
12. **Organizational Docs – Parent of Operator (if applicable) (Supplemental Checklist C-2)**
13. **Organizational Docs – Management Agent (if applicable) (Supplemental Checklist D-2)**
14. **Accounts Receivable Docs (if applicable) (Supplemental Checklist E-1 through E-13)**

**<u>Section 232 New Construction:</u>**

1. **Underwriting Narrative (1-2)**
2. **Contact List (01-08)**
3. **Organizational Docs of Mortgagor (3-1 & 3-2).**
4. **Organizational Docs for principals of Mortgagor (if applicable) (4-1 & 4-2)**
5. **Organizational Docs of Operator/Lessee (5-1 & 5-2)**
6. **Operator Lease, Memorandum of Lease, & Estoppel Certificate, (if applicable) (5-11)**
7. **Organizational Docs of Parent of Operator (if applicable) (6-1 & 6-2)**
8. **Owner Arch Agreement with attachments ((8-10)**
9. **Organizational Docs of Management Agent (if applicable) (9-1 & 9-2)**

10. **Licenses (10-2)**
11. **Title (10-3)**
12. **Survey (10-4) – full size**
13. **Evidence of compliance (10-5)**
14. **Commercial Leases (if applicable) (10-7)**
15. **Ground Lease (if applicable) (10-8)**
16. **Easement and Maintenance Agreements (if applicable) (10-12)**
17. **Master Lease Documents (if applicable) (not on checklist)**

**<u>Section 232 Substantial Rehabilitation:</u>**

1. **Underwriting Narrative (1-2)**
2. **Contact List (01-08)**
3. **Organizational Docs of Mortgagor (3-1 & 3-2).**
4. **Organizational Docs for principals of Mortgagor (if applicable) (4-1 & 4-2)**
5. **Organizational Docs of Operator/Lessee (5-1 & 5-2)**
6. **Operator Lease, Memorandum of Lease, & Estoppel Certificate, (if applicable) (5-11)**
7. **Organizational Docs of Parent of Operator (if applicable) (6-1 & 6-2)**
8. **Organizational Docs of Management Agent (if applicable) (7-1 & 7-2)**
9. **Owner Arch Agreement with attachments (9-10)**
10. **Licenses (10-2)**
11. **Title (10-3)**
12. **Survey (10-4) – full size**
13. **Evidence of compliance (10-5)**
14. **Commercial Leases (if applicable) (10-8)**
15. **Ground Lease (if applicable) (10-9)**
16. **Easement and Maintenance Agreements (if applicable) (10-13)**
17. **Accounts Receivable Financing Documents (if applicable) (11-12)**
18. **Master Lease Documents (if applicable) (not on checklist)**

**<u>Section 241a on a 232 :</u>**

1. **Underwriting Narrative (1-2)**
2. **Contact List (01-08)**
3. **Organizational Docs of Mortgagor (3-2).**
4. **Organizational Docs for principals of Mortgagor (if applicable) (3-4)**

5. **Organizational Docs of Operator/Lessee (3-5)**
6. **Operator Lease, Memorandum of Lease, & Estoppel Certificate, (if applicable) (5-11)**
7. **Owner Arch Agreement with attachments (9-10)**
8. **Licenses (10-2)**
9. **Title (10-3)**
10. **Survey (10-4) – full size**
11. **Evidence of compliance (10-5)**
12. **Commercial Leases (if applicable) (10-8)**
13. **Ground Lease (if applicable) (10-9)**
14. **Easement and Maintenance Agreements (if applicable) (10-13)**
15. **Organizational Docs of Parent of Operator (if applicable) (Supp Checklist C-1, C-2)**
16. **Organizational Docs of Management Agent (if applicable) (Supp Checklist D-1, D-2)**
17. **Accounts Receivable Financing Documents (if applicable) (Supp Checklist E)**
18. **Master Lease Documents (if applicable) (not on checklist)**

**Please discuss with your assigned OIHCF Underwriter if there are any special circumstances whereby the above policy can not be followed.**

- **<u>Clarification on Replacement Costs on New Construction:</u>**

**There has been some confusion in the past on how replacement cost value on new construction Section 232's impacts the FHA maximum insurable mortgage. Continuing HUD HQ's existing policy, *<u>under the LEAN 232 Program, the maximum insurable mortgage on new construction projects shall not exceed 90% of the HUD Replacement Cost.</u>* The future revised version of the new construction Lender Narrative template will address this issue. In the meantime, on the HUD Form 2264a, Criterion 3. a., please use the <u>lesser of the value</u> indicated on HUD Form 2264 or the HUD Replacement Cost.**

**Please note, this does not change the caution listed in the February 6, 2009, email blast which stated that any new construction proposals with assisted living units that exceed 75% loan to value will require justification/mitigation. See the February 6, 2009, email blast for further details.**

- **LEAN 232 Pipeline as of September 18th, 2009**

**The current activity of our 232 pipeline for the week ending September 18th, 2009 is outlined in the attached table for your reference.**

*****Report to be attached to email*****

- **Need to Reference Previous LEAN 232 Updates?**

**Previous E-Newsletters (Email Updates) can be found at:**

**http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox – LeanThinking@hud.gov**

**We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program?**

**Join our email list by sending your contact information to:**

Kristine.Martin@hud.gov

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

September 4th , 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of September 4th , 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of September 4th, 2009, we would like to share with you the following:**

- **READ ALL ABOUT IT….**

**Study shows 15 States face $1 Billion in Medicare funded Nursing Home cuts over next decade - HEALTHCARE FINANCE NEWS**

http://www.healthcarefinancenews.com/news/study-15-states-face-1b-medicare-funded-nursing-home-cuts-over-next-decade

- **New Staff Joins HUD LEAN 232 Development Team!**

**We would like to welcome four new members to our LEAN 232 HUD Development Team:**

- **Susan Gosselin**
- **Diane Rosinski**
- **Tracy Lo**
- **Gary Golding**

**These new members bring a wealth of housing and healthcare facilities experience and we are very excited to have them on the team. Welcome all!**

- **FOR ALL LEAN 232 PRE-APPLICATIONS…**

**Remember that a Lender Underwriter site visit and Lender loan committee is required on all Pre-applications.**

- **Please Remember - Return Signed Firm Commitments to Assigned HUD Underwriter**
  a. **After the Firm Commitment is signed by HUD, the original is returned to the Lender's Underwriter.**

b. **After the Lender and the Mortgagee accept and sign the Firm Commitment, the original shall be returned to the assigned HUD Underwriter (not the HUD Account Executive, who will service the loan, identified in the Commitment).**

- **LEAN 232 Pipeline as of September 4th, 2009**

**The current activity of our 232 pipeline for the week ending September 4th, 2009 is outlined in the following table.**

| **Section 232 Activity** | *Week ending 9/05/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Applications Received** | | |
| Refinancings 223(f) | 2 | 162 |
| New Const Pre-App | 1 | 48 |
| 223 (A7) | | 10 |
| 223 (D)2 | | 1 |
| New Const-Firm | | 6 |
| **TOTAL** | **3** | **227** |
| **Mkt Acceptance Ltrs Issued** | | |
| New Construction | 2 | 25 |
| **TOTAL** | **2** | **25** |
| **Commitments Issued** | | |
| Refinancings 223(f) | 1 | 103 |
| New Construction | 1 | 4 |
| 223 (D)2 | | 1 |
| 223 (A7) | | 3 |
| **TOTAL** | **2** | **111** |
| **Closings** | | |
| Refinancings 223(f) | 3 | 69 |
| New Construction | | 2 |
| 223 (D)2 | | 1 |
| 223 (A7) | | 3 |
| **TOTAL** | **3** | **75** |
| **Applications currently in underwriting review:** | | **66** |
| **Applications in queue (not yet assigned):** | | **54** |

September 4th , 2009

- **Need to Reference Previous LEAN 232 Updates?**
  **Previous E-Newsletters (Email Updates) can be found at:**

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  **We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program?**
  **Join our email list by sending your contact information to** Kristine.Martin@hud.gov

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

August 24th , 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of August 24th , 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of August 24th, 2009, we would like to share with you the following:**

- **Early Commencement Logistics…**
  **Within 5 days of submittal of an Early Commencement request, please contact Amee Welch in Seattle for assignment of an OIHCF Underwriter – if one has not already been assigned in the course of a previously submitted Pre-Application or Firm Application submittal. The OIHCF Underwriter will coordinate this process. Moreover, as the Early Commencement documents currently posted to FHA.GOV indicate, HUD's environmental review (signed HUD Form 4128) must be completed prior to HUD approving of an Early Commencement. Thus, if you are submitting an Early Commencement request prior to submittal of a Pre-application or Firm Application, you will need to include the Environmental documents referenced by the Pre-Application checklist in the Early Commencement request (if not already previously submitted).**

- **Survey Monkey…**
  **Upon closing of a Lean 232 loan, the OIHCF Underwriter or OIHCF Closing Coordinator will be sending the Lender Underwriter an email that will contain a link to a survey that HUD has developed (using surveymonkey.com). We will be using this survey to improve the Lean 232 process.**

- **LEAN 232 Pipeline as of August 7th, 2009**
  **The current activity of our 232 pipeline for the week ending August 21st, 2009 is outlined in the following table.**

August 24th , 2009

| Section 232 Activity | *Week ending 8/21/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Applications Received** | | |
| Refinancings 223(f) | 5 | 159 |
| New Const Pre-App | 4 | 43 |
| 223 (A7) | 2 | 10 |
| 223 (D)2 | | 1 |
| New Const-Firm | 1 | 6 |
| **TOTAL** | **12** | **219** |
| **Mkt Acceptance Ltrs Issued** | | |
| New Construction | | 23 |
| **TOTAL** | **0** | **23** |
| **Commitments Issued** | | |
| Refinancings 223(f) | | 102 |
| New Construction | | 3 |
| 223 (D)2 | | 1 |
| 223 (A7) | | 3 |
| **TOTAL** | **0** | **109** |
| **Closings** | | |
| Refinancings 223(f) | 2 | 66 |
| New Construction | | 2 |
| 223 (D)2 | | 1 |
| 223 (A7) | | 3 |
| **TOTAL** | **2** | **72** |
| **Applications currently in underwriting review:** | | **50** |
| **Applications in queue (not yet assigned):** | | **70** |

- **Need to Reference Previous LEAN 232 Updates?**
  **Previous E-Newsletters (Email Updates) can be found at:**

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  **We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion.**
  ***We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program?**

August 24th , 2009

**Join our email list by sending your contact information to** Kristine.Martin@hud.gov

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

August 7th , 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of August 7th , 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of August 7th, 2009, we would like to share with you the following:**

- **PLEASE KEEP IN MIND…**

  1. **The Executive Summary presented in the Lender Narrative must reflect the final Lender's underwriting conclusions proposed and must be consistent with the documents included in Firm Commitment package (FHA Form 2453-MM, HUD 92264 HCF, 92264A, etc.).**

  2. **The tables in the Lender Narrative must reflect the Lender's final underwritting numbers compared to the 3rd Party Reports, calculations, and conclusions. All Lender numbers from these comparison charts shall match the Executive Summary of the Lender Narrative and thus shall reflect the actual Lender's underwriting conclusions for the proposed project.**

  **Please make sure that this is done for all applications submitted under the LEAN 232 Program.**

- **LEAN 232 Pipeline as of August 7th, 2009**
  **The current activity of our 232 pipeline for the week ending August 7th, 2009 is outlined in the following table.**

| **Section 232 Activity** | *Week ending 8/07/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Applications Received** | | |
| Refinancings 223(f) | 7 | 150 |
| New Const Pre-App | 8 | 38 |
| 223 (A7) | 1 | 8 |

August 7th , 2009

- **Need to Reference Previous LEAN 232 Updates?**
  **Previous E-Newsletters (Email Updates) can be found at:**

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox -** LeanThinking@hud.gov
  **We continue to be inundated with questions and are working through these questions as quickly as we can – many of**

**these involve policy issues, which require substantial discussion. *We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program? Join our email list by sending your contact information to** Kristine.Martin@hud.gov

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

July 24th , 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of July 24th , 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of July 24th, 2009, we would like to share with you the following:**

**PLEASE KEEP IN MIND WHEN PRESENTING 232/223f LOAN TO VALUE (LTV) %…**
**Given the difficult economic and fiscal environment nationally, and the uncertainty of both Medicare and Medicaid reimbursements, the Department is requesting that lenders exercise caution in underwriting all 232 loans. Although the Section 232 Regulations allow Section 232/223f loans to go as high as 85% loan to value (LTV), OIHCF will not exceed 80% LTV without mitigating factors. Going forward, loan applications not meeting this criteria will be rejected. We ask that you adhere to the 80% LTV rule regardless of what your experience has been in the past. The Department's review of mitigating factors will focus on any project specific attributes that result in limiting project market risk or in reducing project financial risk. Examples of mitigating factors include, a high debt service coverage ratio, a 3-year history of income and expenses that support the Net Operating Income conclusions, very conservative appraisals, additional collateral, or other default protections. It is not considered adequate mitigation to solely cite the strength or reputation of the owner/management/lender. Please note that this list of examples is by no means all inclusive and each project requesting a LTV exceeding 80% will be evaluated based upon the project as a whole and it's risk to the FHA Insurance Fund.**

**TIPS TO REMEMBER FOR APPRAISALS AND MARKET STUDIES**

- ✓ **Don't ignore the Sales Comparison Approach! HUD recognizes that incomes vary from facility to facility and the Income Approach is key to the valuation of the going concern. But what HUD wants to know for its loan decisions is**

**what the property would sell for with an Operator in place at the projected occupancy. This is the "market value" of the going concern. It is an indicator of trouble when comparable building sales do not support the conclusions of the income approach.**

- ✓ **A common problem we have seen with market studies is that the Analyst has ignored inferior units on the supply side. These units must be discussed even if you are making a case for their exclusion from the competition.**

- ✓ **When making your conclusions about the size of the Primary Market Area, pay close attention to where the existing competitors are drawing their tenants from.**

- ✓ **Be sure your market study includes all vacant/off-line units in the supply count.**

- ✓ **Some Lenders have been reluctant to depart from the conclusions of the appraisal as they perceive this would violate FIREA rules. HUD wants Lenders to view the appraisal as a tool to do their underwriting and loan sizing correctly. Lenders should not use a value they disagree with, and are allowed to make modifications with justification. If Lenders feel they are prohibited from doing this, they should cite the FIREA rule at issue in their narrative.**

- ✓ **The concluded "Highest and Best Use as if Vacant" is important because it dictates the type of land comparables the Appraiser will chose. Unless the site is located next to a hospital, it is unlikely that the highest and best use as vacant will be senior housing. The highest and best use conclusion should conform to the actual zoning.**

- ✓ **The selection of the capitalization rate should be primarily based on recent sales. Ideally these rates would come from the Building Sales Comparables, however these are often chosen by location before sale date. Recent cap rate data should be included every time, even if an additional set of cap rate comps needs to be introduced.**

- ✓ **Supply your Appraiser/Analyst with copies of the Statement of Work for Appraisals and Market Studies. We are constantly trying to improve these documents, so check with FHA.gov**

**for new versions before you start. You may also contact wayne.d.harris@hud.gov for the most recent version. Many of the problems we encounter in our reviews could be avoided by adherence to the SOWs.**

## LEAN 232 Pipeline as of July 17th, 2009

**The current activity of our 232 pipeline for the week ending July 17th, 2009 is outlined in the following table.**

| Section 232 Activity | *Week ending 7/17/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Applications Received** | | |
| Refinancings 223(f) | 4 | 132 |
| New Const Pre-App | | 26 |
| 223 (A7) | | 4 |
| 223 (D)2 | | 1 |
| New Const-Firm | | 4 |
| **TOTAL** | **4** | **167** |
| **Market Acceptance Letters** | | |
| New Construction | | 19 |
| **TOTAL** | **0** | **19** |
| **Commitments Issued** | | |
| Refinancings 223(f) | 2 | 96 |
| New Construction | 1 | 2 |
| 223 (D)2 | | 1 |
| 223 (A7) | | 3 |
| **TOTAL** | **3** | **102** |
| **Closings** | | |
| Refinancings 223(f) | 1 | 64 |
| New Construction | | 1 |
| 223 (D)2 | | 1 |
| 223 (A7) | | 3 |
| **TOTAL** | **1** | **69** |
| **Applications currently in underwriting review:** | | **39** |
| **Applications in queue (not yet assigned):** | | **39** |

- **Need to Reference Previous LEAN 232 Updates?**
  Previous E-Newsletters (Email Updates) can be found at:

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  We continue to be inundated with questions and are working through these questions as quickly as we can – many of these

involve policy issues, which require substantial discussion. *We appreciate your patience.*

- **Interested in getting updates on the LEAN 232 Program?**
  Join our email list by sending your contact information to Kristine.Martin@hud.gov

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

July 10th , 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of July 10th , 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of July 10th, 2009, we would like to share with you the following:**

- **Things to Remember when Working on Closing Documents:**
  When requesting "FHA Commissioner" signature of Regulatory Agreements, Notes, and Escrow Agreements, keep in mind the following:

  - These closing documents are currently being signed whenever possible by Ms. Renee' D. Greenman, Acting National Director, 232 Lean Development. The Notary for Ms. Greenman is in King County WA, so please ensure that is correct on the notary pages.

  - *For a smooth and timely closing, it is imperative to plan in advance.* In cases where Ms. Greenman is unavailable to sign on the day needed, please work with the OIHCF Underwriter assigned to the particular project – they may be able to be signed by Roger Miller, in OIHCF Headquarters. *Again, please coordinate with your LEAN Underwriter*

  - When sending the above documents for signature, please include a cover letter that contains detailed instructions regarding where you wish documents mailed. Tabbing areas requiring signature is appreciated.

  - Although not required, *if you include a self–addressed Fed-Ex envelope(s) it will speed the process.*

  - Please note that the original Note will always be sent to the HUD Closing Attorney.

  - An example of a cover letter is attached and can also be found on FHA.gov

July 10th , 2009

***Please share this information with all staff who work on your closings***

- **It's Posted! Check out the Revised Section 223f Firm Commitment Template!**
  As mentioned in the June 26, 2009, email blast, the revised Firm Commitment template for Section 223(f) is now posted to FHA.GOV. Please note that this is posted under "Original Section 232/223(f) Documents" and "Lender Tools and Templates". The DACA language that was added to this document is at the bottom of the first page (within Condition #2).

- **LEAN 232 Pipeline as of July 10th, 2009**
  **The current activity of our 232 pipeline for the week ending July 10th, 2009 is outlined in the following table.**

July 10th , 2009

| Section 232 Activity | *Week ending 7/10/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Applications Received** | | |
| Refinancings 223(f) | 5 | 128 |
| New Const Pre-App | 3 | 26 |
| 223 (A7) | 1 | 4 |
| 223 (D)2 | | 1 |
| New Const-Firm | | 4 |
| **TOTAL** | **9** | **163** |
| **Market Acceptance Letters** | | |
| New Construction | 4 | 19 |
| **TOTAL** | **4** | **19** |
| **Commitments Issued** | | |
| Refinancings 223(f) | 9 | 94 |
| New Construction | | 1 |
| 223 (D)2 | | 1 |
| 223 (A7) | | 3 |
| **TOTAL** | **9** | **99** |
| **Closings** | | |
| Refinancings 223(f) | 18 | 63 |
| New Construction | | 1 |
| 223 (D)2 | 1 | 1 |
| 223 (A7) | 1 | 3 |
| **TOTAL** | **20** | **68** |
| **Applications currently in underwriting review:** | | **43** |
| **Applications in queue (not yet assigned):** | | **30** |

- **Need to Reference Previous LEAN 232 Updates?**
  Previous E-Newsletters (Email Updates) can be found at:

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.*

- **Interested in getting updates on the LEAN 232 Program?**

July 10th , 2009

Join our email list by sending your contact information to Kristine.Martin@hud.gov

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

June 26th , 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of June 26th , 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of June 26th, 2009, we would like to share with you the following:**

- **Revised Firm Commitment Templates Now Posted on FHA.GOV**
  **Revised Firm Commitment templates for Section 223(f), Section 223(a)(7), and Substantial Rehabilitiation are now posted to FHA.GOV. A revised Firm Commitment template for New Construction will be posted to FHA.GOV within the next week. These revised Firm Commitments reference the Deposit Account Control Agreement and are not locked (as some of the previous documents were).**

  ***EFFECTIVE IMMEDIATELY…*****For all future submittals, please use these revised Firm Commitment templates.**

  ***ALSO…*** **The LEAN Firm Application checklists are being revised to require the *draft Firm Commitment and Special Conditions electronic submittal to be in Microsoft Word format.* As we continue to strive to improve our processing efficiencies, we have found having these documents in Microsoft Word format from the start greatly expedites the review process and preparation for Loan Committee. Please note: We will continue to accept other Firm Commitment exhibits/attachments (except the Special Conditions) in PDF format as separate documents.**

- **"Getting the Word Out!" - LEAN 232 Presentations and Events**
  - ***2009 LTC Leadership Forum – June 25th (Akron, Ohio)*** **–**

**Bill Lammers, Acting Director of the 232 Program, presented the keynote speech at the Ohio Long-Term Care Leadership Forum. Highlights of this presentation included the implementation of LEAN 232 Program – what it is, how it works, and the benefits of the program.**

- ***Committee on Health Care Financing Annual Meeting – June 25th (Washington, DC)***
  **Roger Miller, Director of the Office of Insured Health Care Facilities (OIHCF), Renee Greenman, Acting Director of Field Operations, and several members of the Executive Staff of OIHCF presented an update on the LEAN 232 Program, including current operational status, asset management items, portfolio analysis, and accounts receivable financing.**

- **"Closing Updates" – Address to be used for Closing Documents**
  **Previously, the local HUD office was often used as the address for HUD on the various closing documents (including the UCC Financing Statements). For future LEAN closings, please use the following address:**

  **Department of Housing and Urban Development**
  **Office of Insured Health Care Facilities**
  **451 Seventh St. SW.**
  **Washington, DC 20410**

- **LEAN 232 Pipeline as of June 26th, 2009**
  **The current activity of our 232 pipeline for the week ending June 26th, 2009 is outlined in the following table.**

June 26th , 2009

| Section 232 Activity | *Week ending 6/26/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Applications Received** | | |
| Refinancings 223(f) | 4 | 123 |
| New Const Pre-App | | 23 |
| 223 (A7) | | 3 |
| 223 (D) | | 1 |
| New Const-Firm | 2 | 4 |
| **TOTAL** | **6** | **154** |
| **Market Acceptance Letters** | | |
| New Construction | 1 | 15 |
| **TOTAL** | **1** | **15** |
| **Commitments Issued** | | |
| Refinancings 223(f) | 2 | 85 |
| New Construction | | 1 |
| 223 (D)2 | | 1 |
| 223 (A7) | | 3 |
| **TOTAL** | **2** | **90** |
| **Closings** | | |
| Refinancings 223(f) | 8 | 45 |
| New Construction | | 1 |
| 223 (A7) | | 2 |
| **TOTAL** | **8** | **48** |
| **Applications currently in underwriting review:** | | **38** |
| **Applications in queue (not yet assigned):** | | **39** |

- **Need to Reference Previous LEAN 232 Updates?**
  Previous E-Newsletters (Email Updates) can be found at:

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.*

- **Interested in getting updates on the LEAN 232 Program?**

June 26th , 2009

Join our email list by sending your contact information to Kristine.Martin@hud.gov

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

June 12th , 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of June 12th , 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of June 12th, 2009, we would like to share with you the following:**

- **CHANGE, CHANGE, CHANGE….**
  As a result of our staffing shortage in OIHCF and in an effort to best serve you, we are modifying the current management system for assigning LEAN Automated Processing projects to OIHCF Underwriters.
  In an effort to keep the number of active projects assigned to each underwriter at a manageable number, we have implemented the following procedure, ***effective immediately***:

  - The procedure for requesting and receiving an assignment of an FHA project number will remain as it currently is.

  - When the lender has a Pre-application or Firm Application that is completely assembled, the electronic version will be sent to Amee Welch in Seattle (for Firm Applications, the application fee check and the lender check transmittal letter will also be submitted). The date that Amee receives the electronic submittal and the check shall be considered the receipt date for Pre-application or the Firm Application and shall constitute the date of submittal for third party reports, credit reports, etc.

  - If the underwriting workload management system has no spare capacity at the time of electronic submittal, the project will be placed in a queue. The Lender will receive notification including but not limited to,

"{Name of Project} has been placed in this queue. It is the {insert number that project is in the queue} project in the queue."

- When underwriting capacity becomes available, the Workload Manager will immediately assign the first project in the queue to an underwriter (OIHCF will be following a first in, first out approach).

- When assigned a new project, the underwriter will immediately contact the lender and tell them where to submit the hard copies of the submittal.

We will be updating lenders on the status of the queue in future lender email blasts.

As of today, over 30 projects are in the LEAN project queue. Although changes as a result of the recent Kaizen event in Seattle will permit OIHCF to further streamline and expedite the actual underwriting review and loan committee review processes, OIHCF unfortunately only has "12" full time underwriters and "2" appraisers for the entire country. At the current time, the heightened interest in LEAN Section 232 program transactions has resulted in an unprecedented volume of new applications in the pipeline. The good news is that even with the understaffing issues, the LEAN team is producing firm commitments in one third to half the time of previous MAP 232 processing.

The queue is a "temporary" measure to deal with exploding application volumes until OIHCF is able to finalize our new staff hiring process, which should add 17 new staff positions to the LEAN OIHCF staff. OIHCF will provide updates to lenders on the status of the queue in future lender email blasts.

OIHCF is committed to obtaining the staff necessary to process firm applications within LEAN timeframes and our priority remains providing professional and efficient first class service. OIHCF appreciates your patience and understanding as we attempt to manage this LEAN pipeline within our current resource allocation.

June 12th , 2009

- **The "Skinny" on New Construction – Pre-Application Proposals**
  You have asked and we have listened! There has been a lot of interest by Lenders in pre-planning of new construction/pre-application deals, to know where New Construction is being proposed, what HUD has received, and what pre-applications have been approved by HUD. In response, OIHCF is posting a list of LEAN new construction and sub-rehab projects sorted by State. To find out more, visit the Underwriting Guidance Home Page on FHA.GOV.

- **Your assistance is requested when submitting the Lender Narrative….**
  In an effort to expedite the review of applications, we are asking the Lenders to submit the Lender Narrative for their proposal in WORD in addition to the pdf version currently being submitted. This will allow the HUD Underwriter to use the charts presented by the Lender at Loan Committee. Thank you for your assistance in making our review even more efficient.

- **REMINDER – When Submitting Firm Extension Requests and…**
  Please remember to send your Firm Commitment Extension requests, Firm Amendment requests, and firm Commitments and Amendments signed by the Lender and Mortgagor to the project's assigned HUD Underwriter!

- **Section 232/223(f)Project Capital Needs Assessment (PCNA) - Condition Assessment & Proposed Replacement and Cost Schedule – Capital Items and Major Movable Equipment**
  It is the Needs Assessor's responsibility to determine the condition of Capital Items and Major Movable Equipment, and to establish the future replacement needs for the line items over a 15 year period.

  The Replacement Reserve must be fully funded to support the replacement of items in the year determined by the difference between "Estimated Useful Life," and "Reflective Age" (aka – Remaining Useful Life). If not, additional explanation must be provided to justify such deviations.

In addition, if replacement funding is proposed over a consecutive year period (i.e. Years 4, 5, 6, and 7), then an explanation must be provided to justify a phased replacement.

- **LEAN 232 Pipeline as of June 12th, 2009**

  The current activity of our 232 pipeline for the week ending June 12th, 2009 is outlined in the following table.

| **Applications received** | *Week Ending 06/12/09* | *Cumulative to Date in FY09* |
|---|---|---|
| Refinancings 223(f) | 2 | 117 |
| New Const Pre-App | | 21 |
| 223 (A7) | | 3 |
| 223 (D) | | 1 |
| New Const-Firm | | 2 |
| **TOTAL** | **2** | **144** |
| **Market Acceptance Letters** | | |
| New Construction | 1 | 13 |
| **TOTAL** | **1** | **13** |
| **Commitments issued** | | |
| Refinancings 223(f) | 10 | 69 |
| New Construction | | 1 |
| 223 (D)2 | | 1 |
| 223 (A7) | 1 | 3 |
| **TOTAL** | **11** | **74** |
| **Closings** | | |
| Refinancings 223(f) | 3 | 35 |
| New Construction | | 1 |
| 223 (A7) | | 2 |
| **TOTAL** | **3** | **38** |

- **Need to Reference Previous LEAN 232 Updates?**

  Previous E-Newsletters (Email Updates) can be found at:

  http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**

June 12th , 2009

We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.*

- **Interested in getting updates on the LEAN 232 Program?**
  Join our email list by sending your contact information to Kristine.Martin@hud.gov

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

May 29th , 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of May 29th , 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of May 29th, 2009, we would like to share with you the following:**

- **Staff Members Attend "Kaizen" Session in Seattle to Continue LEAN Reengineering Effort**
  Approximately 30 participants, including HUD headquarters and out-stationed field staff, LEAN consultants, and industry representatives attended a "Kaizen" event in the Seattle Office May 19-21. The Seattle event evaluated the initial months of LEAN work using the newly developed streamlined Section 232 LEAN processing programs. While processing times for new 223(f) loans has been cut, on average, from 220 to 82 days (firm application to closing) and development productivity has been improved by over 5 times, the current OIHCF level of 232 staffing is insufficient to keep up with the volume of incoming applications. The Kaizen event was held to further streamline our processes and improve effectiveness of underwriting. Specific topics included rationalizing the workload management and underwriting team structures, workflow and queuing protocols, revisions and improvements to underwriting punch-lists and loan committee submission templates, and initiating an improved closing coordination function. We anticipate that these improvements will enhance underwriting quality and continue to improve the 232 team's productivity; however, some queuing of incoming submissions may continue pending further allocation of staff resources to keep up with the level of submissions.

  *Note: Kaizen* (改善, Japanese for "improvement") is a philosophy that *focuses on continuous improvement throughout all aspects of life*. When applied to the workplace, Kaizen activities continually improve all functions of a business, from

manufacturing to management and from the CEO to the assembly line workers. By improving standardized activities and processes, Kaizen aims to eliminate waste. LEAN Engineering and LEAN Office Process Improvement Programs were pioneered by Toyota, and formed the foundation for the improvement initiatives in the FHA Section 232 LEAN Mortgage Insurance Program.

- **232 LEAN Presentations – Calendar of Events**
  There is a lot of interest in the LEAN 232 Program! And as such, we have received many invitations to discuss all aspects of the implementation of the 232 LEAN program. Events we are participating in include:

  - Southeast Mortgagee Advisory Council (SMAC) Conference - May 26-28, 2009 (Hilton Head NC)
  - Healthcare Symposium – June 22, 2009 (Avon, Colorado)

- **LEAN 232 Pipeline as of May 29th, 2009**
  The current activity of our 232 pipeline for the week ending May 29th, 2009 is outlined in the following table.

May 29th , 2009

| Section 232 Activity | *Week ending 5/29/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Applications received** | | |
| Refinancings 223(f) | 4 | 113 |
| New Const Pre-App | 3 | 21 |
| 223 (A7) | | 3 |
| 223 (D) | | 1 |
| New Const-Firm | | 2 |
| **TOTAL** | **7** | **140** |
| **Market Acceptance Letters** | | |
| New Construction | | 11 |
| **TOTAL** | **0** | **11** |
| **Commitments issued** | | |
| Refinancings 223(f) | | 54 |
| New Construction | | 1 |
| 223 (D)2 | | 1 |
| 223 (A7) | | 2 |
| **TOTAL** | **0** | **58** |
| **Closings** | | |
| Refinancings 223(f) | 3 | 32 |
| New Construction | | 1 |
| 223 (A7) | 1 | 2 |
| **TOTAL** | **4** | **35** |

- **Need to Reference Previous LEAN 232 Updates?**
  Previous E-Newsletters (Email Updates) can be found at:

  http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.*

- **Interested in getting updates on the LEAN 232 Program?**
  Join our email list by sending your contact information to Kristine.Martin@hud.gov

May 29th , 2009

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

May 8th, 2009

**<u>HUD's LEAN 232 Program</u>**
**Office of Insured Health Care Facilities (OIHCF)**

**<u>Update as of May 8th, 2009</u>**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program. As of May 8th, 2009, we would like to share with you the following:**

- **<u>OIHCF Staff Members Attend Western Lenders' Conference</u>**

  **The FHA Commissioner, Brian Montgomery, along with OIHCF staff presented at the Western Lenders Conference, held in Las Vegas, Nevada last week. Updates and technical issues were discussed, relating to 232 Policies, accounts receivable financing, closing issues, and deposit control agreement requirements. All of the sessions were very well received. The staff received many accolades from the 200-300 conference attendees regarding the progress of the Section 232 LEAN program.**

- **<u>232 LEAN Presentations – Calendar of Events</u>**

  **There is a lot of interest in the LEAN 232 Program! And as such, we have received many invitations to discuss all aspects of the implementation of the 232 LEAN program. Upcoming events are listed below:**

  - **Washington State Health Care Conference - May 5, 2009 (Vancouver WA)**

  - **Southwest Mortgagee Advisory Conference - May 7-8, 2009 (Plano TX)**

- **Mortgage Banker's Association (MBA) Commercial/Multifamily Servicing and Technology Conference - May 13-15, 2009 (New Orleans)**

- **Midwest Lenders' Conference - May 19-20, 2009 (Detroit MI)**

- **Southern Mortgagee Advisory Conference - May 26-28, 2009 (Hilton Head NC)**

- **<u>Non-Critical Repair Release Request:</u>**

  **We have posted a revised document to FHA.GOV under "Original Section 232/223f Documents", "Revised Section 232/223f Documents" and FHA.gov 232 Loan Servicing dealing with non-critical repair release requests. This document combines the owner certification and protocol into one document (it also includes more details on the protocol). As previously conveyed, non-critical repair escrow release requests will be submitted to the OIHCF Account Executive. If there is a question as to who the OICHF Account Executive is for your specific project, please contact one of the Workload Managers.**

- **<u>Hard Copy Submittals:</u>**

  **To assist in the review of firm applications, please note the following recommendations regarding future hard copy submittals to HUD:**

  1. **Submit a completed checklist with the submittal.**

  2. **Tab the submittal in accordance with HUD's checklist.**

  3. **We have been having difficulty with hard copy submittals falling apart. Please do not include too many documents in the binder/folder. We have found that submittals assembled in 3 ring binders tend to stay together better than submittals**

**assembled in 2 hole punch folders – although either is acceptable.**

4. **Bound third party reports do not need to be disassembled and included in the binder/folder. We prefer that you keep the report bound and reference the separately bound report in the binder/folder.**

5. **Before saving and printing the Lender Narrative, please update the page numbers in the index at the beginning of the narrative. To do so in Word 2007, place the cursor in the index, right click, and choose "Update Field"**

- **<u>LEAN 232 Pipeline as of May 8th, 2009</u>**

**The current activity of our 232 pipeline for the week ending**
**May 8th, 2009 is outlined in the following table.**

May 8th, 2009

| Section 232 Activity | *Week ending 5/08/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Applications received** | | |
| Refinancings 223(f) | 8 | 100 |
| New Const Pre-App | | 14 |
| 223 (A7) | | 2 |
| 223 (D) | | 1 |
| New Const-Firm | | 1 |
| **TOTAL** | **8** | **117** |
| **Market Acceptance Letters** | | |
| New Construction | 1 | 9 |
| **TOTAL** | **1** | **9** |
| **Commitments issued** | | |
| Refinancings 223(f) | | 52 |
| New Construction | | 1 |
| 223 (A7) | | 2 |
| **TOTAL** | **0** | **55** |
| **Closings** | | |
| Refinancings 223(f) | 1 | 23 |
| New Construction | | 1 |
| 223 (A7) | | 1 |
| **TOTAL** | **1** | **25** |

- **Need to Reference Previous LEAN 232 Updates?**
  **Previous E-Newsletters (Email Updates) can be found at:**

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  **We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program?**
  **Join our email list by sending your contact information to Kristine.Martin@hud.gov**

May 8th, 2009

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

April 24th, 2009

# HUD's LEAN 232 Program
## Office of Insured Health Care Facilities (OIHCF)

## Update as of April 24th, 2009

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of April 24th, 2009, we would like to share with you the following:**

- **Check out FHA.gov for Updates on the LEAN 232 Program:**

  **http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

- **LEAN 232 Pipeline as of April 24th, 2009**

  **The current activity of our 232 pipeline for the week ending April 24th, 2009 is outlined in the following table.**

April 24th, 2009

| Section 232 Activity | *Week ending 4/24/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Applications received** | | |
| Refinancings 223(f) | 12 | 86 |
| New Construction | 2 | 14 |
| A (7) | | 2 |
| Other | 1 | 2 |
| **TOTAL** | **15** | **104** |
| **Market Acceptance Letters** | | |
| New Construction | 0 | 8 |
| **TOTAL** | **0** | **8** |
| **Commitments issued** | | |
| Refinancings 223(f) | 5 | 44 |
| New Construction | | 1 |
| Other (a)7 | | 2 |
| **TOTAL** | **5** | **47** |
| **Closings** | | |
| Refinancings 223(f) | 2 | 22 |
| New Construction | | 1 |
| Other (a)7 | | 1 |
| **TOTAL** | **2** | **24** |

- **Need to Reference Previous LEAN 232 Updates?**
  **Previous E-Newsletters (Email Updates) can be found at:**

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  **We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program?**
  **Join our email list by sending your contact information to Kristine.Martin@hud.gov**

April 24th, 2009

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

April 10th, 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of April 10th, 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of April 10th, 2009, we would like to share with you the following:**

- **Non-Critical Repair Escrow Releases:**

  **We have revised the protocol document for non-critical repair escrow releases on Section 223(f)'s. The revised document, which is posted under "Original Section 232/223f Documents" and "Revised Section 232/223f Documents", calls for the non-critical repair escrow release requests to be submitted to the OIHCF Account Executive – as we do not currently have a Construction Manager in OIHCF. Please contact one of the Workload Managers if there is a question on who the OICHF Account Executive is for your specific project.**

- **Approved Underwriters for LEAN:**

  **As previously discussed, if an underwriter (MAP-Approved for Section 232) did not attend the required LEAN training in Seattle for the particular type of loan they are underwriting, they must underwrite two projects under the review of a LEAN-approved underwriter prior to being considered approved to underwrite LEAN loans. If you are an underwriter who is requesting approval to underwrite LEAN projects in this manner, please request such approval from Amee Welch (Amee.Welch@HUD.GOV) in Seattle. In the email request, include the two project names, FHA project numbers, and the name of the approved LEAN underwriter who reviewed your work. The LEAN underwriter designee must demonstrate proficiency in meeting LEAN standards to be certified after reviewing the two submissions.**

- **<u>Deposit Control Agreement on LEAN 232 Closings:</u>**

  **Because of changes made to Article 9 of the Uniform Commercial Code in 2001, the Deposit Control Agreement is necessary in order for the FHA Lender to perfect its security interest in project funds that reside in a depository bank (other than with the FHA Lender). Therefore, on all Section 232 LEAN closings, HUD will request a Deposit Control Agreement (DCA). There are sample Deposit Control Agreements posted on FHA.GOV under "Accounts Receivable Financing Documents" and "Sample Closing Documents." Please note, there is a separate sample agreement for projects with and without accounts receivable financing. *These are only samples. You may submit the form DCA that is used by the depository bank to the HUD Closing Attorney for review.* If you have questions on this issue, please work with the assigned HUD Closing Attorney.**

- **<u>Clarification *(see RED font)* on Definition of Eligible Debt on a Refinance:</u>**

  **The revised 232/223f Lender Narrative Template will include the following language, as well as a matrix, to clarify the definition of eligible debt under the LEAN 232 program:**

  **<u>A. Two* Year Rule</u>:**

  **Project debt that is less than 24 months old will need to be investigated and must meet the definition of "Eligible Debt" below (See Section ~~C~~ B) if it is to be used in the calculation of the cost to refinance. No investigation is needed on project debt that is at least 24 months old prior to using it in the calculation of the cost to refinance, provided the identity of interest described in the next sentence is not present. ~~*provided neither of the two scenarios described in the "Five Year Rule" below are present*~~. Note: in the case of refinancing a bridge loan, as long**

**as there is not an identity of interest between the Mortgagor/Borrower and the underwriting HUD lender and/or its affiliated bridge lender, the refinance transaction may be treated under the Two-Year Rule. If this identity of interest is present, the debt must be seasoned for at least five years if it doesn't meet the definition of "Eligible Debt" below.**

**~~B. Five Year Rule:~~**

**~~Project debt that is less than five-years old AND is owed to either :~~**

**~~1. the underwriting HUD lender; or,~~**

**~~2. any entity related to the HUD lender, no matter how slight the identity-of-interest,~~**

**~~will need to be qualified as "Eligible Debt", meeting the definition below (See Section C). In this case, only the "eligible" portion of the outstanding balance qualifies and can be used in the calculation of the cost to refinance.~~**

**~~C~~ B. Definition of Eligible Debt: Project debt ~~(including bridge loans)~~ that meets any of the below definitions, may be included in the cost to refinance – there is no seasoning required.**

**1. Outstanding mortgage(s) incurred in connection with the construction or purchase of the project, or with capital improvements made to the property as confirmed by the current mortgagee – provided it can be demonstrated that there was no cash out to the mortgagor of the proposed FHA Insured loan or its principals. However, if the debt was incurred as a result of an identity of interest ** purchase, the debt is not considered eligible debt and must meet the seasoning requirements described herein. Furthermore, if the debt was incurred as a result of buying out a partner, the debt is not considered eligible debt and must meet the seasoning requirements above.**

**2. Other recorded indebtedness such as mechanic's liens and tax liens provided they did not result from personal obligations of the mortgagor.**

**3. Unrecorded debt directly connected with the project supported by documentation from the mortgagor. If the indebtedness is not recorded, the mortgagor must provide the Lender with documentation that substantially verifies that the obligation is directly connected to the project. Examples include:**

**a. Indebtedness incurred in making needed improvements and betterments to the property.**

**b. Indebtedness incurred or advances made to cover operating deficits.**

**4. Other eligible costs associated with paying off the eligible debt. Examples are:**

**a. Reasonable delinquent and accrued interest,**

**b. Reasonable prepayment penalties on the mortgage,**

**c. Recording, release, and re-conveyance fees,**

**d. Documentation or processing fees,**

***** ***The debt seasoning requirement under MAP was one year, and the two year requirement has been phased in by OIHCF. The one year requirement applies only to debt that has been funded or put into place prior to September 1, 2008 and was subject to a signed engagement letter with the LEAN lender on or prior to that date. Beginning April 1, 2009, all projects must meet the two year requirement unless the project has a signed engagement letter prior to September 1, 2008. OIHCF provided a seven month phase in period for the***

***two year rule, because a number of projects with interim financing were subject to a pre-existing engagement letter with a LEAN/MAP approved Lender.***

***** An identity of interest purchase is defined as one in which there is any identity of interest, however slight, between the seller and the purchaser <u>that survives the sale transaction. An owner operator that continues to operate the facility after the sale constitutes an identity of interest.</u>***

- **<u>Independent Living Units in a Section 232 Project:</u>**

  **It has been longstanding policy that HUD will allow up to 25% of the units in a Section 232 facility to be Independent Living Units. This policy remains unchanged under LEAN. However, please note the following:**

  - ✓ **The facility must offer services to all residents in the project comparable to those found in a skilled nursing facility, assisted living facility, board and care, or intermediate care facility.**

  - ✓ **The Independent Living Units do not need to be licensed – they may be licensed or un-licensed so long as all of the other units in the <u>facility</u> are licensed.**

  - ✓ **Under LEAN, we are continuing with the longstanding policy that if the project combines Nursing Home/Intermediate Care or Board and Care units with Independent Living units, that a 12 month debt service reserve is required – see MAP Guide, Section 3.9. A. 3. b. (2). Note, this requirement does not apply to projects that combine Assisted Living units with Independent Living units.**

  - ✓ **Waivers to exceed the 25% limit will be considered on a case by case basis for good cause. Please note that OIHCF to date has not provided a waiver if the percentage of Independent Living units exceeds <u>30%</u> of the total project units.**

- ✓ **If you have a proposal that contains a percentage of Independent Living units that is above the percentage found acceptable to HUD, you may wish to pursue the possibility of insuring the project under two mortgages. We have insured loans on projects where a portion of the project was insured under Section 232 and another portion was insured under Section 221(d)(4) or Section 231. If you wish to pursue such a project, please contact HUD as OIHCF will need to coordinate with Multifamily staff in the processing of the project – the Section 232 loan would be processed under LEAN and the Section 221(d)(4) or Section 231 loan would be processed by the Multifamily Hub.**

- **LEAN 232 Pipeline as of April 10th, 2009**

| **Section 232 Activity** | *Week ending 4/10/09* | *Cumulative to date in FY09* |
|---|---|---|
| **Market Acceptance Letters** | | |
| New Construction | | 7 |
| **Applications received** | | |
| Refinancing 223(f) | 3 | 65 |
| New Construction | | 11 |
| Other (a)7 | | 2 |
| **TOTAL** | 3 | 78 |
| **Commitments issued** | | |
| Refinancing 223(f) | 2 | 35 |
| New Construction | | 1 |
| Other (a)7 | 1 | 2 |
| **TOTAL** | 3 | 38 |
| **Closings** | | |
| Refinancing 223(f) | 2 | 20 |
| New Construction | | 1 |
| Other (a)7 | 0 | 1 |
| **TOTAL** | 2 | 22 |

| Applications currently under review | 35 |
|---|---|

- **Need to Reference Previous LEAN 232 Updates?**
  **Previous E-Newsletters (Email Updates) can be found at:**

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  **We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program?**
  **Join our email list by sending your contact information to Kristine.Martin@hud.gov**

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

March 27th, 2009

**<u>HUD's LEAN 232 Program</u>**
**Office of Insured Health Care Facilities (OIHCF)**

**<u>Update as of March 27th, 2009</u>**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of March 27th, 2009, we would like to share with you the following:**

- **<u>Updates to FHA.GOV:</u> The following updates have been made to FHA.GOV:**

  - ✓ **The "Sample Closing Documents (including AR Financing)" link has been broken into two links - "Accounts Receivable Financing Documents" and "Sample Closing Documents".**

  - ✓ **The most current closing checklist has been added to each loan type under "Lender Tools – Construction and Closing".**

  - ✓ **We are in the process of uploading legal closing punchlists for all of the loan types. These punchlists will be posted under "HUD Legal Counsel Tools" (for Original Section 232/223f) or under "HUD Tools – Construction and Closing" (for the other tabs).**

  - ✓ **The link for the Intergovernmental Review that is listed in the endnotes on the Firm Application checklists under New Construction, Substantial Rehabilitation, and Section 232/241(a) has been revised. This changed with the new Administration.**

  - ✓ **As a result of our Beta Test on our first Early Commencement, we have added to and revised the documents that now appear under "Early Commencement of Construction" and "Lender Tools".**

March 27th, 2009

- **LEAN 232 Pipeline as of March 20th, 2009**
  - **FHA # Requests – Purchase/Refinance – 221**
  - **FHA # Requests – New Construction – 49**
  - **FHA # Requests – Section 223(a)(7) - 1**
  - **FHA # Requests – Section 241(a) – 2**
  - **FHA # Requests – Sub-Rehab – 3**
  - **FHA # Requests – Section 223(d) – 2**
  - **Applications In (not closed) – Purchase/Refinance – 40 shortly)**
  - **Applications In (not closed) – New Construction – 6**
  - **Applications In – Section 223(a)(7) – 1**
  - **Firm Commitments Issued – 29**
  - **Applications CLOSED –Purchase/Refinance – 14**
  - **Applications CLOSED – New Construction – 1 (5 pre-apps completed)**

- **Need to Reference Previous LEAN 232 Updates?**
  **Previous E-Newsletters (Email Updates) can be found at:**

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  **We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program?**

March 27th, 2009

**Join our email list by sending your contact information to Kristine.Martin@hud.gov**

**For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

March 13th, 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of March 13th, 2009**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of March 13th, 2009, we would like to share with you the following:**

- **LEAN is the Name of the Game for Section 232 Program!**

  **As of March 1, 2009, all Section 232 applications must be submitted to OIHCF (either under the LEAN expedited process or under a TAP process that is expected to be very lengthy in terms of processing time). This applies to new applications submissions ONLY. For any Section 232 application currently in the review process under the MAP/TAP program prior to March 1, 2009, the application processing will continue under MAP/TAP. NOTE, *If you have any questions regarding TAP and OIHCF, please send your inquiry to* LEAN Thinking Mailbox - LeanThinking@hud.gov**

  **For more information on the LEAN 232 Program, check out our FHA.GOV website at:**

  **http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

- **CORRECTION – Management Agents Required to Submit 2530/Previous Participation**

  **A correction to the LEAN 232 Update of 2/20/09, has been made regarding the 2530/APPS requirements for Management Agents. Contrary to the email update sent, *2530/APPS are required on Management Agents by the Code of Federal Regulations (CFRs).***

  **Please keep in mind that the following program participants need to provide 2530/Previous Participation**

**information in Firm Applications submitted under the LEAN 232 Program and therefore are required to register in the Business Partner Registration HUD Multifamily Page at:**

**https://hudapps1.hud.gov/apps/part_reg/apps040.cfm**

- ✓ **Mortgagor Entities and their Principals**
- ✓ **Operator Entities and their Principals**
- ✓ **Parents of Operator Entities and their Principals**
- ✓ **General Contractor and their Principals (if applicable)**
- ✓ **Management Agents and their Principals (if applicable)**

***2530s are not required for Facility Administrators.***

- **More Information on Section 232/223(d) Operating Loss Loans…**
  **As noted on FHA.GOV, the documents required for submittal of a Section 223(d) (Operating Loss Loan) are still being developed. If you would like to assemble a Firm Application on a Section 223(d) on a Section 232 prior to the posting of these documents, please contact Tim Gruenes at tim.gruenes@hud.gov or 612-370-3000 Ext. 2252. We will work with you on the submittal on a case by case basis.**

- **LEAN 232 Program Information shared at the Eastern Lenders Conference on March 9 -11th, 2009**

  **The Office of Insured Health Care Facilities (OIHCF) staff shared information on the LEAN 232 Program during the recent Eastern Lenders Conference on March 9-11th in Baltimore. To find out more about this conference, please contact Jonathan Camps at (202) 887-1825 or at jcamps@lovefunding.com**

- **LEAN 232 Pipeline as of March 6th, 2009**
  - ❑ **FHA # Requests – Purchase/Refinance – 208**

- **FHA # Requests – New Construction – 41**
- **FHA # Requests – Section 223(a)(7) - 1**
- **FHA # Requests – Section 241(a) – 1**
- **FHA # Requests – Sub-Rehab – 2**
- **FHA # Requests – Section 223(d) – 2**
- **Applications In – Purchase/Refinance –40 (with 18 more scheduled to come in shortly)**
- **Applications In – New Construction – 7**
- **Applications In – Section 223(a)(7) – 1**
- **Firm Commitments Issued – 18**
- **Applications CLOSED –Purchase/Refinance – 9**
- **Applications CLOSED – New Construction – 1 (4 pre-apps completed)**

- **Need to Reference Previous LEAN 232 Updates?**
  **Previous E-Newsletters (Email Updates) can be found at:**

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox - LeanThinking@hud.gov**
  **We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. *We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program?**
  **Join our email list by sending your contact information to Kristine.Martin@hud.gov**

March 13th, 2009

February 20th, 2009

# HUD's LEAN 232 Program
## Office of Insured Health Care Facilities (OIHCF)

## Update as of February 20th, 2009

As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of February 20th, 2009, we would like to share with you the following:

- **New Tools Posted on FHA.GOV:**

  FHA.GOV now includes the lender tools required for assembly of a Firm Application (and Pre-application) on 232 New Construction, 232 Substantial Rehabilitation, Section 232/241(a), and Section 223(a)(7). Moreover, there is guidance posted that deals with Early Commencement of Construction. We will soon be posting the closing documents required for each of these programs as well as the Section 223(f) documents that we have revised as a result of our first KAISAN event.

  Check out FHA.GOV Lean 232 Program Updates at:
  **http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

- **Important Guidance on "Credit Reports":**

  The Lender Narrative templates that were recently posted contain the following additional program guidance:

  Program Guidance: Dunn & Bradstreet (D&B) or other *acceptable* commercial credit report for business entities and RCMR 'residential' for individuals are required. If not using D&B, an acceptable commercial credit report must include the following: a) public filings that includes suits, liens, judgments, bankruptcies & federal debt; b) UCC filings; c) credit payment history; d) industry standards showing how the facility compares in the areas of financial stress & payment trends; and e) a credit payment delinquency risk score over a 12-month period. Credit reports can be no more than 60 days old at the time of the Firm Application submission.

February 20th, 2009

- **Risk Assessment Worksheet NOW AVAILABLE!**

  Please see the attached Risk Assessment Worksheets. The Risk Assessment Worksheet is one of the tools that the HUD Underwriter uses on Section 223(f)'s to determine whether or not the appraisal will be additionally reviewed by an OIHCF Appraiser. Please note that there are separate worksheets for assisted living facilities and skilled nursing facilities. These documents will also be posted to FHA.GOV under "Revised Section 232/223(f) Documents" and "HUD Tools for Firm Application".

- **Inspections of 232/223f Non-Critical Repairs – What You Need to Know…**

  HUD will rely on the procedure outlined in the document entitled "223f Protocol Owner Cert of Non Critical Repairs", which is posted on FHA.GOV under "Revised Section 232/223(f) Documents" and "Lender Tools – Construction and Closing". The certification itself, which is entitled "Owner Cert Non-Critical Repairs", is also posted there.

- **Purchase or Refinance Identity of Interest Clarification:**.

  If a project that has an **identity of interest** between both the owner and the operator is sold to a **non-identity of interest** third party, the sale must be treated as a refinance transaction and not a sale ***if*** the identity of interest operator continues to operate the project after the sale.

- **Clarification on Definition of Eligible Debt on a Refinance:**.

  A. Two* Year Rule:

  Project debt that is less than 24 months old will need to be investigated and must meet the definition of "Eligible Debt" below (See Section C) if it is to be used in the calculation of the cost to refinance. No investigation is needed on project debt that is at least 24 months old prior to using it in the calculation of the cost to refinance, ***provided neither of the two scenarios described in the "Five Year Rule" below are present.***

  B. Five Year Rule:

  Project debt that is less than five-years old AND is owed to either :

  1. the underwriting HUD lender; or,

2. any entity related to the HUD lender, no matter how slight the identity-of-interest,

will need to be qualified as "Eligible Debt", meeting the definition below(See Section C). In this case, only the "eligible" portion of the outstanding balance qualifies and can be used in the calculation of the cost to refinance.

**C. Definition of Eligible Debt: Project debt (including bridge loans) that meets any of the below definitions, may be included in the cost to refinance – there is no seasoning required.**

1. Outstanding mortgage(s) incurred in connection with the construction or purchase of the project, or with capital improvements made to the property as confirmed by the current mortgagee – provided it can be demonstrated that there was no cash out to the mortgagor of the proposed FHA Insured loan or its principals. However, if the debt was incurred as a result of an **identity of interest ** purchase**, the debt is not considered eligible debt and must meet the seasoning requirements above. Furthermore, if the debt was incurred as a result of **buying out a partner**, the debt is not considered eligible debt and must meet the seasoning requirements above.

2. Other recorded indebtedness such as mechanic's liens and tax liens provided they did not result from personal obligations of the mortgagor.

3. Unrecorded debt directly connected with the project supported by documentation from the mortgagor. If the indebtedness is not recorded, the mortgagor must provide the Lender with documentation **that substantially verfies that the obligation is directly connected to the project. Examples include:**
   a. Indebtedness incurred in making needed improvements and betterments to the property.
   b. Indebtedness incurred or advances made to cover operating deficits.

4. Other eligible costs associated with paying off the eligible debt. Examples are:
   a. Reasonable delinquent and accrued interest,
   b. Reasonable prepayment penalties on the mortgage,
   c. Recording, release, and re-conveyance fees,

d. Documentation or processing fees,

**** As the seasoning requirement under MAP was one year, the two year requirement will be phased in and will apply only to debt that has been funded or put into place after September 1, 2008, <u>for a period of six months.</u>***

***** An identity of interest purchase*** *is defined as one in which there is any identity of interest, however slight, between the seller and the purchaser* ***<u>that survives the sale transaction. An owner operator that continues to operate the facility after the sale is constitutes an identity of interest</u>****.*

- **<u>Register now to do business with HUD!</u>**
  New business partners seeking approvals or access to HUD systems must first register via Business Partner Registration HUD Multifamily. To register, please go to: <u>https://hudapps1.hud.gov/apps/part_reg/apps040.cfm</u>

  **This step must be completed before business partners submit 2530/Previous Participation information or submitting applications under the LEAN 232 Program.**

  **Please keep in mind that the following program participants need to provide 2530/Previous Participation information in Firm Applications submitted under the LEAN 232 Program and therefore are required to register in the Business Partner Registration HUD Multifamily Page at the above website.**

  - ✓ Mortgagor Entities and their Principals
  - ✓ Operator Entities and their Principals
  - ✓ Parents of Operator Entities and their Principals
  - ✓ General Contractor and their Principals (if applicable)
  - ✓ 2530s are required for Management Agents and their Principals only when the Management Agent is the holder of the facility license.

  ***<u>2530s are not required for Facility Administrators.</u>***

- **<u>LEAN 232 Pipeline as of February 20th, 2009</u>**

- **FHA # Requests – Purchase/Refinance – 205**
- **FHA # Requests – New Construction – 34**
- **Applications In – Purchase/Refinance – 37 (with 15 more scheduled to come in shortly)**
- **Applications In – New Construction – 7**
- **Firm Commitments Issued – 15**
- **Applications CLOSED –Purchase/Refinance – 6 (plus 4 pending to close the week of 2/23/09)**
- **Applications CLOSED – New Construction – 1**

- **Need to Reference Previous LEAN 232 Updates?**
  Previous E-Newsletters (Email Updates) can be found at:

  **http://portal.hud.gov/portal/page?_pageid=73,7716182&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox**
  We continue to be inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. ***We appreciate your patience.***

- **Interested in getting updates on the LEAN 232 Program?**
  **Join our email list by sending your contact information to** **Kristine.Martin@hud.gov**

February 6th, 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of February 6th, 2009**

As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of February 6th, 2009, we would like to share with you the following:

- **Revised Guidance for Underwriting of LEAN 232 Loans for Assisted Living Projects:**

  Given the difficult economic and fiscal environment nationally, the Department is requesting that HUD approved Mortgagees exercise caution in underwriting loans under the LEAN Section 232 programs for new construction and refinance transactions for assisted living facilities. For all Assisted Living Project LEAN mortgage insurance applications under Section 223(f), Section 232 new construction and substantial rehabilitation, and Section 241(a), HUD will require justification/mitigation if the underwritten debt service coverage ratio ("DSCR") is less than 1.45. Moreover, as was previously discussed with various lenders in June of 2008, for all LEAN mortgage insurance applications involving new construction of Assisted Living units, HUD will require justification/mitigation if the underwritten loan to value is greater than 75%.

  The Department would consider, for example, a mitigating factor to be the inclusion of less expensive independent living units in the project or the presence of facility residents that are being provided with state or federal rental assistance subsidies. The Department's review of mitigating factors will focus on any project specific attributes that result in limiting project market risk or in reducing project financial risk. The Department will be reasonable and flexible in determining where justifiable circumstances or mitigating factors exist.

  **Additional Guidance on the Use of Project Capitalization Rates:**

February 6th, 2009

The Department would like to provide general guidance regarding the usage of capitalization rates for Assisted Living projects. HUD believes that the capitalization rate should be a true reflection of conditions in the marketplace and the specific risks associated with a project. The Department is particularly concerned with the use (in some cases) of an approximate "risk free" capitalization rate for Assisted Living projects. The Department is not mandating a minimum capitalization rate. However, HUD may require justification/mitigation on Assisted Living projects if the capitalization rate used by the appraiser appears not to fully account for specific project and market related risks. This capitalization rate issue should be fully discussed in the Lender Narrative of the LEAN Application.

The Department believes that, in most but not all economic environments, the following debt service constant formula (Debt Service Constant + FHA MIP) multiplied by 1.25 would reflect reasonable guidance for the "minimum" capitalization rate for a proposed project. HUD would expect that the market realities of each project would dictate the capitalization rate to be used, which may be higher than the minimum formula. HUD does not wish to impose requirements for determining the capitalization rate and will defer to the USPAP appraisal standards to provide the definitive guidance on this issue. The Department's guidance on capitalization rates is not mandatory and the Department understands that this guidance may not be as helpful as a guide when market and economic conditions are either highly optimistic or overly conservative and/or when the interest rate environment reflects unusually low or high project interest rates.

Example for calculating Cap Rate: 7% fixed interest rate plus the MIP of 50 basis points. {.0746+.50bp MIP=.0796*1.25=.0995 or 9.95%}. In this example, the minimum capitalization rate "guidance" is 9.95.

The revised guidance relative to the debt service coverage ratio, loan to value, and capitalization rates for assisted living projects *shall apply to any future application for mortgage insurance where an FHA Project Number is issued after February 6, 2009.* Alternatively, if the FHA number has not been issued but a project appraisal is underway, FHA will accept the lower DSCR of 1.3 for refinancing and 1.35 for new construction if an appraisal engagement letter was executed prior to February 6, 2009, and if

appraisals using the lower DSCRs are finalized and provided to HUD prior to April 6, 2009. On projects that do not meet this revised guidance (where the FHA Project Number was issued on or prior to February 6, 2009) the Lender should provide a notification in the Check Transmittal Letter and Lender Narrative of the mortgage insurance application that provides for the discussion of the appraisal lender modifications.

Please note that the previous guidance on loan to value and debt service coverage on Section 232/223(f)'s for Skilled Nursing and Independent Living Facilities have not been revised.

- **Underwriting of "Payee Mix" on LEAN Section 232 Loans**

A. If the project being underwritten is an existing project (with no new construction of Skilled Nursing Facility (SNF) beds proposed and/or no substantial rehabilitation of SNF beds whereby the payee mix differs from the project's payee mix history), the existing MAP Guide language will be applied:

> ***The income estimate should be based on the percentage of Medicaid/Medicare beds shown on the last 3 years of financial statements***.

B. If the project being underwritten proposes new construction of SNF beds or substantial rehabilitation of SNF beds whereby a payee mix than differs from the project's payee mix history, the following three requirements will apply:

> ***1. The percentage of Medicare beds (of the total SNF beds in the project) used in the underwriting must not exceed 10% or the average percentage demonstrated in the market, defined as the average of no less than 5 competing facilities in the primary and secondary market.***
>
> ***2. The percentage of Private Pay beds used in the underwriting must not exceed the average percentage demonstrated in the market, defined as the average of no less than 5 competing facilities in the primary and secondary market.***

***3. The combined percentage of Medicare and Private Pay beds (of the total SNF beds in the project) underwritten must not exceed 30%.***

Waivers to the above will be reviewed on a case by case basis. Waiver requests should be submitted as early in the mortgage insurance application process as possible, however HUD will not officially approve of a waiver prior to the submission of either a Pre-Application or Firm Application for mortgage insurance. We recommend that waiver requests include the following at a minimum:

- ✓ A comprehensive discussion of the operator experience with Medicare patients and what factors will be employed by the operator to insure that the business objectives will be successful.
- ✓ Stress tests that clearly demonstrate what impact reduced payee mix levels/percentages would have on the operator's capability to meet required project lease and/or mortgage payments.
- ✓ The market analyst must interview all area hospitals or referring entities and discuss any issues that would facilitate or hinder their recommendation to refer Medicare patients from hospitals to nursing homes providing specialized services.
- ✓ The Lender should provide information on any legal issues and any additional information that may be required to justify the waiver.

- **Revised Project Capital Needs Assessment (PCNA) Guidelines for Section 223(a)(7) Projects**

We have revised the guidelines we presented at the December conference in Seattle. Please see the below revised guidance:

A PCNA complying with the 223f LEAN Guidelines is required on any 223(a)(7) where either of the following is the case at the time of the Section 223(a)(7) application is submitted to HUD):

1. A term extension is being requested. HUD will consider waivers on a case by case basis where

justified. The lender should request the waiver in the mortgage insurance application cover letter and in the Lender narrative.

2. At least 10 years of the existing FHA Insured loan's amortization period have passed and a PCNA has not been submitted to HUD in the previous 10 years.

If a PCNA is submitted with the Section 223a7 application, the Regulatory Agreement on the new Section 223(a)(7) loan will contain a requirement that a new PCNA will not be required until 10 years after the date of closing of the 223(a)(7) mortgage insurance application. Moreover, the lender will not be required to inspect the property.

If a PCNA is not submitted with the Section 223a7 application, the Regulatory Agreement on the new Section 223(a)(7) loan will contain a requirement that a new PCNA will be required at the earlier of: 10 years after the previous PCNA was submitted to HUD or 10 years after the existing FHA Insured loan's amortization period have passed. Moreover, the lender will be required to inspect the property.

If repairs are proposed in conjunction with the Section 223(a)(7) application and a PCNA is not required, a cost certification (HUD-2205A) will be required to support the actual cost of the repairs. Only Line 2 and the attached Schedule A need to be completed.

- **LEAN 232 Pipeline as of February 6th, 2009**
  - **FHA # Requests – Purchase/Refinance – 195**
  - **FHA # Requests – New Construction – 19**
  - **Applications In – Purchase/Refinance – 34**
  - **Applications In – New Construction – 5**
- **Posting of Documents to FHA.GOV**

Please note that we will be posting many documents to FHA.GOV over the next few days dealing with new construction, substantial rehabilitation, Section 241(a) and Section 223(a)(7) projects.

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

- **LEAN Thinking Mailbox**
  We have been inundated with questions and are working through these questions as quickly as we can – many of these involve policy issues, which require substantial discussion. We appreciate your patience.

- **Interested in getting updates on the LEAN 232 Program?**
  **Join our email list by sending your contact information to** **Kristine.Martin@hud.gov**

January 9th, 2009

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of January 9th, 2009**

- **Questions on the LEAN Process?**
  **We encourage use of the LeanThinking Mailbox! Please send any questions regarding the LEAN 232 Programs to LeanThinking@hud.gov**

- **What an exciting first seven months we have had under HUD's LEAN 232 Program! We look forward to many more successes in 2009 under the LEAN 232 Program! To date, our Team has:**

  - **Completed Lender Training for the LEAN 232 New Products and Programs including New Construction, Sub-Rehab, 232A7, and 241a Supplemental Loans. This is the second Lender Training provided in coordination with the Western Lenders Conference on the LEAN Program this last seven months. Please note that we are working on providing responses to all the questions posted at the December training (many of which involved policy issues) – such responses will be posted on FHA.GOV under FAQ's.**

  - **Closed two (2) projects under the LEAN 232/223f Program.**

  - **Currently processing over 26 deals under the LEAN 232/223f Program, with more expected every week.**

  - **Received over 162 requests for FHA numbers for projects interested in submitting applications under the LEAN 232/223f Program.**

  - **Completed training for a portion of new HUD staff who have joined the LEAN Team. Unfortunately we were unable to train all new HUD LEAN staff at this recent training due to budget constraints. Several**

**new Development staff were trained and have already joined the LEAN Field team and are currently processing a LEAN application. We plan additional HUD staff training in the future.**

- **Currently beta testing LEAN 232 New Construction Projects. Two have completed the pre-app process and have been approved to submit firm applications.**

- **Revised FHA.GOV Website:**
  **The revised FHA.GOV website is now operational. Check out the below URL, which didn't change:**

  **http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

  **As of the writing of this email, all original Section 223(f) documents, along with the New Construction Pre-Application documents, the Accounts Receivable documents, and all Powerpoint presentations from the December training have been uploaded to the Website. The next documents to be uploaded will be the lender New Construction Firm Application documents along with the revised Section 223(f) documents. We also plan to upload the lender Substantial Rehabilitation, Section 241a, and Section 223(a)(7) documents very shortly.**

- **Register now to do business with HUD!**
  **New business partners seeking approvals or access to HUD systems must first register via *Business Partner Registration HUD Multifamily*.**
  **To register, please go to:**
  **https://hudapps1.hud.gov/apps/part_reg/apps040.cfm**

- **Interested in getting updates on the LEAN 232 Program?**

**Join our email list by sending your con**

December 5th, 2008

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of December 5th, 2008**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of December 5th, 2008, we would like to share with you the following:**

- **Are you registered for the upcoming Lender Training?**

**Time is running out to reserve a spot at our next Lender Training for HUD's LEAN New Construction and Sub Rehab, 241, A7, and an update on the 232/223f Program on December 17th & 18th (8:30 a.m. - 5:00 p.m.) in Seattle, Washington. To reserve a spot, please contact:**

**Western Mortgage Advisory Council**
**Attn: Brenda Bailey**
**c/o CWCapital**
**1010 Washington, Suite 200**
**Vancouver, WA 98660**
**Phone: (360) 713-5903 Fax: (360) 713-5999**
**E-mail: bbailey@cwcapital.com**

- **Register now to do business with HUD!**

**New business partners seeking approvals or access to HUD systems must first register via *Business Partner Registration HUD Multifamily*. To register, please go to:**
**https://hudapps1.hud.gov/apps/part_reg/apps040.cfm**

- **The LEAN 232 Program Pipeline**

**As of December 5th, our Team is currently processing 14 deals under the LEAN 232/223f Program, with more expected every week. This is in addition to over 150 requests for FHA numbers for projects interested in submitting applications under the LEAN 232/223f**

**Program. To learn more about the LEAN 232 Program and how to get involved, check out our website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

- **The LEAN 232 Program Pipeline**

**A matrix detailing the transition of the LEAN 232 programs was provided in the November 21st email update. Please keep in mind, that although all LEAN 232 programs will be handled by the Office of Insured Health Care Facilities (OIHCF) as of March 1, 2009, if a pre-application or firm application has been submitted to the local Multifamily Hub, it will processed through final closing by the Multifamily Hub it was submitted to.**

- **Questions?**

**The LeanThinking Mailbox is now available! Please send any questions regarding the LEAN 232 Programs to LeanThinking@hud.gov**

- **Interested in getting updates on the LEAN 232 Program?**

**Join our email list by sending your contact information Kristine.Martin@hud.gov**

November 21, 2008

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of November 21, 2008**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of November 21, 2008, we would like to share with you the following:**

- **Submitting a LEAN 232 Application?**

*****PLEASE REMEMBER:*** **Do not use special characters \ / : * ? " < > | # { } % ~ & as part of the file names in your application's electronic submissions (CD, thumb drive, etc.). SharePoint will not accept special characters as part of a file name and, as such, only lengthens the processing time. In the spirit of LEAN processing, your assistance in this matter is appreciated.**

**In addition, please make sure a file name contains no more than 120 characters as SharePoint will not accept files with names longer than 120 characters.**

- **NEW! FHA Number Requests and Electronic Submission (CD, thumb drive, etc)**

**Please send all FHA Number Requests and Electronic Application Submission items to Amee Welch:**
**Amee.Welch@hud.gov**
**909 1st Avenue, Suite 190**
**Seattle, WA 98104-1000**

- **Status of LEAN 232 Development Processing Transition Timeframe: As the LEAN 232 Development Process continues to move forward, the following matrix has been developed to delineate when new applications for specific 232 programs will be accepted by the OIHCF for LEAN 232 Processing:**

| | 9/1/08 | 1/1/09 | 3/1/09 |
|---|---|---|---|
| **Section 232/223f – Purchase or Refinance** | **All** | **All** | **All** |
| **TAP submissions under all 232 subsection** | **---** | **At Lender's Option** | **All** |
| **Section 232/A7 – Refinance** | **---** | **At Lender's Option** | **All** |
| **Section 232 – New Construction And Substantial Rehab** | **---** | **At Lender's Option** | **All *EXCEPT* applications with a Firm Application Invitation previously issued by a Hub or Program Center.** |
| **Section 232/241 – Supple** | **---** | **At Lender's** | **All** |

| | | | |
|---|---|---|---|
| mental Loan | | Opti on | |
| Section 232/223(d) – Operating Loss Loan | --- | At Lender's Option | All |

***PLEASE NOTE: Beginning March 1, 2009, all Section 232 transactions must be submitted to and processed by OIHCF.***

- ***NOW AVAILABLE* - Accounts Receivable ("A/R") Financing Housing Notice**

**HUD has issued the Accounts Receivable ("A/R") Financing Housing Notice (08-09) as of November 17, 2008. HUD will evaluate A/R Loan requests utilizing the guidance in this Housing Notice for the following Programs:**

1. **Section 232 for new construction or substantial rehabilitation,**
2. **Section 232 pursuant to Section 223(f)[1] for purchase or refinance,**
3. **Section 232 pursuant to Section 223(a) (7) for refinancing, and**
4. **Section 241 for supplemental loans**
5. **Section 223 (d) Operating Loss Loans**

**Housing Notice 08-09 can be found at HUDclips at:**

**http://www.hud.gov/offices/adm/hudclips/notices/hsg/**

- **Save the Date - Lender Training on December 17th and 18th!**

**Join us for our next Lender Training for HUD's LEAN New Construction and Sub Rehab, 241, A7, and an update on the 232/223f Program on December 17th & 18th (8:30 a.m. - 5:00 p.m.) in Seattle, Washington.**

***All Lenders who are interested in submitting New Construction and Sub Rehab projects under LEAN 232***

[1] Negative working capital (accounts payable exceeding accounts receivable) may not be included as existing indebtness in proposed section 232 refinance transactions.

***Program, will need to attend the December session or underwrite 2 LEAN 232 New Construction projects under the oversight of another LEAN 232 New Construction approved underwriter prior to underwriting a new construction project.***

**This training is sponsored by the Western Mortgagee Advisory Council in coordination with HUD's Office of Insured Health Care Facilities. For more information on this event, please see the attached Training Invitation and Registration Form. Please send completed registration forms and monies to:**

**Western Mortgage Advisory Council**
**Attn: Brenda Bailey**
**c/o CWCapital**
**1010 Washington, Suite 200**
**Vancouver, WA 98660**
**Phone: (360) 713-5903 Fax: (360) 713-5999**
**E-mail: bbailey@cwcapital.com**

- **The LEAN 232 Program Pipeline**

**As of November 21st, our Team is currently processing 16 deals under the LEAN 232/223f Program, with more expected every week. This is in addition to over 140 requests for FHA numbers for projects interested in submitting applications under the LEAN 232/223f Program. To learn more about the LEAN 232 Program and how to get involved, check out our website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

- **Questions?**

**The LeanThinking Mailbox is now available! Please send any questions regarding the LEAN 232 Programs to LeanThinking@hud.gov**

- **Interested in getting updates on the LEAN 232 Program?**

**Join our email list by sending your contact information Kristine.Martin@hud.gov**

November 21, 2008

November 7, 2008

**HUD's LEAN 232 Program**
**Office of Insured Health Care Facilities (OIHCF)**

**Update as of November 7, 2008**

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of November 7th, 2008, we would like to share with you the following:**

- **Save the Date - Lender Training on December 17th and 18th!**

**Join us for our next Lender Training for HUD's LEAN New Construction and Sub Rehab, 241, A7, and an update on the 232/223f Program on December 17th & 18th (8:30 a.m. - 5:00 p.m.) in Seattle, Washington.**

**All Lenders who are interested in submitting New Construction and Sub Rehab projects under LEAN 232 Program, will need to attend the December session or underwrite 2 LEAN 232 New Construction projects under the oversight of another LEAN 232 New Construction approved underwriter prior to underwriting a new construction project.**

**This training is sponsored by the Western Mortgagee Advisory Council in coordination with HUD's Office of Insured Health Care Facilities. For more information on this event, please see the attached Training Invitation and Registration Form. Please send completed registration forms and monies to:**

**Western Mortgage Advisory Council**
**Attn: Brenda Bailey**
**c/o CWCapital**
**1010 Washington, Suite 200**
Vancouver, WA 98660
**Phone: (360) 713-5903 Fax: (360) 713-5999**
**E-mail: bbailey@cwcapital.com**

- **News for Non-profit Owners of Nursing Homes**

**As of October 7, 2008, HUD has provided clarification that may assist in the review of financial statements and the computation of residual receipts for a non-profit owner involving a 232 nursing home loans. Effective immediately, HUD will not require a non-profit owner of a nursing home to include Medicare and Medicaid receivables in the calculations of residual receipts.**

- **The LEAN 232 Program Pipeline**

**As of November 7th, our Team is currently processing 6 deals under the LEAN 232/223f Program, with more expected every week. This is in addition to over 135 requests for FHA numbers for projects interested in submitting applications under the LEAN 232/223f Program. To learn more about the LEAN 232 Program and how to get involved, check out our website at:**

**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

- **Submitting Applications to HUD**

**As we previously shared during the Lender Training in Seattle (June 30-July 1st, 2008), it is important to remember that when submitting a LEAN 232 application to HUD, the actual submission must include:**

1. **Two Hard Copies (Original & Copy)**
2. **Compact Disc (File Naming Convention)**
3. **Check (Transmittal Letter)**

***Warning:*** **Each of the above items may be sent to different people. To avoid processing delays, please follow the instructions that come with the FHA Number assignment.**

- **Questions?**

**The LeanThinking Mailbox is now available! Please send any questions regarding the LEAN 232 Programs to LeanThinking@hud.gov**

- **Interested in getting updates on the LEAN 232 Program?**

November 7, 2008

**Join our email list by sending your contact information**
**Kristine.Martin@hud.gov**

October 24, 2008

# HUD's LEAN 232 Program
## Office of Insured Health Care Facilities (OIHCF)

## Update as of October 24, 2008

**As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program. As of October 24, 2008, we would like to share with you the following:**

- **Acting Director of the LEAN 232 Program is Announced**

**We are proud to announce that *Renee' D. Greenman* has accepted a temporary detail to serve as Acting National Director for field operations of the LEAN 232 Development Program. Ms. Greenman has been an integral part of the development and transition of the new LEAN 232 Program since the inception of this program, and in this very important transition role, Renee' will focus on 232 LEAN application processing, development staff organization and training, and lender training. Ms. Greenman will also work closely with other 232 leadership staff as other aspects of the 232 program, including asset management are implemented. As the Seattle Multifamily Hub Director, Ms. Greenman brings her extensive expertise of the 232 Program and HUD Programs to the LEAN 232 Team. Welcome to the 232 LEAN Team, Ms. Greenman!**

- **The LEAN 232 Team is Expanding**

**We are ramping up to serve you! In September, 16 additional staff joined the LEAN 232 Team. The team now consists of three (3) Workload Managers focused on LEAN tool development for New Construction as well as overseeing the country's transaction pipeline:**

- **Tim Gruenes**
- **Patrick Berry**
- **Roger Lewis**

**The LEAN Team currently includes both permanent staff and detailees with expertise in all aspects of the**

**development process. We look forward to working with you on the LEAN 232 Program.**

- **LEAN 232 New Construction Program to be Tested in October**

**The LEAN 232 Team will begin beta testing the LEAN 232 New Construction Program at the end of October. Stay tuned as we prepare to roll up this new LEAN 232 product in December.**

- **The LEAN 232 Program Pipeline**

**As of October 24th, our Team has received over 120 requests for FHA numbers for projects interested in submitting applications under the LEAN 232/223f program. We have also issued the second Firm Commitment under the LEAN 232/223f Program and are currently processing four (4) additional transactions. To learn more about the LEAN 232 Program and how to get involved, check out our website at:**
**http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL**

- **HUD APPS/2530 update**

**As you know, request for FHA Numbers for your project(s) are to be done prior to submitting an application under the LEAN 232 Program. This is done in order for you to get a head start on the project's required APPS/2530 Submission(s).**

**Should you choose to submit the project's required 2530s via the APPS system, you may request a preliminary search of the participants prior to submission of the firm application. All requests must be submitted via email and can be done once the baseline data or APPS Property Submission is entered into the APPS system. Please note that only the names provided at the time of this request will be researched. Any changes which may occur with any participants/entities between the time-period of your request and the firm application submission will require a reprocessing of the APPS/2530 submission.**

**Should you choose to submit the project's required 2530s via HUD-2530 (paper version), you may also request a preliminary search of the participants prior to submission of the firm application. All requests must be submitted via email with a copy of the completed HUD-2530 (paper version). Please note that only the names provided at the time of this request will be researched. Any changes which may occur with any participants/entities between the time-period of your request and the firm application submission will require a reprocessing of the HUD-2530 submission.**

**Please send all APPS/2530 preliminary search requests to Amee Welch at Amee.Welch@hud.gov**

- **Submitting a LEAN 232 Application?**

*****PLEASE REMEMBER:*** **Do not use special characters (!@#$%^&*( )+="',.\ / :) as part of the file names in your application's electronic submissions (CD, thumb drive, etc.). SharePoint will not accept special characters as part of a file name. In addition, please make sure a file name contains no more than 120 characters as SharePoint will not accept files with names longer than 120 characters.**

- **Questions?**

**The LeanThinking Mailbox is now available! Please send any questions regarding the LEAN 232 Programs to LeanThinking@hud.gov**

- **Interested in getting updates on the LEAN 232 Program?**

**Join our email list by sending your contact information Kristine.Martin@hud.gov**

**Kristine M. Martin**
**Information Specialist**
**Reg X Multifamily Hub**
**206.220.5180**
**1-877-741-3281, x5180**

September 26, 2008

# HUD's LEAN 232 Program

Office of Insured Health Care Facilities (OIHCF)

## Update as of October 10, 2008

As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the Lean Program.

As of October 10, 2008, we have been working on:

- Learn more about the LEAN program by visiting the LEAN Presentation section now available on the 232 LEAN website at:

  http://portal.hud.gov/portal/page?_pageid=73,3915250&_dad=portal&_schema=PORTAL

- **Have a question?**
  The new and improved LeanThinking Mailbox is now available! Please send any questions regarding the LEAN 232 Programs to LeanThinking@hud.gov

*****PLEASE REMEMBER:* Do not use special characters (!@#$%^&*( )+="',.\ / :) as part of the file names in your application's electronic submissions (CD, thumb drive, etc.). SharePoint will not accept special characters as part of a file name. In addition, please make sure a file name contains no more than 120 characters as SharePoint will not accept these files.**

September 26, 2008

# Update on HUD's LEAN 232 Program

## (as of September 26, 2008)

As a Stakeholder in HUD's LEAN 232 Program, we are committed to providing you with the best, most up to date information on the status of the LEAN Program.

As of September 26, 2008, there has been a **change** to the definition of "existing indebtedness" and "eligible existing indebtedness" under the LEAN 232/223f program. These changes impact the **Lender Narrative, HUD Underwriting Punch-List, and the 232-223F Q-A Lender Conference July 1, 2008 (Mortgage Credit Tab)**. These changes will be posted on the Lean 232 **Website**, under the Q&A section. In the meantime, here are the changes for your reference:

### LENDER NARRARTIVE (pg 49) PROGRAM GUIDANCE

Key Question 2 - Two-Year Rule:

Any debt to be refinanced that is less

than 24-months old will have to be investigated and must meet the definition of "Eligible Existing Indebtedness" below. ~~Only 90% of the outstanding balance of the debt under investigation needs to be evidenced as "eligible" to qualify the entire balance.~~

> ~~*Example*: Thirteen months ago, the mortgagor obtained a loan to replace the siding. The current balance is $400,000. If the borrower can provide sufficient documented evidence that clearly demonstrates the cost and content of the expenditures within the appropriate timeframes to qualify at least $360,000 (90% of $400,000), the lender may include the entire~~

~~$400,000 balance as eligible debt.~~

**Definition of Eligible Existing Indebtedness:** Existing indebtedness in a refinancing transaction is defined as:

1. Outstanding mortgage(s) incurred in connection with the construction or purchase of the project, or with capital improvements made to the property as confirmed by the current mortgagee.
2. Other recorded indebtedness such as mechanic's liens and tax liens provided they did not result from personal obligations of the mortgagor.
3. Unrecorded debt directly connected with the project supported by documentation from the mortgagor. If the indebtedness is not recorded, the mortgagor must

provide the Lender with documentation which unquestionably indicates that the obligation is directly connected to the project. Examples include:

a. Indebtedness incurred in making needed improvements and betterments to the property.

4. Other eligible costs associated with paying off the existing debt. Examples are:
   a. Delinquent and accrued interest;
   b. Prepayment penalties on the mortgage;
   c. Reasonable and customary legal, organizational, title, and recording expenses;
   d. Initial financing fee not to exceed 2% of the original principal amount of the mortgage.

## HUD UNDERWRITING PUNCH-LIST: (pgs. 18-19)

**Two-Year Rule:** Any debt to be refinanced that is less than 24-months old will have to be investigated and must meet the definition of "Eligible Existing Indebtedness" below. ~~Only 90% of the outstanding balance of the debt under investigation needs to be evidenced as "eligible" to qualify the entire balance. HUD assumes that 10 percent of the project specific costs are allocated as incidental costs, overhead and minimal developer fees.~~ Note: in the case of refinancing a bridge loan, as long as there is not identity of interest between the Mortgagor/Borrower and the underwriting HUD lender and/or its affiliated bridge lender, the refinance transaction may be treated under the Two-Year Rule.

~~*Example*: Thirteen months ago, the mortgagor obtained a loan to replace the siding. The current balance is $400,000. If the borrower can provide sufficient documented evidence that clearly demonstrates the cost and content of the expenditures within the appropriate timeframes to qualify at least $360,000 (90% of $400,000), the lender may include the entire $400,000 balance as eligible debt~~.

**Definition of Eligible Existing Indebtedness:** Existing indebtedness in a refinancing transaction is defined as:

1. Outstanding mortgage(s) incurred in connection with the construction or purchase of the project, or with capital improvements made to the property as confirmed by the current mortgagee.

2. Other recorded indebtedness such as mechanic's liens and tax liens provided they did not result from personal obligations of the mortgagor.
3. Unrecorded debt directly connected with the project supported by documentation from the mortgagor. If the indebtedness is not recorded, the mortgagor must provide the Lender with documentation which unquestionably indicates that the obligation is directly connected to the **project**. Examples include:

   a. Indebtedness incurred in making needed improvements and betterments to the property.
4. Other eligible costs associated with paying off the existing debt. Examples are:

a. Delinquent and accrued interest;
b. Prepayment penalties on the mortgage;
c. Reasonable and customary legal, organizational, title, and recording expenses;
d. Initial financing fee not to exceed 2% of the original principal amount of the mortgage.

**232-223F Q-A LENDER CONFERENCE JULY 1, 2008 (Mortgage Credit Tab)**

Yes, the 2 year requirement will be phased in and will apply to debt that has been funded or put into place after September 1, 2008. ~~Note that under the 2 year requirement 100 percent of the debt incurred for project specific upgrades and improvements perfected prior to 2 years may be included if 90 percent of costs~~

~~can be verified by the lender. HUD assumes that 10 percent of the project specific costs are allocated as incidental costs, overhead and minimal developer fee~~.
**Retracted 9-15-2008.**

******

**Clarification on LEAN Lender Qualifications:**

If an approved MAP Lender sent approved MAP Section 232 lender underwriters to the July 2008 LEAN training in Seattle, a LEAN-trained underwriter may then review a LEAN-submitted Section 232 mortgage insurance application which was prepared by another underwriter in their firm who did not attend the training (or by an approved Section 232 underwriter in another firm who did not attend the LEAN training). After correctly preparing two Section 232 mortgage insurance applications, which are reviewed by a LEAN trained underwriter, the Section 232 underwriter who did not attend the training will be assumed to be trained. The LEAN-trained underwriter will only be certifying that the application has been submitted in accordance

with the LEAN training, and he or she will not be assuming responsibility for the actual underwriting. That underwriting responsibility rests with the Section 232 underwriter who prepared the mortgage insurance application.

******

**CORRECTION:** We are currently working on completing LEAN processing procedures documents for all 232 New Construction Programs, including ……223(a)(7) *NOT 221A7* as reported in the 9/12/08 Weekly Update.

******

**Remember: Always check the Website**

**http://www.fha.gov/232LenderProcessing**

**before submitting any new applications.**

******

Thank you for your interest in HUD's 232 LEAN Program. Should you have any questions regarding the Lean 232 Programs, please send them to Lean Thinking@hud.gov.

September 26, 2008

**Kristine M. Martin**
**Information Specialist**
**Reg X Multifamily Hub**
**206.220.5180**
**1-877-741-3281, x5180**