# HUD Office of Residential Care Facilities Construction Management

## New Construction, Substantial Rehabilitation and 241(a) with HUD Mortgage Insured Loans

Internet Links:

Office of Residential Care Facilities - https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care

Housing Handbook 4232.1 (AKA 232 Handbook) - https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsgh/42321

ORCF Final Section 232 Documents - https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/final_232_documents

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# Lender's PreConstruction Conference

A Pre-Construction Conference is required prior to the start of construction for all New Construction, Substantial Rehabilitation and 241(a) loans. (232 Handbook, Section II, Production, Chapter 10.3).

- The Lender conducts the PreConstruction Conference and shall be held no earlier than one week prior to Initial Endorsement.
- For loans with Early Start or Early Commencement, the PreConstruction Conference shall be held after receipt of ORCF's Early Start or Early Commencement approval, but prior to construction.

For Early Commencement/Start guidance, refer to 232 Handbook, Section II, Production, Chapter 10, appendix 10.1 as well as the following link:
https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/underwriting/earlystart

**Definitions for Start of Construction:**

- *Initial Endorsement:* Start of construction notice to proceed is Initial Endorsement.
- *Early Commencement:* Start of construction is prior to issuance of a firm commitment. This is applicable to Section 241(a) projects only.
- *Early Start:* Start of construction is after issuance of a firm commitment, but prior to Initial Endorsement. (See Appendix 4.1 when DBWD applies on a 241a loan)

Lender's Pre-Construction Conference Duties are detailed on the HUD.gov website under the Section 232 program at the following link: https://www.hud.gov/sites/dfiles/Housing/documents/Pre-con_Duties.docx

# Lender's PreConstruction Conference Cont'd

The purposes of the PreConstruction Conference are to:

1) Review contractual roles and responsibilities
2) Review HUD construction administration policies, requirements, procedures & forms

It is recommended that Lender's Construction Administrator perform a thorough review of the Firm Commitment (as amended) as well as conduct the PreConstruction Conference to ensure all items are appropriately covered.

Attendance required at the PreConstruction Conference are typically the following:

- Lender's PreConstruction Conference Coordinator
- Owner / Borrower
- General Contractor
- Design Architect
- Supervisory Architect (if different than Design Architect)
- ORCF Construction Manager
- HUD Contract Inspector
- HUD Labor Compliance Specialist (if Davis-Bacon Wage Decision is applicable)
- ORCF Underwriter (optional attendee)
- ORCF Account Executive (optional attendee)

# Lender's PreConstruction Conference Cont'd

## Prior to the Start of Construction:

The final three sets of approved Plans and Specifications shall be prepared and distributed as described below:

**"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 Borrower
- Given to the General Contractor, for use at the jobsite
- 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 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 Borrower
- Sent to the job site, where the HUD Contract Inspector will pick up at their first site visit

**"HUD Master Set" of Plans and Specifications**

- "HUD Master Set – Plans and Specifications" cover sheet shall be executed, scanned, and uploaded with the PDF version of the Plans (Plans identical to those used for the Inspection and As-Built Sets above)
- PDF's of HUD Master Set shall be sent on a flash drive to the ORCF Construction Manager.

# Roles & Responsibilities

It is both valuable and necessary to review the roles and responsibilities of all parties during construction based on the specific requirements by ORCF on HUD insured loans.

Having a clear understanding of these contractual obligations and boundaries improves communication and performance – and reduces conflict and risk.

Let's review…

# Roles & Responsibilities

## Lender

(Initial Endorsement Items)

### ❑ Closing Documents for Construction Inspections

- ❖ Below are the documents needed by the ORCF Construction Manager **prior to commencement of construction**: These documents are essential for inspections and protecting the Owner / Borrower and HUD's interests during construction.
- ❖ Lender (with assistance from the Owner / Borrower's Attorney as necessary) shall provide an electronic copy (in pdf format) emailed to the ORCF Closer assigned to the project. The ORCF Closer will ensure the HUD ORCF Construction Manager has access to these documents following Initial Endorsement.

- Fully Firm Commitment
- Latest Firm Commitment Amendment (with ALL accompanying documents)
- All AIA Document B108 Owner/Architect/Engineers Agreement(s)
- All HUD-92408-ORCF, HUD Amendment to AIA Document B108(s)
- HUD-91124-ORCF, Design Architect's Certification
- HUD-92442-ORCF, Construction Contract Section 232 - complete copy including, but not fully limited to:
  - HUD Special Conditions,
  - AIA-Document A201, General Conditions of the Contract for Construction
  - HUD-92554-ORCF, Supplemental Conditions of the Contract for Construction,
  - Amendment to the Construction Contract for Payment of Components Stored Offsite (if previously approved)
  - HUD-5372, Construction Progress Schedule (final version)
  - HUD-92328-ORCF, Contractor's and /or Mortgagor's Cost Breakdown (final version)
- HUD-91071-ORCF, Escrow Agreement Off-Site and/or Off-Site Construction Contract
- Demolition Escrow Agreement and/or Demolition Construction Contract
- HUD-92412-ORCF, Working Capital Escrow Agreement (if applicable to fund Change Orders)
- List of Major / Minor Movable Equipment with Cost
- HUD-9443_ORCF, Minor Movable Equipment Escrow Agreement
- HUD-9442-ORCF, Memo Requesting Post-Commitment Early Start of Construction
- HUD-92415-ORCF, Request for Permission to Commence Construction Prior to Initial Endorsement for Mortgage Insurance (Early Start of Construction)
- Early Start Approval Notice from Underwriting
- Early Commencement Approval Notice from Underwriting (241a Only)
- Ensure HUD As-Built Set, HUD Inspection Set and HUD Master Set of Plans and Specification discussed during Pre-Construction Conference are distributed per Lender's Pre-Construction Duties.

# Roles & Responsibilities

## Lender

- Lender's Construction Administrator controls the project funds during construction- their involvement and approvals are essential. Lender works closely with the Borrower and HUD staff. Lender disburses payments.
- Lender's Construction Administrator assists Borrower in completing all required HUD forms including payment requests. On Advance of Mortgage Proceeds HUD-92403-ORCF ("Draws"), Lender reviews and approves payments (except the first and last draws, done at initial and final endorsement – which are approved by HUD).
- For all Escrowed Funds (costs not included in the Contractor's Schedule of Values form HUD-92328-ORCF) the Lender's Construction Administrator reviews form HUD-92464-ORCF PRIOR to sending to HUD staff **for approval** - which is typically used for payment of completed work on approved **change orders, off-site work, demolition, minor movables, etc**.
- Lender's Construction Administrator reviews all Change Order requests (and CO payments on form HUD-92464-ORCF) and ensure funds are available and/or escrowed to cover cost of changes PRIOR to submission to HUD for approval. Lender's signature on change order confirms funds are with Lender OR WILL BE prior to approval of the next Draw). Lender reviews Time Extension Change Orders for potential impact on loan and fees. Confirms that Consent of Surety is complete.
- Lender's Construction Administrator ensures Borrower's PTO is complete and all insurance requirements are in place (consistent with the Firm Commitment) PRIOR to executing and sending to HUD ORCF Construction Manager for approval.
- Lender's Construction Administrator coordinates proper flow of documents and communication, distributes copies of approved documents once approved by HUD to Owner / Borrower and development team as appropriate. Assists Borrower and Contractor in completing their Cost Certification and other requirements for Final Endorsement.

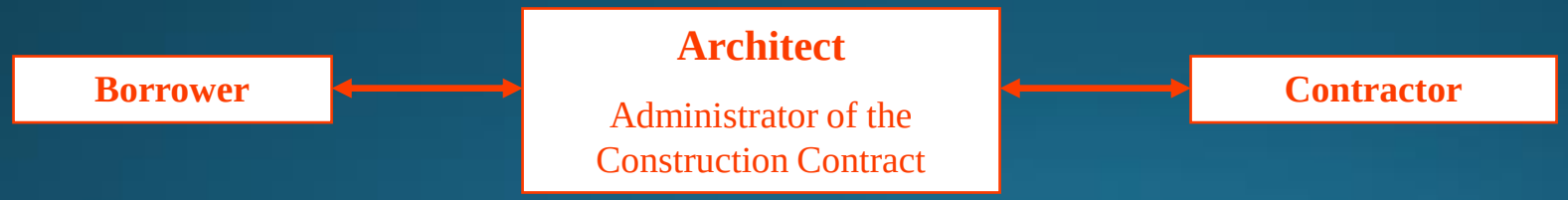
# Roles & Responsibilities

The following contract documents form the foundation for defining the Borrower, Architect and Contractor's roles and responsibilities during construction:

- Borrower- Architect Agreement - AIA Document B108 with HUD Amendment (HUD-92408-ORCF)
- HUD form HUD-92442-ORCF, Construction Contract (Cost Plus or Lump Sum)
- General Conditions of the Contract for Construction, AIA Document A201 (unaltered, as edits are not allowed)

These above documents emphasize that, during construction:

- ❑ The Architect is solely responsible for the **Administration of the Construction Contract.**
- ❑ The Architect is the only member of the development team with the authority to instruct the Contractor. Formal communications between Borrower and Contractor must be through the Architect.



# Roles & Responsibilities

## Architect

- The Architect is in a key leadership position. The Borrower and Contractor rely on the Architect for decisions, administration and documentation as the Administrator of the Construction Contract. As such, the Architect is to provide the meeting agenda and run each draw and progress meetings as well as and provide the official meeting notes to the Development Team.
  - "The Architect shall interpret and decide matters concerning performance of the Owner and Contractor under requirements of the Contract Documents…"(Article 3.6, AIA Document B108)
  - "The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents…" (Article 4.2, AIA Document A201)
- The Architect is a representative of the Owner and has authority to act on behalf of the Owner in their duties as Architect and Contract Administrator.
  - "The Architect shall have the authority to act on behalf of the Owner…". (Article 3.6, AIA Document B108)
  - "The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's Representative during construction, …. The Architect will have authority to act on behalf of the Owner …" (Article 4.2, AIA Document A201)
- The Architect must instruct the Contractor in writing through the use of appropriate administrative tools. (ASI, Change Order, etc.).
- The Architect must review the Contractor's monthly pay requisition for work in place – so as not to overpay at any time during construction.

# Roles & Responsibilities

## Architect

- The Architect (and their consultants) must guard against defects and deficiencies in the construction while performing their duties as the Administrator of the Construction Contract (Article 4.2, AIA Document A201).

- The Architect (and its consultants) must clarify and interpret the contract documents for strict compliance – to ensure that construction is carried out in accordance with these documents. Note: Architect's services consist of usual and customary structural, mechanical, and electrical engineering (Article 3.1, AIA Document B108).

- The Architect must restrict materials, products and equipment to those specified. Also, restrict all deviations to those consistent with the HUD approved Construction Documents, including form color and texture. Immediately inform the Borrower, Lender and HUD Inspector of any changes to plans and specifications. and substitutions (Handbook, Section II, Production, Chapter 10.5).

- As the Administrator of the Construction Contract the **Architect must visit the site** as defined in the AIA B108 contract at intervals appropriate to the progress of the work and as necessary to perform adequate services. This includes critical phases of the work. If the Architect's services are inadequate, then HUD may enforce contract terms and withhold Architect's fees and, if necessary, require the Owner terminate the Architect's contract (Handbook, Section II, Production, Chapter 10.6).

# Roles & Responsibilities

## Architect

- The Architect must maintain an **up-to-date** "Architect's Log" that is readily available to the Borrower, Lender, GC and HUD Contract Inspector. This can be available in paper format, or electronically on-line if readily available to Borrower, Lender, GC and HUD on site.

- Include the following in the Architect's Log:
  1) Architect's Field Reports as well as its Consultants' Field Reports.
  2) Meeting Notes (if separate from the Field Report) – **Note: Architect shall provide the meeting agenda, run all site meetings and provide meeting notes.** (Contractor may do their own meeting notes as well)
  3) Architect's Logs - Proposal Requests (PR), Architect Supplemental Instructions (ASI) & Change Order (CO) logs.

# Roles & Responsibilities

## Architect

- Architect is required to provide a Field Report (AIA Document G711 or equal) for each site visit (including consultants). Email to the development team, Lender, and HUD Contract Inspector.
- Architect's Field Report/Meeting Notes must include the Architect's assessment of the progress and a record of the actions taken to ensure that the work is accordance of the Contract Documents. Architect to email a copy of each Architect's Field Report & Meeting Minutes to the HUD Contract Inspector after the site visit/meeting.

The minimum information required in the Architect's Field Reports (232 Handbook Section II, Production, Chapter 10.5) include:

1. Date of Inspection
2. HUD Project name, number and its location
3. Time, weather and temperature range
4. Estimated % of completion **& conformance (or not) with contractor's progress schedule (Ahead, Behind or On Schedule)?**
5. Work in progress – including labeled photos.
6. Person's present/trades working
7. Observations and items to verify.
8. Information or actions required – by Architect or others (often a chart or matrix for tracking)
9. Firm, Architect's Name and their Signature with date

# Roles & Responsibilities

## General Contractor

- The General Contractor is responsible for building the project in strict accordance with the Contract Documents – Approved Construction Plans & Specifications, Construction Contract (HUD-92442-ORCF), General Conditions of the Contract for Construction (AIA Document A201), and in compliance with the Supplementary Conditions of the Construction Contract (HUD-92554-ORCF).

- The Contractor's formal communications to Borrower must be through the Architect.

- Contractor is required to maintain a progress schedule on the job site in accordance with the specifications. Email copy of schedule and updates to the Borrower, Architect and HUD Contract Inspector.

- Contractor to email Construction Start Letters to Lender, ORCF Construction Manager, HUD Contract Inspector and HUD LR staff. Note date of initial start date (when mobilized on site) and permanent start date (when something - pipe, footing, etc. are permanently placed in the ground). Note: The HUD Initial Endorsement is the Notice To Proceed.

- Contractor is required to maintain accurate records, including all changes in the work in As-Built Record Documents, including but not limited to the location of underground utility lines which are to be recorded on the ALTA Survey.

- Provide a meeting space on site/in trailer large enough to facilitate productive progress and pay draw meetings. Provide space within the job trailer/office for the HUD Contract Inspector to work while on site.

# Roles and Responsibilities

## General Contractor

### Davis Bacon Wage Requirements

1. The General Contractor and all subcontractors are required to comply with federal wage and reporting requirements, including the payment of Davis Bacon prevailing wages and the submission of weekly certified payroll reports. Prompt and proper record keeping is required.

2. The General Contractor and all subcontractors shall submit Certified Payrolls electronically via web-based service (as determined by HUD Labor Relations Specialist – typically assigned to the project during Underwriting). Coordination is typically discussed at the PreConstruction Conference.

3. The General Contractor and all subcontractors shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926, and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 U.S.C 3701 *et seq* (Article 4 form HUD-92554-ORCF).

4. The Davis Bacon Wage Decision in effect at time of Initial Endorsement (or Early Start) AND HUD 92554-ORCF Supplementary Conditions of the Contract for Construction must be part of all subcontracts.

5. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(v)) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers (Article 1 form HUD-92554-ORCF). (One source of posters for the Davis-Bacon posters is at the following link: https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fedprojc.pdf)

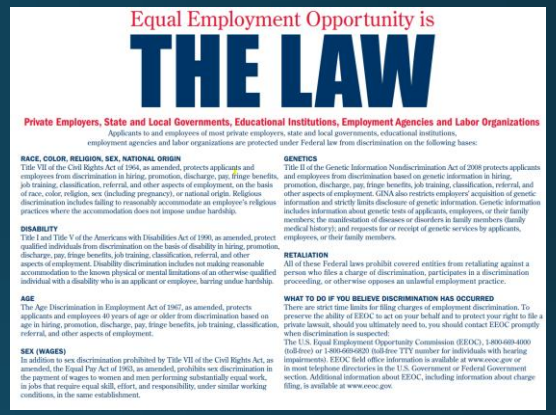
6. The General Contractor and all subcontractors shall inform its employees of HUD Contract Inspector's wage interviews – purpose, intent to facilitate timely cooperation.

# Roles and Responsibilities – EEO / FHEO Requirements

(232 Handbook Section II, Production, Chapters 2.5 and 10.13)

1. **Borrower** is required to follow Fair Housing requirements regarding marketing and outreach per their **Affirmative Fair Housing Marketing Plan (AFHMP)**. (form HUD-935.2D-ORCF)

2. **Contractor** is required to post the Equal Employment Opportunity Poster on site. Posters can be found at the following link: https://www.dol.gov/agencies/ofccp/posters



Equal Employment Opportunity is

THE LAW

**Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations**

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

**RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**
Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

**DISABILITY**
Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

**AGE**
The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

**SEX (WAGES)**
In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

**GENETICS**
Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

**RETALIATION**
All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

**WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED**
There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected:
The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at www.eeoc.gov.

   a. The Contractor and its subcontractors shall comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor. (Article 2.f form HUD-92554-ORCF) For additional guidance, refer to the following link: https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended

   b. Contractor is also required to post the Equal Housing Opportunity logo on its project sign. See next slide for sign details. Logos can be found at the following link: https://www.hud.gov/library/bookshelf11/hudgraphics

EQUAL HOUSING OPPORTUNITY

# Roles and Responsibilities - Project Construction Sign

## General Contractor

General Contractor is required to install onsite. If the Architect has not already included requirements for a project sign in the plans or specifications, then HUD encourages the use of following, in a visible location, containing the following information:

Names (and logos if desired) of:

- The Project Name
- Owner / Borrower
- Architect
- Contractor
- Lender

Please also include:

- U.S. Department of Housing and Urban Development
- Office of Residential Care Facilities
- FHA Project #
- Program
- HUD's and Fair Housing Equal Opportunity Logos

Note: The **Fair Housing Equal Opportunity Logo** **is also required** for all permanent project signs.

Providing a background of red, white, and blue in three (3) horizontal bands (as shown above) may help improve visibility.

# Roles and Responsibilities – Construction Progress Schedule

General Contractor

1. An updated Construction Progress Schedule (form HUD-5372) is required to submitted to Lender and HUD at least 10 calendar days prior to Initial Endorsement. The Schedule must also be dated within 30 days of Initial Endorsement per Email Blast on 2/24/2021.
2. The Lender's analyst must review the Construction Progress Schedule to assure it relates to the entire project to the extent required by the contract documents. The final version of the Schedule shall be executed by the Architect's and General Contractor and attached to the Construction Contract.
3. Architect must review the GC's Construction Progress Schedule with actual progress and report any non-compliance at the Draw Meeting as well as document findings in the Architect's Field Report.
4. General Contractor to revise and include a Construction Progress Schedule for each Requisition (Draw Meeting) to show actual completion percentage vs planned completion percentage.
5. **An updated Construction Progress Schedule must be submitted to Lender and HUD when construction falls more than 10% behind schedule** (a revised schedule is not usually submitted when the project is ahead of schedule).
6. An updated Schedule is also required back-up for Time Extension Change Order Requests.

# Roles & Responsibilities

## Owner / Borrower

- During construction the **Owner / Borrower must be able to make timely decisions** regarding construction issues (payment of approved requests, proposal requests, change order proposals, construction delays, etc.) to their Architect, who instructs the Contractor as appropriate.
- The contract documents require the Owner / Borrower to designate in writing an Owner's Representative for construction. This individual must have the authority to make decisions and bind the Owner / Borrower contractually and fiscally as well as sign all documents (draws, change orders,) at the site, must attend the on-site Draw Meetings / Progress meetings.
  - *"The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. …shall render decisions…in a timely manner…"* (Article 5.3, AIA Document B108)
  - *"… The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization."* (Article 2.1, AIA Document A201).
- Owner / Borrower and/or Owner Rep.'s formal communications to Contractor must be through the Architect (Article 4.2, AIA Document A201 GC).

# Roles & Responsibilities

## Owner / Borrower

- Owner / Borrower Consultants:
  1. Owner / Borrower shall coordinate the services of its own consultants with those services provided by the Architect. Consultants are allowed only for Owner / Borrower's contractually defined responsibilities (geotechnical, environmental, seismic evaluation, radon testing, and other specialized consultants for special inspections or testing) (AIA Document B108 w/ HUD Amendment and AIA Document A201)
  2. If Owner / Borrower desires more onsite oversight of the Contractor, then it is recommended to increase the Architect's role through the AIA Document B108 (prior to initial endorsement)
- Owner / Borrower is required pay for changes to the Contract work. Once the approved change work is completed by Contractor, inspected by the Architect and HUD Contract Inspector, Contractor may request payment.
- When project contingency (working capital) is exhausted for change orders, the Owner / Borrower must provide Lender with additional funds to cover the cost.
- The Owner / Borrower shall prepare for occupancy, and a smooth transition from construction to operation. Lender and HUD Asset Management will provide assistance if desired.
- The Owner / Borrower must complete their Cost Certification and other closing requirements in a timely manner – so as not to delay the Final Endorsement.

# Roles & Responsibilities

## HUD Contract Inspector

232 Handbook, Section II, Production, Chapter 10.4

- HUD Contract Inspector is HUD's Representative and is required to visit the site monthly. Each visit will coincide with the Draw Meeting. HUD Contract Inspector has the authority to adjust Pay Requests based on actual progress.
- HUD Contract Inspector will walk the site with the Supervisory Architect and document its observations, quality of construction, non-compliances in the work, as well as performance of both the Supervisory Architect and Contractor, in writing on the HUD Representatives Trip Report (form HUD-95379-ORCF) to the HUD ORCF Construction Manager.
- HUD Contract Inspector will verify materials acceptably stored on site (materials stored offsite are not allowed).
- HUD Contract Inspector will confirm delivery and installation (or acceptably stored on site) of Major Movable Equipment and the invoice amounts. The Inspector will initial the major movable summary sheet as well as document its observations and conclusions in the HUD Representative's Trip Report.
- HUD Contract Inspector will review Change Orders, Contractor's Requisitions, Requests for Escrow Advance as well as execute HUD Permission to Occupy (PTO).
- HUD Contract Inspector will perform a minimum of two warranty inspections (follow-ups may be needed to confirm any latent defects are acceptably completed).

# Roles & Responsibilities

Rick Price, ORCF Construction Manager

## HUD Contract Inspector

Wage Interviews - Labor Requirements

**Record of Employee Interview**

**U.S. Department of Housing and Urban Development**
**Office of Davis-Bacon and Labor Standards**

OMB Approval No. 2501-0009
(exp. 12/31/2024)

The public reporting burden estimate for this collection of information is 15 minutes per response on average. This includes reviewing instructions, searching existing data sources, gathering, and maintaining the data, and completing the collection of information. This information may not be collected, nor are you required to provide, the information requested unless it displays a currently valid OMB control number. The information collected ensures compliance with the Federal labor standards through recording interviews with construction workers. The information collected assists HUD in compliance monitoring of Federal labor standards. Any information collected is covered by the Privacy Act of 1974 and by 29 CFR 5.6(a)(5). Individuals and agencies collecting this information must maintain these records in a manner that protects the individuals on whom the information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential, but failure to provide the information collected may delay enforcement of any possible Federal labor standards violations if the information would have identified any. Comments concerning this burden statement, or this collection should be sent to: National Director, Office of Davis-Bacon and Labor Standards, 451 7th Street SW, Room 7108, Washington, DC 20410. When providing comments, please refer to OMB Approval 2501- 0009.

Pursuant to 5 U.S.C. § 552a(e)(3), this Privacy Act Statement serves to inform you of the following concerning the collection of the information on this form.

A. **AUTHORITY:** Collection of the information solicited on this form is authorized by the Davis-Bacon Act as promulgated through Department of Labor Regulations under 29 CFR Part 5.

**B. PURPOSE:** The primary purpose for soliciting this information is to determine if the wages paid by an employer on a project covered by the Davis-Bacon Act are in compliance with federal labor standards.

**C. ROUTINE USES:** The information collected ensures compliance with the Federal labor standards through recording interviews with construction workers on topics related to wages paid on the project. The information is reviewed by HUD authorized personnel to ensure compliance with Federal labor standards under the Davis-Bacon Act on covered projects. If violations are found, the information collected is used to conduct enforcement actions to ensure restitution is paid to workers of covered projects are paid proper wages under the Davis-Bacon Act.

**D. CONSEQUENCES OF FAILURE TO PROVIDE INFORMATION:** The information collection is voluntary. Refusing to give information will not impact your status with your employer or the government. Failure to provide the information will limit the ability of HUD to determine if you were paid proper wages under the Davis-Bacon Act, and will limit the ability for HUD to seek restitution for you in the event a violation is found.

| | |
|---|---|
| 1a. Project Name | 2a. Employee Name |
| 1b. Project Number | 2b. Employee Phone Number (including area code) |

Information is kept Confidential

1. HUD Contract Inspector verifies that Wage Decision, Notice to Employees (WH-1321), EEO Posters and Logos are conspicuously posted on job site – outside of trailer. Takes photos of these required postings and includes them in an early HUD Trip Report.
2. HUD Contract Inspector conducts Wage Interviews with labor from each trade, completes HUD-11 Form and emails, along with the corresponding HUD Trip Report from that visit, to the ORCF Construction Manager.
3. ORCF Construction Manager reviews each HUD-11 for completeness and forwards to Department of Labor (DOL) for their compliance review. DOL will communicate directly with the Contractor for any non-compliance.

# Administration and Documentation & Changes to the Work

(232 Handbook, Section II, Production, Chapter 10)

# Administration & Documentation

Timely documentation of clarifications, interpretations, decisions & changes is key to a successful project.

## Request For Information (RFI)

- **NOT** a change to the Contract Documents

**Contractor's RFI**

**Architect's Response**
Architect to provide timely responses to RFIs!

NOT a Change to CDs

## Architect's Supplemental Instruction (ASI) AIA G710

- Minor changes

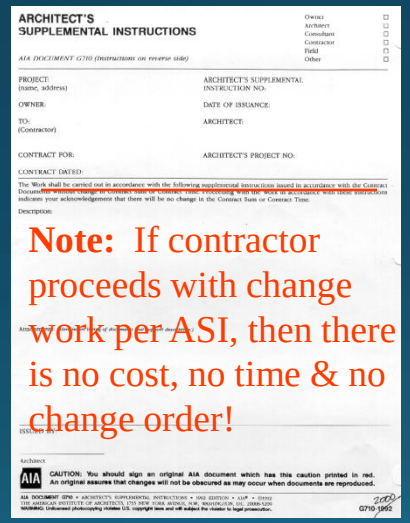
(all structural changes are not minor)

- No Cost
- No Time

**or**

## Change Order HUD-92437-ORCF

- Not Minor
- Cost Change
- Time Change


ARCHITECT'S SUPPLEMENTAL INSTRUCTIONS

AIA DOCUMENT G710 (Instructions on reverse side)

Owner ☐
Architect ☐
Consultant ☐
Contractor ☐
Field ☐
Other ☐

PROJECT: (name, address)
ARCHITECT'S SUPPLEMENTAL INSTRUCTION NO.:
OWNER:
DATE OF ISSUANCE:
TO: (Contractor)
ARCHITECT:
CONTRACT FOR:
ARCHITECT'S PROJECT NO.:
CONTRACT DATED:

The Work shall be carried out in accordance with the following supplemental instruction issued in accordance with the Contract Documents. No adjustment in the Contract Sum or Contract Time is required. Your signature below indicates your acknowledgement that there will be no change in the Contract Sum or Contract Time.

Description:

**Note:** If contractor proceeds with change work per ASI, then there is no cost, no time & no change order!

ISSUED BY:

Architect

AIA CAUTION: You should sign an original AIA document which has this caution printed in red. An original assures that changes will not be obscured as may occur when documents are reproduced.

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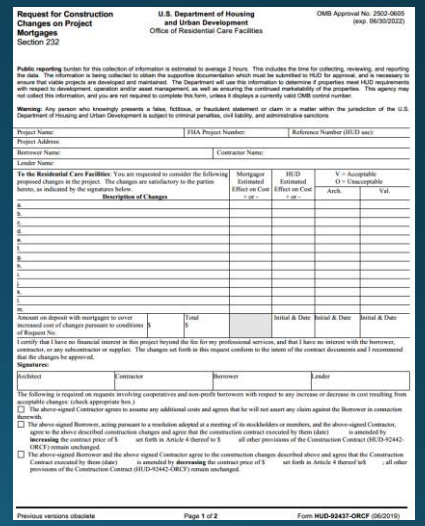
2000

G710-1992

Changes to the Plans and Specifications can ONLY be made with documented ASI's or approved Change Orders.


Request for Construction Changes on Project Mortgages
Section 232

U.S. Department of Housing and Urban Development
Office of Residential Care Facilities

OMB Approval No. 2502-0605
(exp. 08/30/2022)

**Public reporting** burden for this collection of information is estimated to average 2 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

**Warning:** Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.

Project Name: | FHA Project Number: | Reference Number (HUD use):
Project Address:
Borrower Name: | Contractor Name:
Lender Name:

**To the Residential Care Facilities**: You are requested to consider the following proposed changes in the project. The changes are satisfactory to the parties hereto, as indicated by the signatures below.

| Description of Changes | Mortgagor Estimated Effect on Cost (+ or -) | HUD Estimated Effect on Cost (+ or -) | V = Acceptable O = Unacceptable Arch. | Val. |
|---|---|---|---|---|
| a. | | | | |
| b. | | | | |
| c. | | | | |
| d. | | | | |
| e. | | | | |
| f. | | | | |
| g. | | | | |
| h. | | | | |
| i. | | | | |
| j. | | | | |
| k. | | | | |
| l. | | | | |
| m. | | | | |

Amount on deposit with mortgagee to cover increased cost of changes pursuant to conditions of Request No.: $ | Total $ | Initial & Date | Initial & Date | Initial & Date

I certify that I have no financial interest in this project beyond the fee for my professional services, and that I have no interest with the borrower, contractor, or any subcontractor or supplier. The changes set forth in this request conform to the intent of the contract documents and I recommend that the changes be approved.

**Signatures:**

| Architect | Contractor | Borrower | Lender |
|---|---|---|---|
| | | | |

The following is required on requests involving cooperatives and non-profit borrowers with respect to any increase or decrease in cost resulting from acceptable changes (check appropriate box.)

☐ The above-signed Contractor agrees to assume any additional costs and agrees that he will not assert any claim against the Borrower in connection therewith.

☐ The above-signed Borrower, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the above-signed Contractor, agree to the above described construction changes and agree that the construction contract executed by them (date) is amended by **increasing** the contract price of $ set forth in Article 4 thereof to $ all other provisions of the Construction Contract (HUD-92442-ORCF) remain unchanged.

☐ The above-signed Borrower and the above signed Contractor agree to the construction changes described above and agree that the Construction Contract executed by them (date) is amended by **decreasing** the contract price of $ set forth in Article 4 thereof to$ ; all other provisions of the Construction Contract (HUD-92442-ORCF) remain unchanged.

Previous versions obsolete | Page 1 of 2 | Form HUD-92437-ORCF (06/2019)

Change Order Request (COR) may lead to ASI or a CO ( a Change to CD's) as determined by Architect

ASI voided if Contractor responds with legitimate cost or time impact to ASI and a Change Order results.

# Administration & Documentation Cont'd

## Architect's and Contractor's Logs

### Architect's Logs

1. Request for Information (RFI) - if not relying on contractor's log.
2. Submittals log

Submittals Log

Architect's RFI Log

3. Proposal Requests (PR) log
4. Architect Supplemental Instructions (ASI) log
5. Change Orders log

Architect's PR Log (proposed changes)

ASI Log

Change Order Log (include costs in log)

Review at meetings, prioritize items, Architect addresses response times by architect (including their consultants) and by contractor.

(No copies needed by HUD).

(Architect to provide to HUD Contract Inspector each month – at pay draw meeting & via email).

Review at meetings, Architect provides administration and documentation for all changes - written instructions for all changes, submission of complete change orders and payment approvals once work is complete (form HUD-92464-ORCF).

### Contractor's Logs

1. Request for Information (RFI) log
2. Submittals log

Submittals Log

Contractor's RFI Log

3. Change Order Requests (COR) log

Contractor's COR Log (proposed changes)

**Note**: Owner / Borrower does not sign the Contractor's COR or any form approving changes to the work, other than the HUD CO Form. For offsite changes only an AIA CO formatted form is allowed.

# HUD Change Orders

(232 Handbook Section II, Production, Chapter 10)

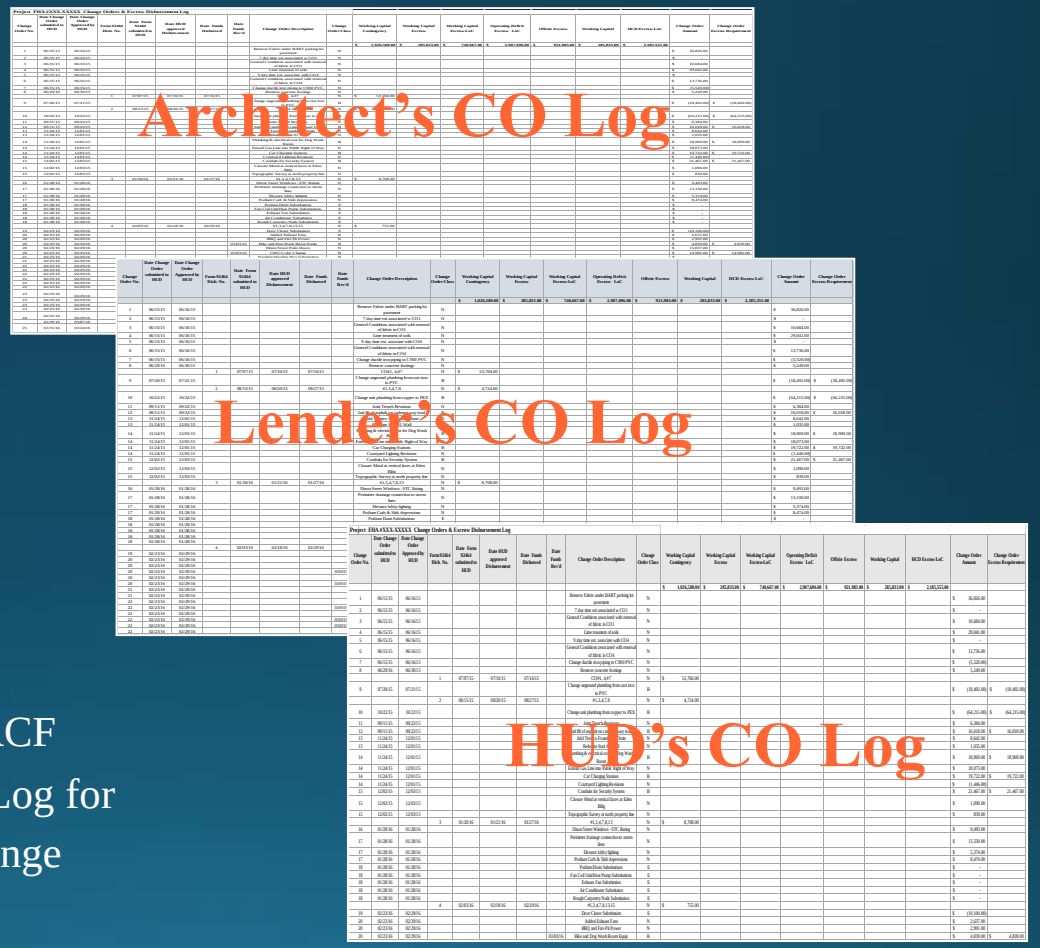
# Change Order Logs

The Architect, Lender and HUD ORCF Construction Manager maintain change order logs. Change order logs are important tools for tracking the change orders submittals, cost/time amounts, type/classification, and review and approval status.

- **Architect's Change Order Log** – are to be shared with the Owner / Borrower, Contractor and HUD Contract Inspector at site meetings, and emailed with each change order submittal.

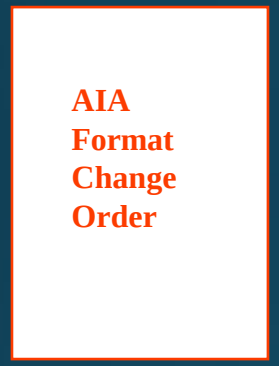
- **Lender's Change Order Log** – are to be emailed to the ORCF Construction Manager with each Change Order Request and each Change Order Release for the duration of construction.

- **HUD's Change Order Log** – the HUD ORCF Construction Manager maintains a Change Order Log for all HUD approved Change Order Request and Change Order Release during construction.



# Change Order Types

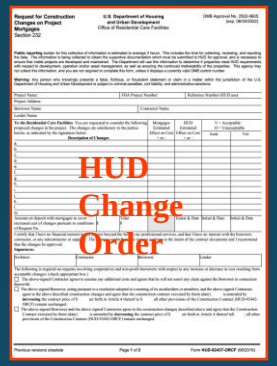
## Offsite Change



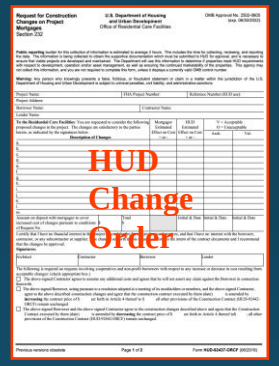

Change Request to OFFSITE Plans and Specs

- For construction change work outside the mortgaged premises, use AIA Document G701, Change Order (or equal)

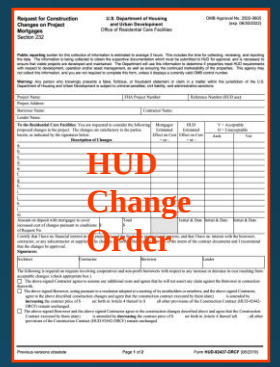
## Added Cost




## Credit / Deduct




## Time Extension




Change Request to ONSITE Plans / Specs

- For construction change work within the mortgaged premises and related to the HUD Construction Contract, use Request for Construction Changes on Project Mortgages, form HUD-92442-ORCF

# Offsite Change Orders



Offsite Change Orders may not be submitted on the HUD Change Order Form 92437-ORCF (232 Handbook Section II, Production, Chapter 10.9), however the CO is processed the same as onsite change orders, including back-up documents & HUD review and approval required.

The American Institute of Architects (AIA) Change Order G701 format has been established as an acceptable alternative form for offsite change orders. This form must be signed and dated as follows for HUD change order processing, review and approval:

## Signatures required for AIA Formatted Change Order

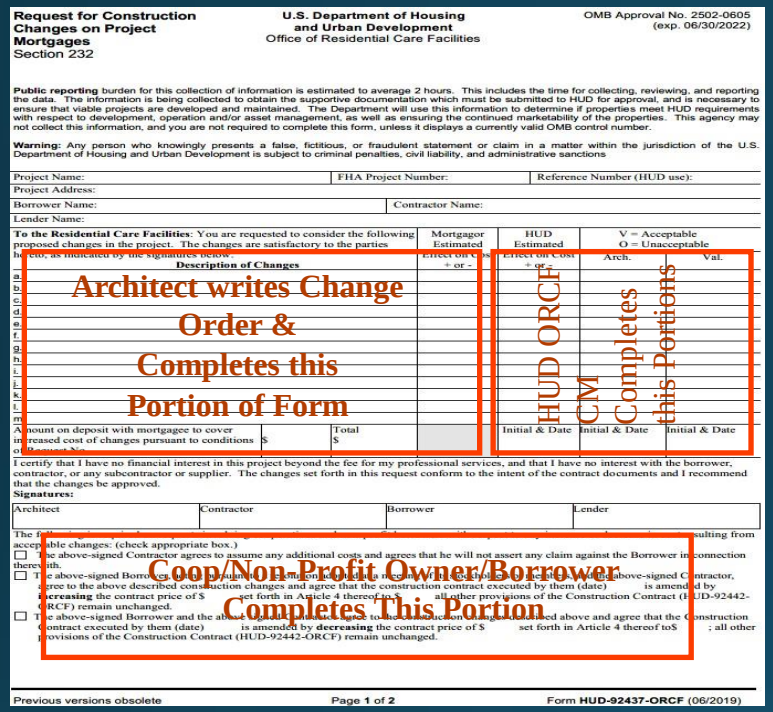
| Architect | Contractor | Owner / Borrower |
|---|---|---|
| Date | Date | Date |

NOTE: Add these signature blocks below, or on an additional page, for Lender and HUD review and approval:

| HUD Contract Inspector |
|---|
| Date |

| Lender | HUD ORCF Construction Manager |
|---|---|
| Date | Date |

# HUD Change Order Form



**Request for Construction Changes on Project Mortgages**
Section 232

**U.S. Department of Housing and Urban Development**
Office of Residential Care Facilities

OMB Approval No. 2502-0605 (exp. 06/30/2022)

**Public reporting** burden for this collection of information is estimated to average 2 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

**Warning:** Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions

Project Name: | FHA Project Number: | Reference Number (HUD use):
Project Address:
Borrower Name: | Contractor Name:
Lender Name:

**To the Residential Care Facilities**: You are requested to consider the following proposed changes in the project. The changes are satisfactory to the parties hereto, as indicated by the signatures below.

| Description of Changes | Mortgagor Estimated Effect on Cost + or - | HUD Estimated Effect on Cost + or - | V = Acceptable O = Unacceptable Arch. | Val. |
|---|---|---|---|---|
| a. | | | | |
| b. | | | | |
| c. | | | | |
| d. | | | | |
| e. | | | | |
| f. | | | | |
| g. | | | | |
| h. | | | | |
| i. | | | | |
| j. | | | | |
| k. | | | | |
| l. | | | | |
| m. | | | | |
| Amount on deposit with mortgagee to cover increased cost of changes pursuant to conditions of Section 232 | $ | Total $ | Initial & Date | Initial & Date | Initial & Date |

Architect writes Change Order & Completes this Portion of Form

HUD ORCF CM Completes this Portions

I certify that I have no financial interest in this project beyond the fee for my professional services, and that I have no interest with the borrower, contractor, or any subcontractor or supplier. The changes set forth in this request conform to the intent of the contract documents and I recommend that the changes be approved.

**Signatures:**

| Architect | Contractor | Borrower | Lender |
|---|---|---|---|
| | | | |

The following [illegible] resulting from acceptable changes: (check appropriate box.)

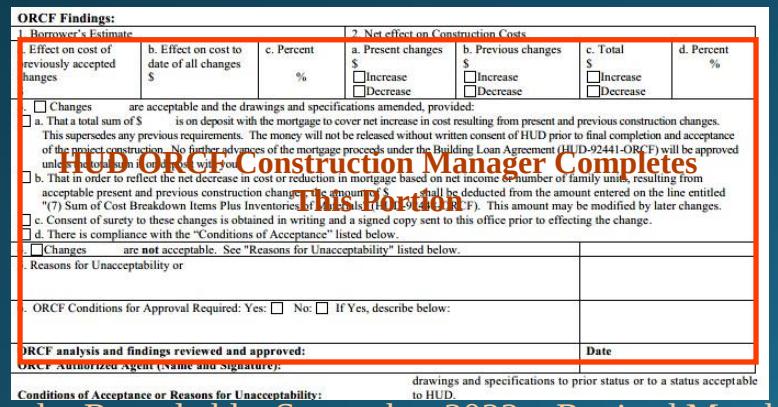
☐ The above-signed Contractor agrees to assume any additional costs and agrees that he will not assert any claim against the Borrower in connection therewith.

☐ The above-signed Borrower [illegible] the above-signed Contractor, agree to the above described construction changes and agree that the construction contract executed by them (date) is amended by **increasing** the contract price of $ set forth in Article 4 thereof to $ all other provisions of the Construction Contract (HUD-92442-ORCF) remain unchanged.

☐ The above-signed Borrower and the above-signed Contractor [illegible] above and agree that the Construction Contract executed by them (date) is amended by **decreasing** the contract price of $ set forth in Article 4 thereof to$ ; all other provisions of the Construction Contract (HUD-92442-ORCF) remain unchanged.

Coop/Non-Profit Owner/Borrower Completes This Portion

Previous versions obsolete | Page 1 of 2 | Form **HUD-92437-ORCF** (06/2019)



**ORCF Findings:**

| 1. Borrower's Estimate | | | 2. Net effect on Construction Costs | | | |
|---|---|---|---|---|---|---|
| a. Effect on cost of previously accepted changes | b. Effect on cost to date of all changes $ | c. Percent % | a. Present changes $ ☐Increase ☐Decrease | b. Previous changes $ ☐Increase ☐Decrease | c. Total $ ☐Increase ☐Decrease | d. Percent % |

[illegible]. ☐ Changes are acceptable and the drawings and specifications amended, provided:

☐ a. That a total sum of $ is on deposit with the mortgage to cover net increase in cost resulting from present and previous construction changes. This supersedes any previous requirements. The money will not be released without written consent of HUD prior to final completion and acceptance of the project construction. No further advances of the mortgage proceeds under the Building Loan Agreement (HUD-92441-ORCF) will be approved unless [illegible] without [illegible]

☐ b. That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable present and previous construction changes, the amount $ shall be deducted from the amount entered on the line entitled "(7) Sum of Cost Breakdown Items Plus Inventories" [illegible] (HUD-92441-ORCF). This amount may be modified by later changes.

☐ c. Consent of surety to these changes is obtained in writing and a signed copy sent to this office prior to effecting the change.

☐ d. There is compliance with the "Conditions of Acceptance" listed below.

[illegible]. ☐ Changes are **not** acceptable. See "Reasons for Unacceptability" listed below.

[illegible]. Reasons for Unacceptability or

[illegible]. ORCF Conditions for Approval Required: Yes: ☐ No: ☐ If Yes, describe below:

**ORCF analysis and findings reviewed and approved:** | **Date**

**ORCF Authorized Agent (Name and Signature):**

**Conditions of Acceptance or Reasons for Unacceptability:** drawings and specifications to prior status or to a status acceptable to HUD.

HUD ORCF Construction Manager Completes This Portion

## Instructions:

- May not use Change Order to alter the intent of Contract Documents, lower quality or reduce value of the project. May not adversely impact the project income. Downgrades or value engineering during construction are not allowed.
- All changes must be accurately reported and accounted for (pursuant to US Criminal Code, Section 1010, Title 18, USC). 232 Handbook Section II, Production, Chapter 10.9
- All changes must be approved in writing by Lender and HUD before they are made per 232 Handbook Section II, Production, Chapter 10.9
- Any change made without written formal approval, must be recorded as noncompliance by the HUD Contract Inspector until noncompliance is resolved or Change Order is approved by Lender and HUD. 232 Handbook Section II, Production, Chapter 10.9
- Regarding additive change orders, the Lender must not give any explicit or implied assurance to the mortgagor or the contractor that an increase in the insured mortgage amount will be granted when construction changes are approved. (232 Handbook Section II, Production, Chapter 10.9).

# Change Order Form Instructions

**Request for Construction Changes on Project Mortgages**
Section 232

**U.S. Department of Housing and Urban Development**
Office of Residential Care Facilities

OMB Approval No. 2502-0605
(exp. 06/30/2022)

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**Warning:** Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions

| | | |
|---|---|---|
| Project Name: | FHA Project Number: | Reference Number (HUD use): CO # |
| Project Address: | | |
| Borrower Name: Owner / Borrower | Contractor Name: Contractor | |
| Lender Name: Lender | | |

| **To the Residential Care Facilities**: You are requested to consider the following proposed changes in the project. The changes are satisfactory to the parties hereto, as indicated by the signatures below. **Description of Changes** | Mortgagor Estimated Effect on Cost + or - | HUD Estimated Effect on Cost + or - | V = Acceptable O = Unacceptable Arch. | Val. |
|---|---|---|---|---|
| a. | | | | |
| b. | | | | |
| c. | | | | |
| d. | | | | |
| e. | | | | |
| f. | | | | |
| g. | | | | |
| h. | | | | |
| i. | | | | |
| j. | | | | |
| k. | | | | |
| l. | | | | |
| m. | | | | |
| Amount on deposit with mortgagee to cover increased cost of changes pursuant to conditions of Request No. $ | Total $ | Blank | Initial & Date | Initial & Date | Initial & Date |

- List item & if "Necessity(N), Betterment (B) or Equivalent (E)".
- Provide details of description and classification of the proposed change in the Architect's Letter of Justification.
- Group by type/trade if possible.`

Architect list dollar amounts per item

HUD ORCF Construction Manager completes this portion

Total Cost – incl. Overhead & Profit filled in by Architect

To be filled in by Lender

I certify that I have no financial interest in this project beyond the fee for my professional services, and that I have no interest with the borrower, contractor, or any subcontractor or supplier. The changes set forth in this request conform to the intent of the contract documents and I recommend that the changes be approved.

**Signatures:** Change Order must be signed by Architect, Contractor and Borrower before submitting to Lender – then Lender to HUD

| Architect | Contractor | Borrower | Lender |
|---|---|---|---|
| Architect Signs | Contractor Signs | Borrower Signs | Lender Signs |

# Change Order Form Instructions

## For Non-Profits and Cooperatives

The following is required on requests involving cooperatives and non-profit mortgagors with respect to any increase or decrease in cost resulting from acceptable changes: (check appropriate box.)

No cost → 1 The abovesigned contractor agrees to assume any additional costs and agrees that he will not assert any claim against the Mortgagor in connection therewith.

+ Cost → 2 The abovesigned Mortgagor, acting pursuant to a resolution adopted at a meeting of its stockholders or members, and the abovesigned Contractor, agree to the above described construction changes and agree that the construction contract executed by them (date) _____ is amended by increasing the contract price of $_____ set forth in Article 3 thereof to $_____ all other provisions of the Construction Contract remain unchanged.

Credit → 3 The abovesigned Mortgagor and the above signed Contractor agree to the construction changes described above and agree that the construction contract executed by them (date) _____ is amended by decreasing the contract price of $_____ set forth in Article 3 thereof to $_____ ; all other provisions of the construction contract remain unchanged.

**No Cost Change Order:** Non-Profit Organization/Owner can check **Box 1** to accept a zero cost change order.

**Added (+) Cost Change Order:** **Once the contingency is spent**, the Non-Profit Organization/Owner / Borrower must get Board approval to take on increased financial responsibility before checking **Box 2** and accepting an increased cost change order.

**Credit (-) Change Order:** Non-Profit Organization/Owner / Borrower can check **Box 3** to accept a credit.

# Change Order Form Instructions

## Owner / Borrower's Construction Costs

1.a. Effect on cost of previously accepted changes should equal the total change order prior to the one being reviewed.

1.b. Effect on cost to date should equal the total aggregate amount including the change order under review.

1.c. The percentage increase between 1.a and 1.b.

## HUD Recognized Change in Construction Costs

2.a. The amount of the change order under review.

2.b. The total of the changes previously approved.

2.c. The total change orders approved, including the one under review.

2.d. The % of increase in the original construction Contract amount. Once the amount is 10% or more, Surety approval is required and for each thereafter.

**Owner / Borrower's Construction Costs ⟷ HUD Recognized Change in Construction Costs**

**ORCF Findings:**

| 1. Borrower's Estimate | | | 2. Net effect on Construction Costs | | | |
|---|---|---|---|---|---|---|
| a. Effect on cost of previously accepted changes $ 1.a | b. Effect on cost to date of all changes $ 1.b | c. Percent % 1.c | a. Present changes $ ☐Increase ☐Decrease 2.a | b. Previous changes $ ☐Increase ☐Decrease 2.b | c. Total $ ☐Increase ☐Decrease 2.c | d. Percent % 2.d |

3. ☐ Changes are acceptable and the drawings and specifications amended, provided:

☐ a. That a total sum of $ 1.b is on deposit with the mortgage to cover net increase in cost resulting from present and previous construction changes. This supersedes any previous requirements. The money will not be released without written consent of HUD prior to final completion and acceptance of the project construction. No further advances of the mortgage proceeds under the Building Loan Agreement (HUD-92441-ORCF) will be approved unless the total sum is on deposit with you.

☐ b. That in order to reflect the net decrease in cost or reduction in mortgage based on net income or number of family units, resulting from acceptable present and previous construction changes, the amount of $ shall be deducted from the amount entered on the line entitled "(7) Sum of Cost Breakdown Items Plus Inventories of Materials" (HUD-92448-ORCF). This amount may be modified by later changes.

☐ c. Consent of surety to these changes is obtained in writing and a signed copy sent to this office prior to effecting the change.

☐ d. There is compliance with the "Conditions of Acceptance" listed below.

4. ☐ Changes are **not** acceptable. See "Reasons for Unacceptability" listed below.

5. Reasons for Unacceptability or

6. ORCF Conditions for Approval Required: Yes: ☐ No: ☐ If Yes, describe below:

**The HUD ORCF CM shall review all Change Orders and render a decision – approval or rejection**

**ORCF analysis and findings reviewed and approved:** **Date**
**ORCF Authorized Agent (Name and Signature):**

**Conditions of Acceptance or Reasons for Unacceptability:** drawings and specifications to prior status or to a status acceptable to HUD.

Please note, pursuant to 3.a of the approved change order, no further advances of the mortgage proceeds under the Building Loan Agreement are approved unless the total sum shown in Box 1b is on deposit with the Lender.

**Required if ≥ 10% of construction or time extension**

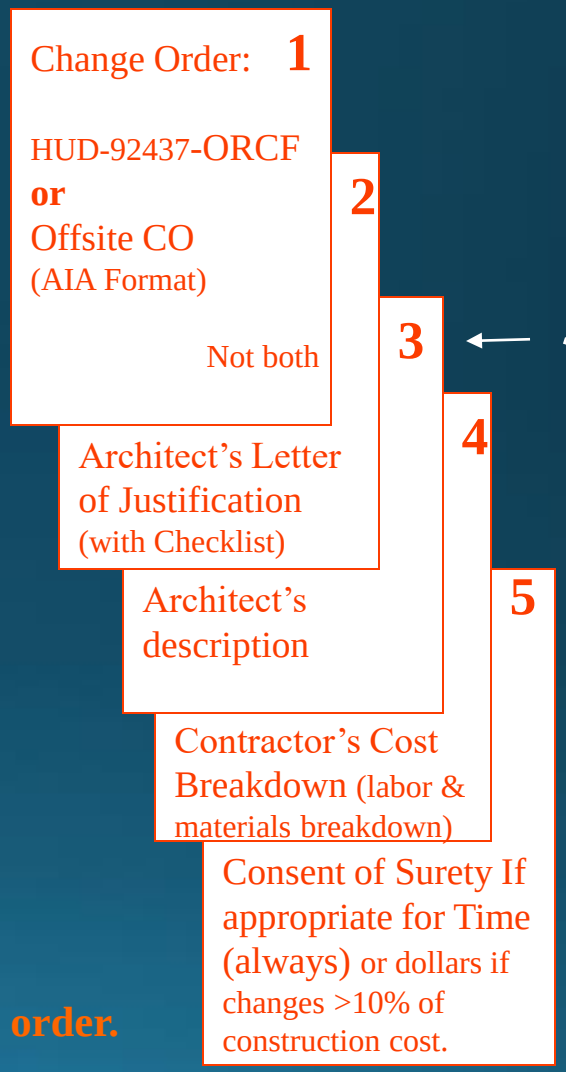
Note: The HUD Contract Inspector reviews, but does not approve Change Orders

# Assembling Change Order Submittals

## A complete Change Order includes:

1. Signed and properly completed Change Order form HUD-92437-ORCF (Note: if an off-site change or not included in mortgage, then use AIA format, not HUD form).
2. Architect's Letter of Justification on their letterhead (with checklist for electronic submittal).
3. * **Architect's description of revised CDs to define scope of proposed change** (Proposal Request, sketch, spec, detail, plan, etc.) is required.
4. General Contractor's Cost Breakdown – a summary of labor and materials on their letterhead. (Additional back up from subcontractors, suppliers, etc. is not necessary to be attached. Architect's copy must have this back-up as they must explain and justify the cost of the proposed change to the Owner / Borrower, Lender and HUD.)
5. Consent of Surety - for Time Extension Requests or if CO costs are >10% of construction $$ (232 Handbook Section II, Production, Chapter 10.9).

**Please assemble the electronic versions of these documents (.pdf format) in this order.**




* The Supervisory Architect of Record must define the scope of the change and provide written instructions – plan, spec, detail, section, sketch, etc.

# Assembling Change Order Submittals Cont'd

## Architect's Justification

The Supervisory Architect must write a Letter of Justification for each change order. This Letter of Justification on Architect's letterhead must include the following five items:

Architect's Checklist

**Architect's Checklist for HUD Change Orders**
Section 232 New Construction, Substantial Rehabilitation, and 241a

HUD Project Name: _____
HUD Project Number: _____
Mortgagor: _____

Pursuant to Program Guidance, as applicable, Supervisory Architect herby confirms that Change Order number(s) _____prepared for the subject Project:

- conform to the original intent of the contract drawings and specifications, or is a
  - ☐ Necessity,
  - ☐ Betterment, and/or
  - ☐ Equivalent.

  Note: Each change shall be classified as such per Section 232 Handbook, Section II, Production, Chapter 10.9.C, and clearly explained. Attach additional pages, as necessary.
- are permissible under the applicable zoning, building, housing, and other codes, ordinances and/or regulations, as modified by any and all waivers obtained from appropriate officials,
  ☐ N/A
- incorporates foundation designs that reflect site soils limitations and design recommendations included in the foundation soils report as specified in the geotechnical report,
  ☐ N/A
- complies with the HUD Minimum Property Standards; all applicable accessibility laws for persons with disabilities, including the Fair Housing Act, 42 U.S.C. §§ 3601-19; Section 504 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act; including the applicable accessibility requirements (e.g., the Uniform Federal Accessibility Standards (UFAS), ADA Standards, and Fair Housing Accessibility Guidelines); and all other applicable HUD guidelines and criteria,
  ☐ N/A
- complies with the applicable State Energy Efficiency Design Code,
  ☐ N/A
- includes written approval by the Energy Professional for projects under the Green MIP Program.
  ☐ N/A
- for Substantial Rehabilitation, structures must meet seismic resistance requirements published by the American Society of Civil Engineers (ASCE) and its affiliate the Structural Engineering Institute (ASCE/SEI) for ASCE 41-13, as determined by a registered engineer familiar with lateral force design, and
  ☐ N/A
- incorporates noise attenuation measures which are sufficient to mitigate interior noise levels to an "Acceptable" level and complies with the recommendations of the Noise Engineer.
  ☐ N/A

Supervisory Architect's Name: _____
Business Address: _____
License Number: _____
Date: _____

Revised: January 2023

1. The Project Name, **HUD** Project Number and Architect's project Change Order Number.
2. Reason/justification for each proposed change item described in detail. One letter per entire CO is okay.
3. Classification of each proposed change item - by Necessity, Betterment or Equivalent and sub-classification. (See 232 Handbook Section II, Production, Chapter 10.9 for definitions)
4. Supervisory Architect must state they have reviewed and accepted Contractor's proposed costs and/or time requested.
5. Architect's Checklist must also be included with justification letter for each change order.

# Assembling Change Order Submittals Cont'd

General Contractor to provide on their letterhead, a **summary** of their labor and material breakdown for each Change Order item:

| LABOR | Classification (ex. Carpenter, Electrician) | Hours | Rate/Hour | Total |
|---|---|---|---|---|
| | Forman | | | |
| | | | | |
| | Laborer | | | |
| | Laborer | | | |
| | Other | | | |
| | | | | Labor Total |

| MATERIALS | Item(s) | Quantity | Unit Cost | Total |
|---|---|---|---|---|
| | | | | |
| | | | | Total |
| | | | | Tax |
| | | | | Material Total |

Note: Only the GC's Labor and Material Summary need be submitted with the CO as contractor back-up when emailing the CO to the Lender and HUD (unless requested otherwise).

General Requirements, Overhead, Profit, and Bond) are limited to the percentages on form HUD-92328-ORCF, Contractor's and or Mortgagor's Cost Breakdown Schedule of Values. Architect, as the Contract Administrator, shall verify prior to approving the Change Order

| |
|---|
| L&M subtotal |
| Overhead & Profit |
| Grand Total |

**Contractor's Total Cost for Change Order** → Grand Total

# Assembling Change Order Submittals Cont'd

Time Extension CO's

## Time Extension Change Order Requirements:

1. Delay must be beyond Contractor's control.
2. Record with Architect for analysis & approval **within 21 days of delay**.
3. Time extension requests are to be submitted separate from construction changes.
4. Record in full calendar days (not working days). If weather delay, provide data that actual weather was beyond normal (was unusual). Website resources include: www.noaa.gov, www.accuweather.com, www.weather.com, www.wunderground.com
5. General Requirements (GR) for associated delay may be claimed, if desired. If not requested at this time, then General Contractor misses their opportunity to do so. Allowable GR is calculated as follows:
   - Divide the cost of General Requirements from the contractor's approved Form HUD-92328-ORCF by the number of months estimated for construction period on Firm Commitment form HUD-92264a-ORCF (as may be amended). Sixty-five percent (65%) of this amount is the estimate per month of additional general requirements.
   - Use one quarter of the monthly estimate per week
   - Use 7 calendar days of the weekly estimate to derive at a daily amount.
   - There is no cost effect for extensions of time for less than 7 days.
6. Compute soft cost pro-rata daily rate of interest (based on interest rate), taxes and insurance using estimates shown Firm Commitment form HUD-92264a-ORCF (as may be amended). For time extension change orders extending the duration of construction beyond what is shown in the Firm Commitment, an additional year of MIP will be required as well.
7. Attach revised Construction Progress Schedule clearly showing revised completion date.
8. Attach Consent of Surety

# Consent of Surety

Consent of Surety is required for all time extensions requests and where the aggregate change orders to date are greater than 10% of the original construction cost and must comply with the following requirements:

1. A separate Consent of Surety is required for each time extension request - no blanket consents for multiple time extension requests.
2. Consent of Surety must be addressed to the Lender (for insured projects).
3. Consent of Surety must acknowledge and approve the extension of the contract time by both:
   a) the number of whole calendar days, and
   b) the date to which the contract completion is extended.
4. Consent of Surety must be signed by the Attorney-in-Fact for the Surety Co.
5. Consent of Surety must be Notarized.
6. Power of Attorney document must be attached to the Consent of Surety as evidence that the signature on the Consent of Surety is the Surety Company's Attorney-in-fact.

**Note:** If a Letter of Credit is provided in lieu of Bond (Lender shall inform the HUD ORCF Construction Manager), then Consent of Surety is not required.

# Change Order Submittal, Review & Approval Process

## 3 Step Process: (232 Handbook Section II, Production, Chapter 10)

1. Architect writes and assembles a complete Change Order and submits it to the Owner / Borrower, Contractor and HUD Contract Inspector **at the site meetings** for review, acceptance and signatures. The HUD **Contract Inspector** completes its review **for technical acceptability at the Draw Meeting** on the spot and provides its initial and date in the upper right corner of the Change Order. The Change Order is then emailed by the Architect along with their **CO Log** to the Lender, with cc to the Owner / Borrower, Contractor, HUD Contract Inspector.

2. Lender must review all Change Orders prior to sending to HUD for approval per Section 232 Handbook, Section II, Production, Chapter 10.11, Change Orders – Lender's Architectural Reviewer and Cost Analyst's Instructions. If acceptable, Lender verifies funds are with the Lender to pay for the change, signs and emails the Change Order and the Lender's CO log (demonstrating funds are available) to the HUD ORCF Construction Manager for HUD review.

3. HUD reviews the proposed changes and, if technically acceptable, approves the Change Order so that work may proceed. The HUD ORCF Construction Manager emails a copy of the HUD approved Change Order to Lender, Borrower, General Contractor, Architect and HUD Contract Inspector. and processes the change order. If the change order is NOT acceptable, then the HUD ORCF Construction Manager immediately emails the Lender (with cc to all the development team members on the original email) as to why change order cannot be processed.

# Change Order Funding

1. For Insured Advances New Construction projects, the Working Capital Escrow requirement is 4% of the loan amount, half of which will be a construction contingency for cost overruns and approved change orders (232 Handbook Section II, Production, Chapter 2.6). A separate section to the working capital escrow will govern the construction contingency. Once these funds are exhausted, it is the Lender's responsibility to ensure the Borrower deposits funds into the Escrow to cover the cost of the Change Orders prior to Lenders approval. The construction contingency portion of the Escrow will be refunded to the developer at Final Endorsement if not used. A Working Capital Escrow is required for both for-profit and non-profit projects.

2. New Construction projects that apply for insurance upon completion (without insured construction advances) and Substantial Rehabilitation projects must meet the working capital requirements for projects with insurance of advances except for the extra 2% construction contingency section of the working capital requirement. Construction Contingency, as a loan line item, may be available (refer to the Firm Commitment for specifics). Therefore, it is the Lender's responsibility to ensure the Borrower deposits funds, as needed, into the Change Order Escrow to cover the cost of all Change Orders prior to Lenders approval. Any portion of the Change Order Escrow (cash) not used will be refunded to the developer at Final Endorsement.

3. For 241(a) projects, no Working Capital Escrow is required at Initial Endorsement. (232 Handbook Section II, Production, Chapter 2.8). Therefore, it is the Lender's responsibility to ensure the Borrower deposits funds into the Change Order Escrow to cover the cost of all Change Orders prior to Lenders approval. Any portion of the Change Order Escrow not used will be refunded to the developer at Final Endorsement.

REMINDER, pursuant to 3.a of an applicable HUD approved Change Order (form HUD-92437-ORCF), no further advances of the mortgage proceeds under the Building Loan Agreement are to be approved unless the total sum shown in Box 1b is on deposit with the Lender

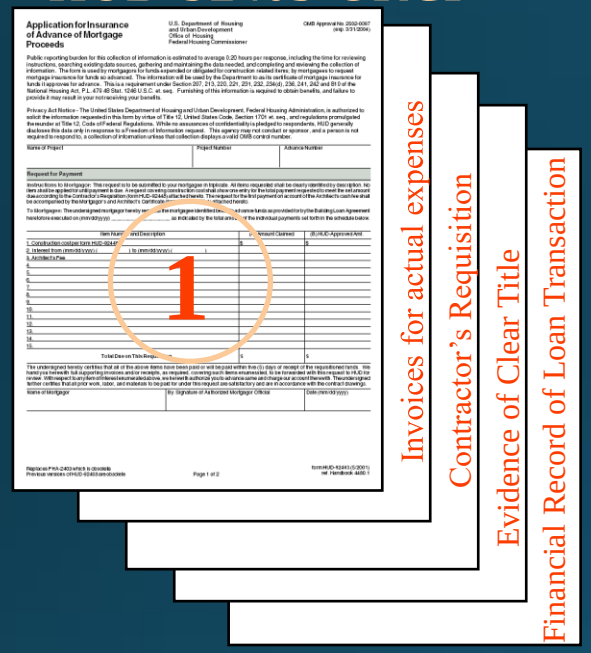
# Payment Requests Forms & Instructions

(232 Handbook Section II, Production, Chapter 10, Appendices 10.2 – 10.4)

# Payment Requests Forms & Instructions

(232 Handbook Section II, Production, Chapter 10, Appendices 10.2 – 10.4)

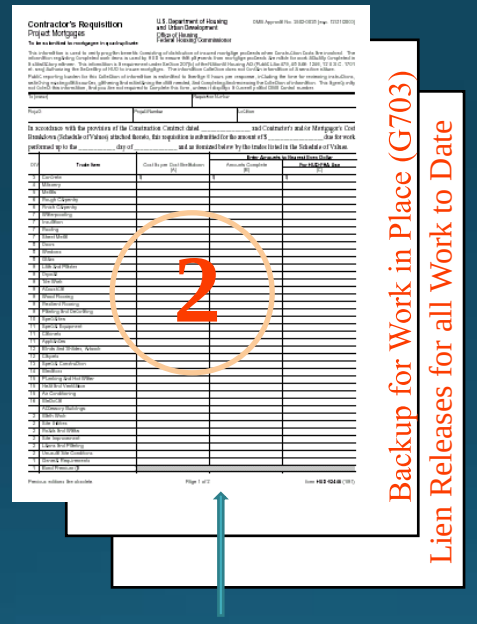
## Owner's Advance of Mortgage Proceeds HUD-92403-ORCF




Owner / Borrower provides supporting documentation (bills, invoices, receipts, etc.) for other actual expenses (not estimates) – including Contractor's request, Architect's Fees, consultant's fees, taxes, Major Movables (approved by HUD Inspector), etc.

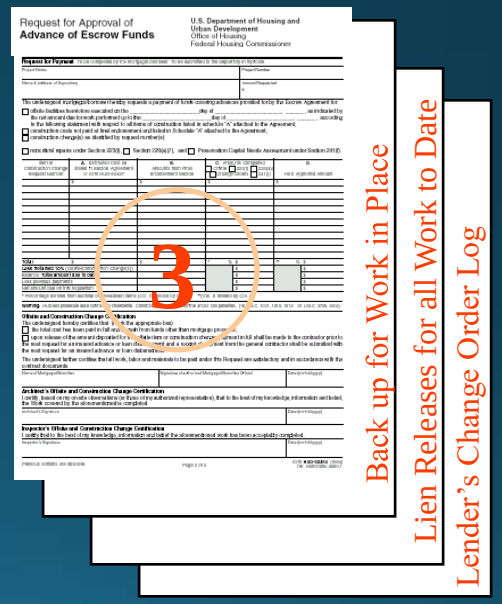
+

## Contractor's Requisition HUD-92448-ORCF




**Note:** Bond Premium & Other Fees, and Change Orders are billed separately.

## Advance of Escrow Funds HUD-92464-ORCF




For Change Orders, Off-Sites, Minor Movables & Demolition

# Owner / Borrower's Advance of Mortgage Proceeds

HUD-92403-ORCF

**Application for Insurance of Advance of Mortgage Proceeds**
Section 232

**U.S. Department of Housing and Urban Development**
Office of Residential Care Facilities

OMB Approval No. 2502-0605
(exp. 06/30/2022)

**Public reporting** burden for this collection of information is estimated to average 0.2 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

**Warning:** Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions

| Project Name: | FHA Project Number: | Advance Number: |
|---|---|---|

**Request for Payment**

**Instructions to Borrower:** This request is to be submitted to your Lender. All items requested shall be clearly identified by description. No item shall be applied for until payment is due. A request covering construction cost shall show one entry for the total payment requested to meet the net amount due according to the Contractor's Requisition (form HUD-92448-ORCF) attached hereto.
**To Lender:** The undersigned borrower hereby requests the lender identified below to advance funds as provided for by the Building Loan Agreement heretofore executed on (mm/dd/yyyy) as indicated by the total amount of the individual payments set forth in the schedule below.

| | Item Number and Description | (A) Amount | (B) HUD-Approved Amt. |
|---|---|---|---|
| 1 | Construction cost per form HUD-92448-ORCF | $ | $ |
| 2 | Interest from (mm/dd/yyyy) ( ) to (mm/dd/yyyy) ( ) | | |
| 3 | Architect's Fee | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |
| 7 | | | |
| 8 | | | |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | | | |
| 13 | | | |
| 14 | | | |
| 15 | | | |
| | **Total Due on this Requisition** | $ | $ |

**Owner / Borrower Completes this Portion.**
(Lender assists as needed.)

The undersigned hereby certifies that all of the above items have been paid or will be paid within five (5) days of receipt of the requisitioned funds. We hand you herewith full supporting invoices and/or receipts, as required, covering such items enumerated, to be forwarded with this request to HUD for review. With respect to any item of interest enumerated above, we herewith authorize you to advance same and charge our account therewith. The undersigned further certifies that all prior work, labor, and materials to be paid for under this request are satisfactory and are in accordance with the contract drawings.

| Name of Borrower: | Signature of Authorized Borrower Official: | Date: |
|---|---|---|

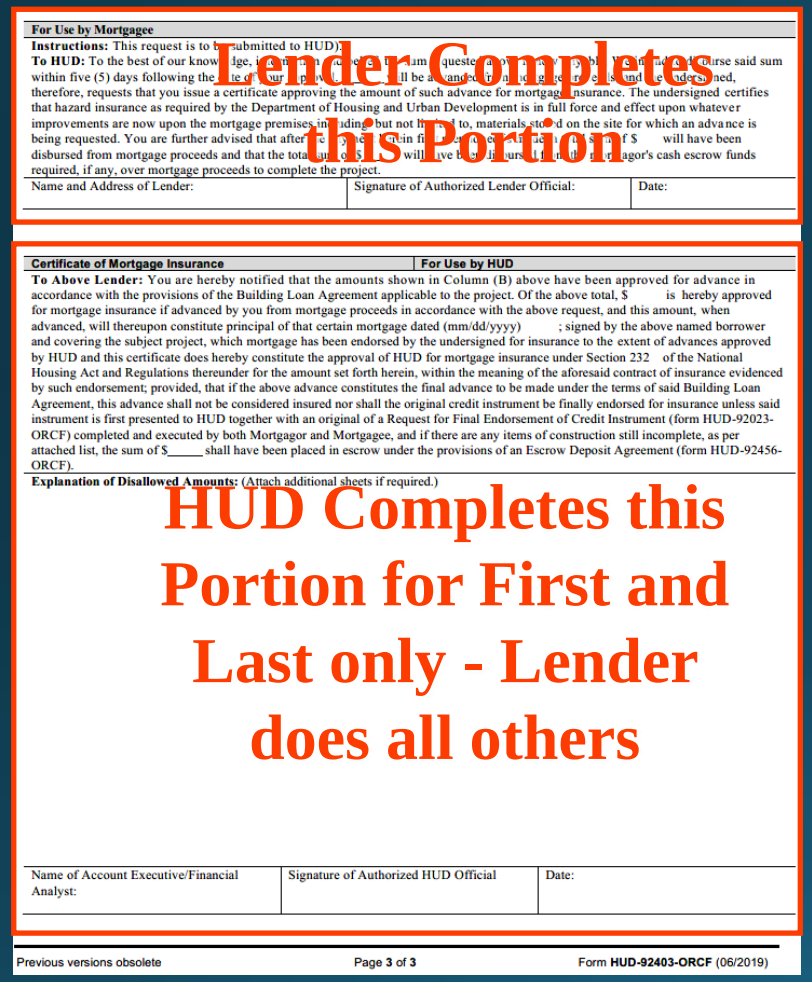
Previous versions obsolete | Page 1 of 3 | Form **HUD-92403-ORCF** (06/2019)

## Instructions:

1. Owner / Borrower (Lender assists) prepares Owner's Application for Advance of Mortgage Proceeds form HUD-92403-ORCF.
2. Owner / Borrower includes Contractor's Request for Payment Application HUD-92448-ORCF with their Application for Advance of Mortgage Proceeds form HUD-92403-ORCF.
3. Owner / Borrower provides supporting documentation (bills, invoices, receipts, etc.) for other actual expenses (not estimates) – including interest, consultant's fees, taxes and Architect's fees (on % completion basis) - **Note:** Architect Fees will be withheld if performance is inadequate.
4. Owner / Borrower submits the Application for Advance of Mortgage Proceeds form HUD-92403-ORCF to their Lender.

# Owner / Borrower's Advance of Mortgage Proceeds

HUD-92403-ORCF



For Use by Mortgagee

**Instructions:** This request is to be submitted to HUD.

**To HUD:** To the best of our knowledge, information and belief, the sum requested herein is properly due and payable and we request you to disburse said sum within five (5) days following the date of your approval. We will be able and ready to begin the work covered by the undersigned, therefore, requests that you issue a certificate approving the amount of such advance for mortgage insurance. The undersigned certifies that hazard insurance as required by the Department of Housing and Urban Development is in full force and effect upon whatever improvements are now upon the mortgage premises including but not limited to, materials stored on the site for which an advance is being requested. You are further advised that after the advance of this first advance proceeds in the amount of $ will have been disbursed from mortgage proceeds and that the total sum of $ will have been disbursed from the mortgagor's cash escrow funds required, if any, over mortgage proceeds to complete the project.

| Name and Address of Lender: | Signature of Authorized Lender Official: | Date: |
|---|---|---|

**Lender Completes this Portion**

| Certificate of Mortgage Insurance | For Use by HUD |
|---|---|

**To Above Lender:** You are hereby notified that the amounts shown in Column (B) above have been approved for advance in accordance with the provisions of the Building Loan Agreement applicable to the project. Of the above total, $ is hereby approved for mortgage insurance if advanced by you from mortgage proceeds in accordance with the above request, and this amount, when advanced, will thereupon constitute principal of that certain mortgage dated (mm/dd/yyyy) ; signed by the above named borrower and covering the subject project, which mortgage has been endorsed by the undersigned for insurance to the extent of advances approved by HUD and this certificate does hereby constitute the approval of HUD for mortgage insurance under Section 232 of the National Housing Act and Regulations thereunder for the amount set forth herein, within the meaning of the aforesaid contract of insurance evidenced by such endorsement; provided, that if the above advance constitutes the final advance to be made under the terms of said Building Loan Agreement, this advance shall not be considered insured nor shall the original credit instrument be finally endorsed for insurance unless said instrument is first presented to HUD together with an original of a Request for Final Endorsement of Credit Instrument (form HUD-92023-ORCF) completed and executed by both Mortgagor and Mortgagee, and if there are any items of construction still incomplete, as per attached list, the sum of $_____ shall have been placed in escrow under the provisions of an Escrow Deposit Agreement (form HUD-92456-ORCF).

**Explanation of Disallowed Amounts:** (Attach additional sheets if required.)

**HUD Completes this Portion for First and Last only - Lender does all others**

| Name of Account Executive/Financial Analyst: | Signature of Authorized HUD Official | Date: |
|---|---|---|

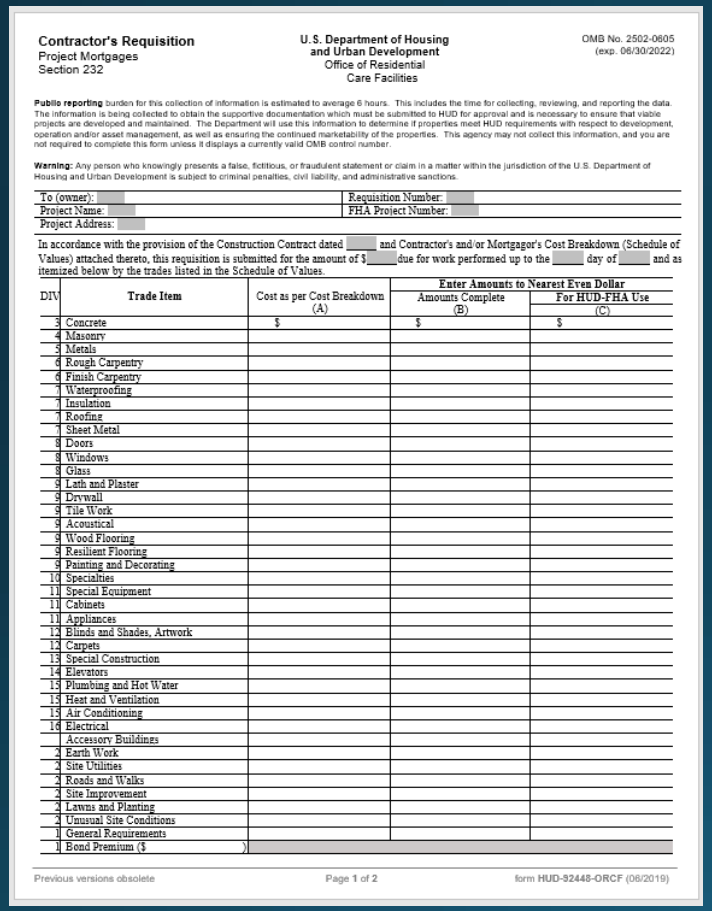
Previous versions obsolete Page 3 of 3 Form HUD-92403-ORCF (06/2019)

## Instructions (continued):

5. Lender reviews and processes Draw request and provides a copy to HUD upon Lender's approval.
6. HUD ORCF Closer reviews and approves only the first and the last Draws, for all insured projects. All others are approved by Lender.
7. Lender will monitor Interim Draws. If a problems is encountered during an Interim Draw, Lender will present the problem and solution to the HUD ORCF Construction Manager, if necessary, HUD ORCF Asset Management in order to determine if Lender will modify the next Draw or withdraw the Lender's authority to approve advances.

# Contractor's Requisition

HUD-92448-ORCF



**Contractor's Requisition**
Project Mortgages
Section 232

**U.S. Department of Housing and Urban Development**
Office of Residential Care Facilities

OMB No. 2502-0605
(exp. 06/30/2022)

**Public reporting** burden for this collection of information is estimated to average 6 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

**Warning:** Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.

| | |
|---|---|
| To (owner): | Requisition Number: |
| Project Name: | FHA Project Number: |
| Project Address: | |

In accordance with the provision of the Construction Contract dated ____ and Contractor's and/or Mortgagor's Cost Breakdown (Schedule of Values) attached thereto, this requisition is submitted for the amount of $____ due for work performed up to the ____ day of ____ and as itemized below by the trades listed in the Schedule of Values.

| DIV | Trade Item | Cost as per Cost Breakdown (A) | Enter Amounts to Nearest Even Dollar: Amounts Complete (B) | Enter Amounts to Nearest Even Dollar: For HUD-FHA Use (C) |
|---|---|---|---|---|
| 3 | Concrete | $ | $ | $ |
| 4 | Masonry | | | |
| 5 | Metals | | | |
| 6 | Rough Carpentry | | | |
| 6 | Finish Carpentry | | | |
| 7 | Waterproofing | | | |
| 7 | Insulation | | | |
| 7 | Roofing | | | |
| 7 | Sheet Metal | | | |
| 8 | Doors | | | |
| 8 | Windows | | | |
| 8 | Glass | | | |
| 9 | Lath and Plaster | | | |
| 9 | Drywall | | | |
| 9 | Tile Work | | | |
| 9 | Acoustical | | | |
| 9 | Wood Flooring | | | |
| 9 | Resilient Flooring | | | |
| 9 | Painting and Decorating | | | |
| 10 | Specialties | | | |
| 11 | Special Equipment | | | |
| 11 | Cabinets | | | |
| 11 | Appliances | | | |
| 12 | Blinds and Shades, Artwork | | | |
| 12 | Carpets | | | |
| 13 | Special Construction | | | |
| 14 | Elevators | | | |
| 15 | Plumbing and Hot Water | | | |
| 15 | Heat and Ventilation | | | |
| 15 | Air Conditioning | | | |
| 16 | Electrical | | | |
| | Accessory Buildings | | | |
| 2 | Earth Work | | | |
| 2 | Site Utilities | | | |
| 2 | Roads and Walks | | | |
| 2 | Site Improvement | | | |
| 2 | Lawns and Planting | | | |
| 2 | Unusual Site Conditions | | | |
| 1 | General Requirements | | | |
| 1 | Bond Premium ($ ) | | | |

Previous versions obsolete — Page 1 of 2 — form HUD-92448-ORCF (06/2019)

## Instructions:

1. **Contractor** makes requisitions for payment on a monthly basis, for work in place, on form HUD-92448-ORCF. Do not include the AIA Document G702, Draw Request form.
2. Contractor, Architect, Owner / Borrower and HUD Contract Inspector review the payment requisition schedule at the monthly Draw Meeting.
3. After the Architect and HUD Contract Inspector have reviewed and approved, the **Contractor** submits copies of their payment requisition to the Owner / Borrower for preparation of Owner / Borrower's Application for Advance of Mortgage Proceeds Form HUD-92403-ORCF.
4. **Owner / Borrower** submits the Contractor's Request for Payment to the Lender with their Application for Advancement for Advance of Mortgage Proceeds Form HUD-92403-ORCF.
5. **Lender** reviews and processes payment requests and emails a copy of the approved draw request to the HUD ORCF Construction Manager. (**HUD only reviews and approves first & last draws**.)

# Contractor's Requisition Instructions (continued):

HUD-92448-ORCF

Page 1

In accordance with the provision of the Construction Contract dated _____ _____ and Contractor's and/or Mortgagor's Cost Breakdown (Schedule of Values) attached thereto, this requisition is submitted for the amount of $ _____ _____ due for work performed up to the _____ ___ day of ___ _____ and as itemized below by the trades listed in the Schedule of Values.

| DIV | Trade Item | Cost as per Cost Breakdown (A) | Enter Amounts to Nearest Even Dollar: Amounts Complete (B) | Enter Amounts to Nearest Even Dollar: For HUD-FHA Use (C) |
|---|---|---|---|---|
| 3 | Concrete | $ | $ | $ |
| 4 | Masonry | | | |
| 5 | Metals | | | |
| 6 | Rough Carpentry | | | |
| 6 | Finish Carpentry | | | |
| 7 | Waterproofing | | | |
| 7 | Insulation | | | |
| 7 | Roofing | | | |
| 7 | Sheet Metal | | | |
| 8 | Doors | | | |
| 8 | Windows | | | |
| 8 | Glass | | | |

**A**

**Same as Original Schedule of Values (HUD-92328-ORCF)**

**B**

**Work in Place, excluding any stored materials onsite, off-site work.**

**C**

**HUD Inspector adjustments – lists amount approved**

- **Column A:** Shall be identical to approved cost breakdown (Schedule of Values HUD-92328-ORCF) – excluding bond premium and Contractor's other fees if paid at Initial Endorsement).
- **Column B:** Shall be the Contractor's estimate of work-in-place. Attach formatted back-up **(similar to AIA G703)** to show breakdowns for payment requests. Use whole dollar amounts, not cents. **Note:** Bond Premium & Other Fees, and Change Orders are billed separately.
- **Column C:** Shall be used by the HUD Contract Inspector for adjustments should the amounts listed need to be reduced due to over estimations, OR non-compliances – adjustment and reason will be in HUD Trip Report.

# Contractor's Requisition
## Instructions (continued):

| Div | Trade Item | Cost as per Cost Breakdown (A) | Enter Amounts to Nearest Even Dollar: Amounts Complete (B) | | For HUD-FHA Use (C) | |
|---|---|---|---|---|---|---|
| 1 | Other Fees [$ ] | | | | | |
| [1] | Subtotal of Breakdown Items | $ | * % | $ | ** % | $ |
| [2] | Builder's Overhead | $ | % | $ | % | $ |
| [3] | Builder's Profit | $ | % | $ | % | $ |
| [4] | Total of Cost Breakdown Items | $ | | $ | | $ |
| [5] | Inventory of Materials Stored On-site (See Note Below) | | | $ | | $ |
| [6] | Inventory of Materials Stored Off-Site (See Note Below) | | | $ | | $ |
| [7] | Sum of Cost Breakdown Items Plus Inventories of Materials | | | $ | | $ |
| [8] | Less Net Decrease in Cost as a Result of Approved Changes | | | $ | | $ |
| [9] | Total After Adjusting for Net Decrease to Approved Changes | | | $ | | $ |
| (10) | Less Retained 10% | | | $ | | $ |
| (11) | Equals: Total Amount Due to Date on Account of Construction Contract | | | $ | | $ |
| (12) | Less Previous Payments | | | $ | | $ |
| (13) | Net Amount of This Requisition | | | $ | | $ |

I certify that the Work covered by this requisition has been completed in accordance with the Contract Documents, and that I have actually received $_____ for Work performed and materials purchased up to the _____ day of _____ (date of previous requisition).

Date | Contractor

* Percentage derived from subtotal of Breakdown Items (col. B divided by col. A) Note: Attached inventory of materials itemized as to quantities and costs.
** (col. B divided by col. A) Exclusive of Bond Premium

For deductive change orders that add up to more than 2.5% of the contract price, the amount must be reflected on the Contractor's Requisition (see line 8 above).
(232 Handbook Section II, Production, Chapter 10, Appendices 10.2 – 10.4)

# Contractor's Requisition

## Instructions (continued):



| DIV | Trade Item | Cost as per Cost Breakdown (A) | Enter Amounts to Nearest Even Dollar: Amounts Complete (B) | For HUD-FHA Use (C) |
|---|---|---|---|---|
| 1 | Other Fees [Other Fees & Bond Premium are excluded | | Work in Place | |
| [1] | Subtotal of Breakdown Items | $ | % $ $ x % | ** % $ |
| [2] | Builder's Overhead | $ | % $ $ x % | % $ HUD |
| [3] | Builder's Profit | $ | % $ $ x % | % $ Inspector's |
| [4] | Total of Cost Breakdown Items | $ | $ | $ |
| [5] | Inventory of Materials Stored On-site (See Note Below) | | $ | $ adjustments |
| [6] | Inventory of Materials Stored Off-Site (See Note Below) | | $ | $ as necessary |
| [7] | Sum of Cost Breakdown Items Plus Inventories of Materials | | $ | $ |
| [8] | Less Net Decrease in Cost as a Result of Approved Changes | | $ | $ |
| [9] | Total After Adjusting for Net Decrease to Approved Changes | | $ | $ |
| [10] | Less Retained 10% Note Retainage Held | | $ | $ |
| [11] | Bal.: Total Amount Due to Date on Account of Construction Contract | | $ | $ |
| [12] | Less Previous Payments what was paid | | $ | $ |
| [13] | Net Amount of This Requisition | | $ | $ |

I certify that the Work covered by this requisition has been completed in accordance with the Contract Documents, and that I have actually received $_____ for Work performed and materials purchased up to the _____ day of _____ (date of previous requisition).

Date | Contractor

Contractor Signature

* Percentage derived from subtotal of Breakdown Items (col. B divided by col. A) Note: Attached Inventory of materials itemized as to quantities and costs.
** (col. C divided by col. A) Exclusive of Bond Premium

Identity of Interest Contractor's are subject to 10 % retention holdback until Final Endorsement

Contractor certifying that work is completed per Contract Documents – Architect & HUD Contract Inspector checking.

Contractor certifying what they have actually been paid – Lender & HUD staff verify this amount is the same

# Contractor's Requisition
## Instructions (continued):

HUD-92448-ORCF
Page 2

## Certifications

(Authorized Lender Official)

**Architect's Certificate** I certify, based on my on-site observations (or those of my authorized representative) and the data comprising this requisition, that the Work has progressed to the point indicated; that to the best of my knowledge, information and belief the Work is in accordance with the Contract Documents; and that the Contractor is entitled to payment of the amount certified.

Date **Architect** | Architect

**Note: HUD relies on the Architect's review and certification**

**ORCF Inspector's Certificate** ☐ Amount Modified in Column C ☐ No Modification

**HUD Inspector will check one box**

I certify that I have visited the site on this date _____, observed the Work, and monitored the log and reports of the Architect (if an architect is administering the Construction Contract); that to the best of my knowledge, information and belief the amount certified represents acceptable Work; and that I have no personal interest, present or prospective, in the property, applicant or proceeds of the mortgage.

Date **HUD Inspector** | Inspector

**Inspector is checking Architect's review & certification, verifying the work**

**Contractor's Prevailing Wage Certificate** (For use under all sections of the National Housing Act requiring certification as to payment of prevailing wages. To be completed with each request for insurance of advance of mortgage proceeds which includes a payment on account of construction cost or at the time the mortgage is presented for insurance pursuant to a commitment to insure upon completion.)

Contractor is certifying compliance with labor requirements regarding paying prevailing wage rates (if/when Davis-Bacon Wages are required).

This certificate is executed by the undersigned for the purpose of inducing HUD to approve for insurance that certain mortgage loan, or an advance thereof made or to be made by the lender in connection with the construction of the project, and with the intent that HUD rely upon this certification to establish compliance with the provisions of Section 212 of the National Housing Act, which provides in part: The Commissioner shall not insure ... unless the principal contractor files a certificate ... certifying that the laborers and mechanics ... have not been paid not less than the wages prevailing ... as determined by the Secretary of Labor..."

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

| Contractor **Contractor** | Signature | Date |
|---|---|---|

# Contractor's Requisition Instructions (continued):

## On-Site Stored Materials –inventory required with Draw Request

Contractor to provide invoices to support any claim for inventory of material. stored on site.

| DIV | Trade Item | Cost as per Cost Breakdown (A) | Enter Amounts to Nearest Even Dollar: Amounts Complete (B) | For HUD-FHA Use (C) |
|---|---|---|---|---|
| 1 | Other Fees [$ ] | | | |
| [1] | Subtotal of Breakdown Items | $ | | |
| [2] | Builder's Overhead | $ | | |
| [3] | Builder's Profit | $ | | |
| [4] | Total of Cost Breakdown Items | $ | | |
| [5] | Inventory of Materials Stored On-site (See Note Below) | | | |
| [6] | Inventory of Materials Stored Off-Site (See Note Below) | | | |
| [7] | Sum of Cost Breakdown Items Plus Inventories of Materials | | | |
| [8] | Less Net Decrease in Cost as a Result of Approved Changes | | | |
| [9] | Total After Adjusting for Net Decrease to Approved Changes | | | |
| (10) | Less Retained 10% | | | |
| (11) | Bal.: Total Amount Due to Date on Account of Construction Contract | | | |
| (12) | Less Previous Payments | | | |
| (13) | Net Amount of This Requisition | | $ | $ |

I certify that the Work covered by this requisition has been completed in accordance with the Contract Documents, and that I have actually received $_____ for Work performed and materials purchased up to the _____ day of _____ (date of previous requisition).

Date | Contractor

* Percentage derived from subtotal of Breakdown Items (col. B divided by col. A)
** (col. C divided by col. A) Exclusive of Bond Premium

Note: Attached Inventory of materials itemized as to quantities and costs.

**On-Site Stored Materials typically allowed (see note at bottom of next page)**

**Off-Site Stored Materials never allowed. Offsite "Stored Components" may be, if approved in advance of Initial Endorsement (see 232 Handbook Section II, Production, Appendix 10.3 for eligibility and approval requirements).**

**Contractor may request payment for materials acceptably stored On-Site. A copy of the inventory for that month (itemized per standard unit of measure and cost) shall be attached and reviewed by Architect and HUD Contract Inspector – both sign and date this inventory. Provide copy of invoices for material stored. See form instructions and** (232 Handbook Section II, Production, Chapter 10, Appendix 10.3)

HUD-92448-ORCF

# Contractor's Requisition Instructions (continued):

**On-Site Stored Materials –** attach a summary sheet with the inventory of stored materials to date to the Draw Request (example below).

**Project Information:**
**name, HUD/FHA #, address**

**Contractor Draw Request #____**
**Date _____**

| | |
|---|---|
| 1) Material previously stored onsite through _____ (date of previous requisition). | $ _____ |
| 2) Less - Installation of same through _____ (date of current requisition). | ($_____) |
| 3) Subtotal balance of prior stored material. | $ _____ |
| 4) New material stored onsite through _____ (date of current requisition). | $ _____ |
| 5) Total inventory of materials stored onsite (attach copies of invoices). | **$** _____ |

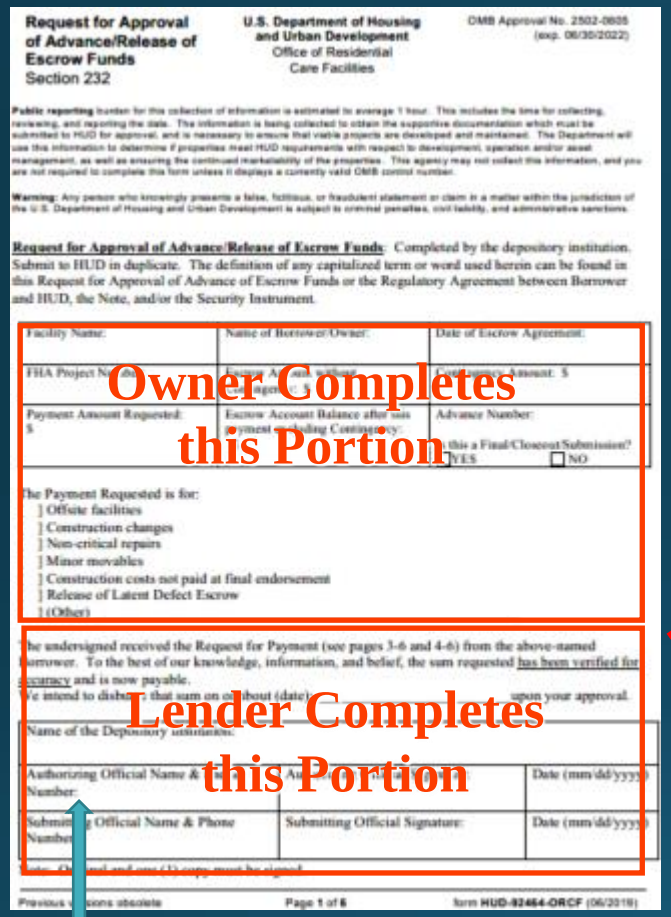
**Note**: The On-Site Stored Materials eligible for payment, are those materials stored **in advance of the sequence of the work.** The materials included in the Schedule of Values (HUD-92328-ORCF) line items, are typically delivered and installed in sequence with the progress of work, and thus **most materials are drawn for within that line item, not as stored materials.** (232 Handbook Section II, Production, Chapter 10, Appendices 10.2 – 10.4)

# Advance of Escrow Funds

Rick Price, ORCF Construction Manager

HUD-92464-ORCF

Page 1



**Request for Approval of Advance/Release of Escrow Funds**
Section 232

**U.S. Department of Housing and Urban Development**
Office of Residential Care Facilities

OMB Approval No. 2502-0605 (exp. 06/30/2022)

**Public reporting** burden for this collection of information is estimated to average 1 hour. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

**Warning:** Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.

**Request for Approval of Advance/Release of Escrow Funds**: Completed by the depository institution. Submit to HUD in duplicate. The definition of any capitalized term or word used herein can be found in this Request for Approval of Advance of Escrow Funds or the Regulatory Agreement between Borrower and HUD, the Note, and/or the Security Instrument.

| Facility Name: | Name of Borrower/Owner: | Date of Escrow Agreement: |
|---|---|---|
| FHA Project No. | Escrow Account number | Contingency Amount: $ |
| Payment Amount Requested: $ | Escrow Account Balance after this payment including Contingency: | Advance Number: Is this a Final/Closeout Submission? ☐ YES ☐ NO |

The Payment Requested is for:
] Offsite facilities
] Construction changes
] Non-critical repairs
] Minor movables
] Construction costs not paid at final endorsement
] Release of Latent Defect Escrow
] (Other)

The undersigned received the Request for Payment (see pages 3-6 and 4-6) from the above-named Borrower. To the best of our knowledge, information, and belief, the sum requested has been verified for accuracy and is now payable.
We intend to disburse that sum on or about (date) upon your approval.

| Name of the Depository Institution: | | |
|---|---|---|
| Authorizing Official Name & Phone Number: | | Date (mm/dd/yyyy) |
| Submitting Official Name & Phone Number | Submitting Official Signature: | Date (mm/dd/yyyy) |

Note: Original and one (1) copy must be signed.

Previous versions obsolete — Page 1 of 6 — form HUD-92464-ORCF (06/2019)

**Owner Completes this Portion**

**Lender Completes this Portion**

Lender reviews and signs acknowledging approval, before emailing the request to HUD staff for approval.

## Instructions:

To release funds placed in an Escrow Account to pay for completed **offsite work**, **demolition**, approved **change order work**, or **resident relocation**. The Owner / Borrower, with assistance of their Lender as needed, must submit a completed Request for Advance of Escrow Funds HUD form HUD-92464-ORCF for HUD approval through the Lender.

The Payment Requested is for:
[ ] Offsite facilities
[ ] Construction changes
[ ] Non-critical repairs
[ ] Minor movables
[ ] Construction costs not paid at final endorsement
[ ] Release of Latent Defect Escrow
[ ] (Other) _____

The undersigned received the Request for Payment (see pages 3-6 and 4-6) from the above-named Borrower. To the best of our knowledge, information, and belief, the sum requested has been verified for accuracy and is now payable.
We intend to disburse that sum on or about (date):_____ upon your approval.

**Note**: The different escrow accounts for which this form is used – including for offsite work and change orders. Form HUD-92464-ORCF is required to access Working Capital contingency funds for payment of completed work in approved change orders as well as other various escrows.

# Advance of Escrow Funds

## Instructions (continued):

**Approval of Advance of Escrow Funds:** Completed by HUD.

Disbursement of funds is approved from the Escrow Deposit for:

[ ] Offsite Improvements
[ ] Construction changes
[ ] Non-critical repair
[ ] Minor movables
[ ] Construction costs not paid at final endorsement
[ ] Release of Latent Defect Escrow
[ ] (Other)_____

Payment Approved: $_____ Disapproved: $_____

Comments/Notes:

**HUD Staff Completes this Portion**

| Approval Recommended: Name of Account Executive/Financial Analyst | Signature of Account Executive/Financial Analyst<br>X | Date (mm/dd/yyyy) |
|---|---|---|
| Name of Authorized Agent for HUD | Signature of Authorized Agent for HUD<br>X | Date (mm/dd/yyyy) |

Previous versions obsolete Page 2 of 6 form HUD-92464-ORCF (06/2019)

If HUD approved amount differs from the amount requested, HUD staff will provide reason here

# Advance of Escrow Funds

Rick Price, ORCF Construction Manager

HUD-92464-ORCF
Pages 3 & 4

## Page 3 Instructions:

**Request for Payment** to be completed by Borrower and submitted to Lender. The Lender will verify accuracy, completeness, and eligibility and submit to HUD for processing. Use more than one sheet, if necessary, for the number of repairs to be performed, and tally the totals on the last page. This form is to be submitted to the lender in duplicate, **along with invoices labeled with each line item number (1., 2., …) entered as the first column is completed.**

| Facility Name: | FHA Project Number: | Amount Requested:$ |
|---|---|---|

Owner / Borrower Completes this Portion

| Firm Commitment Exhibit A or C (depending upon year of Firm Commitment) Repair List, or Construction Change Request Number or Item | A. **Estimated Cost/Repair Work** as stated in an Escrow Agreement, Form HUD-92437, or Firm Commitment. | B. Requested Funds for work completed **for this reimbursement or advance only**. | C. Cumulative/ Total of **all work completed to date** for each line item. | D. HUD Approved Amount |
|---|---|---|---|---|
| | $ | $ | | $ |
| | $ | $ | | $ |
| | $ | $ | | $ |

| Firm Commitment Exhibit A or C (depending upon year of Firm Commitment) Repair List, or Construction Change Request Number or Item | A. **Estimated Cost/Repair Work** as stated in an Escrow Agreement, Form HUD-92437, or Firm Commitment. | B. Requested Funds for work completed **for this reimbursement or advance only**. | C. Cumulative/ Total of **ALL work completed to date** for each line item. | D. HUD Approved Amount |
|---|---|---|---|---|
| **Subtotal(s) from prior page(s)** | $ | $ | | $ |
| | $ | $ | | $ |
| | $ | $ | | $ |
| | $ | $ | | $ |
| | $ | $ | | $ |
| | $ | $ | | $ |
| | $ | $ | | $ |
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| | $ | $ | | $ |
| | $ | $ | | $ |
| | $ | $ | | $ |
| | $ | $ | | $ |
| Latent Defect * | $ | $ | | $ |
| Contingency ** | $ | $ | | $ |
| **Total** | $ | $ | | $ |
| Less Retained_____% (Holdback) | $ | $ | | $ |
| **Balance:** Total Amount due to date | $ | $ | | $ |
| -Less previous payments | $ | $ | | $ |
| **Net amount due** on this requisition | $ | $ | | $ |

Escrow Item or All Approved Change Orders to Date Listed in Order

Total Amount of Escrow or Individual Change Order Hard and Soft Costs

Work Completed this Request Only

Cumulative work Completed to Date

HUD Staff competes this portion

*To be completed during final submission during close out of Escrow Account, if applicable.
**20% for 223(f) s and 10% for 223a (7)s.

Previous versions obsolete Page 4 of 6 form HUD-92464-ORCF (06/2019)

Retention % in effect at time of Release Request

## Instructions (continued):

Owner / Borrower (with Lender assistance) completes pages 3 and 4 of form HUD-92464-ORCF.

- All Change Orders to date are to be listed.
- Submit release requests for change order hard costs (General Contractor costs) separately from change order soft costs.
- Construction hard costs are subject to retention withholding
- Soft cost release requests (interest, taxes, insurance, MIP) are not subject to retention withholding.
- Architect and HUD Contract Inspector review the completed work (offsite, change order, or other) and if acceptably complete, they sign the request (Page 6) at the Draw Meeting.
- The Architect and HUD Inspector are not required to review Minor Movable or Soft Cost Escrow Release Requests.

# Advance of Escrow Funds

HUD-92464-ORCF
Pages 3 & 4

## Instructions (continued):

### Pages 3 & 4 Notes:

**Note 1:** All Change Orders to date are to be listed. Submit release requests for change order hard costs (General Contractor costs) separately from change order soft costs (interest, taxes, insurance, MIP)

**Note 2:** Do not mix request types (offsite, demo, change order hard costs, change order soft costs, minor movable, etc.) – submit on separate HUD-92464-ORCF forms.

**Note 3:** Identify sources of funds: be they working capital, contingency, cash, or other sources of funds -provide appropriate source(s).

**Note 4:** When requesting payment for more than one change order, provide back-up CO Log spreadsheets detailing amount requested this time against the total paid to date and the total cost of the change order.

**Note 5:** The amount approved for release must include the percentage of retention being held on the requisitions, based on the percentage of construction completion – (typically 10%, then if approved, reduced to 5% at 90% completion, then reduced to 2.5% at 100% construction completion).

**Note 6:** Soft cost release requests (interest, taxes, insurance, MIP) are not subject to retention withholding.

# Advance of Escrow Funds



## Instructions (continued):

Owner (with Lender assistance) completes page 5 of the form HUD-92464-ORCF. Identify the type of escrowed funds for which payment is being requested.

Appropriate box needs to be checked

The undersigned Borrower hereby requests a payment of funds covering advances provided by the Escrow Agreement, heretofore executed on the _____day of _____, 20__, for:

[ ] offsite facilities as indicated by the net amount due for work performed up to the _____day of _____, 20__, according to the following statement with respect to all items of construction listed in Exhibit "A" attached to the Agreement;

[ ] construction costs not paid at final endorsement and listed in Exhibit "A" attached to the Escrow Agreement for Incomplete Construction;

[ ] construction change(s) as identified by request number(s): _____;

[ ] non-critical repairs pursuant to Section 223(f), [ ] Section 223(a) (7), or (other). Non-Critical Repairs **are required to be COMPLETED within a 1-year time frame** from the date of closing.

Date of Closing_____/_____/_____.

[ ] Latent Defect Escrow 223(f) _____ 223(a) (7) _____ (If the latent defect escrow is from the performance of Non-Critical Repairs please check the escrow agreement (HUD-92476-ORCF) #2 to determine whether the funds are from loan proceeds or provided by the owner. If by owner, then they can go back to the owner. If by loan proceeds, then they must be deposited into the Reserve for Replacement or as directed by HUD.

Each signatory below hereby certifies that each of their statements and representations contained in this instrument and all their supporting documentation thereto are true, accurate, and complete. This instrument has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

Borrower Name: _____

By: Signature: _____

Printed Name, Title: _____

Dated: _____

**Owner / Borrower Completes and Signs this Portion**

By: Signature: _____

Printed Name, Title: _____

Dated: _____

Previous versions obsolete Page 5 of 6 form HUD-92464-ORCF (06/2019)

The undersigned Borrower hereby requests a payment of funds covering advances provided by the Escrow Agreement, heretofore executed on the _____day of _____, 20__, for:

[ ] offsite facilities as indicated by the net amount due for work performed up to the _____day of _____, 20__, according to the following statement with respect to all items of construction listed in Exhibit "A" attached to the Agreement;

[ ] construction costs not paid at final endorsement and listed in Exhibit "A" attached to the Escrow Agreement for Incomplete Construction;

[ ] construction change(s) as identified by request number(s): _____;

[ ] non-critical repairs pursuant to Section 223(f), [ ] Section 223(a) (7), or (other). Non-Critical Repairs **are required to be COMPLETED within a 1-year time frame** from the date of closing.

Date of Closing_____/_____/_____.

[ ] Latent Defect Escrow 223(f) _____ 223(a) (7) _____ (If the latent defect escrow is from the performance of Non-Critical Repairs please check the escrow agreement (HUD-92476-ORCF) #2 to determine whether the funds are from loan proceeds or provided by the owner. If by owner, then they can go back to the owner. If by loan proceeds, then they must be deposited into the Reserve for Replacement or as directed by HUD.

# Advance of Escrow Funds

HUD-92464-ORCF
Page 6

One of these must be checked

Architect and HUD Contract Inspector review the completed work (offsite, change order, or other) and if acceptably complete, they sign the request Form HUD-92464-ORCF at the Draw Meeting

- N/A for Soft Cost or Minor Movable Requests

[ADD ADDITIONAL LINES IF MORE THAN TWO SIGNATORIES]

**Offsite and Construction Change Certification:**

The undersigned hereby certifies that *(mark the appropriate box)*

[ ] the total cost has been paid in full and in cash from funds other than Loan proceeds;

[ ] upon release of the amount requested herein for the offsite or construction change, payment in full shall be made to the contractor prior to the next request for an insured advance or Loan disbursement and a receipt of payment from the general contractor shall be submitted with the next request for an insured advance or Loan disbursement.

The undersigned further certifies that all work, labor, and materials to be paid under this Request are satisfactory and in accordance with the contract documents.

| Name of Borrower: | Signature of Authorized Borrower Official<br>X | Date (mm/dd/yyyy) |
|---|---|---|

**Owner / Borrower Completes this Portion**

**Architect's Offsite and Construction Change Certification:**

I certify based on my on-site observations (or those of my authorized representative), that to the best of my knowledge, information and belief, the Work covered by the aforementioned has been completed.

Architect's Signature/Date:
x

Architect signature confirms completed work

**Inspector's Offsite and Construction Change Certification:**

I certify that to the best of my knowledge, information and belief, the aforementioned work has been acceptably completed.

Inspector's Signature/Date:
x

HUD Inspector signature confirms completed work

**Warning:**

Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.

Previous versions obsolete | Page 6 of 6 | form HUD-92464-ORCF (06/2019)

## Instructions (continued):

After pages 1 - 6 are completed (as shown here):

1. Owner / Borrower submits / emails a pdf of the completed and signed HUD-92464-ORCF to the Lender.
2. Lender reviews and signs their approval, before emailing the request to appropriate HUD staff for review & approval.
3. HUD staff reviews and if approved, executes and emails it back to the Lender.
4. Lender Releases the funds to the Owner / Borrower.
5. Owner / Borrower pays contractor.

# Release of Retention

Applies to forms HUD-92448-ORCF and HUD-92464-ORCF

Refer to 232 Handbook Section II, Production, Chapter 10, Appendix 10.4 for guidance on release of Contractor's Retention:

## Release Retention Subject to the following conditions:

1. Contractor has no identity-of-interest with the Owner / Borrower greater than a five-percent equity interest.
2. Prior written consent from the Surety Company must be attached to the request for release of retention (when Bond involved).
3. Contractor's performance is acceptable - with regard to quality of the work, progress of the work, schedule, changes to the work, and compliance with contract documents. Including all Davis-Bacon payroll requirements have been satisfied (Note: Clearance obtained from HUD Office of Labor Relations).
4. Lender's request for reduction /release of retainage must include Specimen Letter which is executed by Lender, Borrower, and General Contractor. (Appendix 10.4)

## Retention Release if conditions above are met:

1. **10%** held until 90% construction completion, then only reduction to 5%
2. **5%** held until 100% construction completion, then only reduction to 2.5%
3. **2.5%** held until FINAL Closing/Endorsement of the Loan.

# HUD Permission To Occupy & Final Inspection

(232 Handbook Section II, Production, Chapter 10)

# Pre-Occupancy / Closing

## 70% Construction Completion (or first phase, if phased occupancy approved by HUD):

The HUD ORCF Construction Manager notifies the Lender, HUD ORCF Closer, ORCF Account Executive, and HUD Labor Relations via email with corresponding Trip Report when actual construction progress achieves approximately 70% completion. At approximately this time:

- The ORCF Closer will make contact with the Lender / Borrower to discuss Cost Certification and Final Endorsement requirements.
- The ORCF Account Executive will make contact with the Lender / Borrower to discuss Pre-Operating Activities, Ongoing Asset Management and continued operations activities (241a projects).
- The HUD Labor Relations Specialist may address any outstanding Labor issues in advance of the Final Inspection. Any issues cited by Labor Relations will been to be resolved prior to Final Endorsement.

# Contract Inspector's Pre-Final Inspection Review

HUD Contract Inspector

## 80% Construction Completion:

When construction is approximately 80% complete, the HUD Contract Inspector will review the HUD Pre-Construction Conference materials with the development team at a Draw Meeting to recap upcoming HUD Occupancy, 100% Final, Close-out and Warranty requirements. The HUD Contract Inspector will address any questions the Owner / Borrower, Architect or Contractor may have about these requirements or procedures. The HUD Contract Inspector will consult with the HUD ORCF Construction Manager for assistance when needed.

Some of the items that will be covered at this meeting include:

1. HUD Permission to Occupy Requirements
2. Radon Testing (and Mitigation if Required) Prior to Final Inspection
3. Items required for 100% Final Inspection
4. All Change Orders Approved
5. Contract Close-out Requirements – including Record Documents; "As-Built' plans, O& M Manuals, Owner / Borrower Instruction per Architect, ALTA Survey Requirements
6. Contractor's Requisition at Final Inspection
7. Guarantee/Warranty Inspections
8. Items of Delayed Completion (if any allowed)

# Occupancy Options

## Occupancy Planning

Although most project request occupancy upon project completion, Owner / Borrower, with assistance from their Lender, Architect and Contractor, may submit a proposed Occupancy Phasing Plan. Lender will review and make recommendation for approval to HUD. For phased occupancy, this should include a marked-up site plan indicating the proposed phasing. It is recommended that Phased Occupancy, if any, be disclosed and discussed at the Pre-Construction Conference.

**(bring units online before construction complete to generate income)**

**(complete all the work before residents move in)**

Phased Occupancy - by building(s) or floor(s), **units complete,** safe means of ingress/egress provided.

Phased Occupancy - **all interior work is complete**, exterior work remains, yet safe means of ingress/egress provided.

Occupancy - after **all work complete** (interior and exterior), **except contract close-out** requirements/documents not complete.

Occupancy - after **all work complete** (interior and exterior), and all **contract close-out requirements /documents met**.

**HUD requires radon testing/mitigation be performed prior to occupancy as it promotes cleaner and easier transition from construction to operation <u>with limited disruption to residents</u>.**

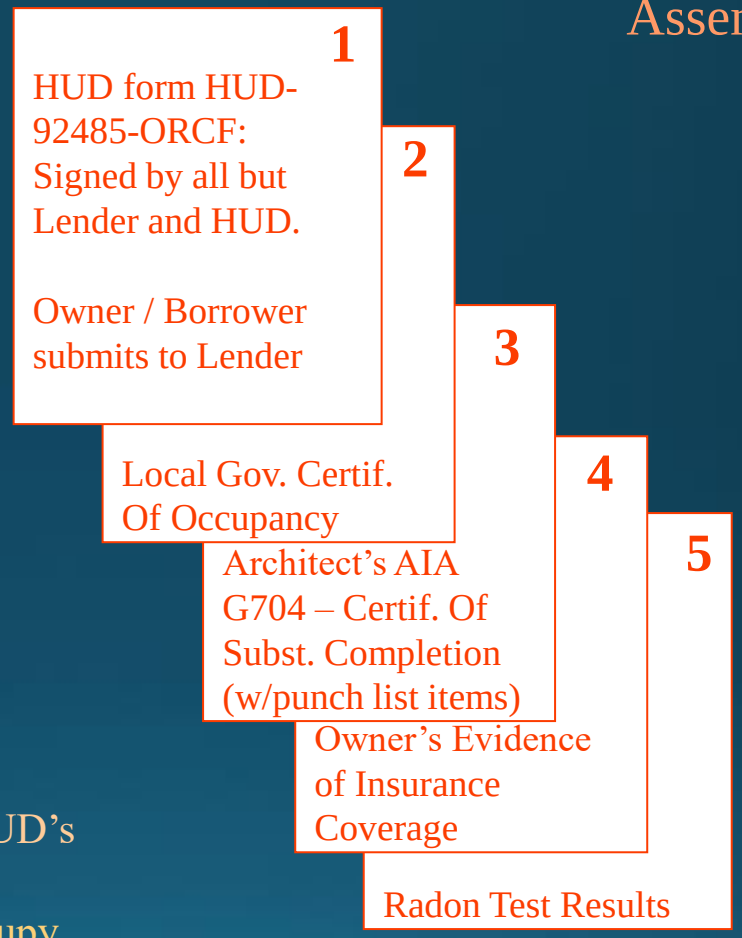
# Permission To Occupy (PTO)

## Required PTO Documents

**Please assemble (in this order) for each PTO submittal:**

1. HUD PTO form HUD-92485-ORCF
2. Certificate of Occupancy (CofO) by Local Jurisdiction (Temp CofO is acceptable for PTO.
3. Architect's Certificate of Substantial Completion (AIA G704-latest edition). Executed by Architect, Borrower and GC.
4. Owner's Evidence of Property and Liability Insurance coverage (Accords ) – Lender must review insurance coverage in detail for compliance to requirements cited in the Firm Commitment (as may be amended) prior to sending to HUD ORCF Construction Manager for approval.
5. Radon Testing Results

- Owner's Preoccupancy Conference with HUD Asset Management Account Executive is recommended before HUD's PTO is granted. The final and executed documents must be approved prior to HUD's approval of the Permission to Occupy.
- Phased occupancy must be agreed upon with Lender and HUD in advance – the earlier the better. Submit marked-up site plan for proposed phased occupancy.



# HUD's Permission to Occupy

Rick Price, ORCF Construction Manager

HUD-92485-ORCF

**Permission to Occupy**
~~Project Mortgages~~
Section 232

**U.S. Department of Housing and Urban Development**
Office of Residential Care Facilities

OMB Approval No. 2502-0605 (exp. 06/30/2022)

**Public reporting** burden for this collection of information is estimated to average 0.5 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

**Warning:** Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.

| Project Name: | FHA Project Number: |
|---|---|
| Project Address: | Request Number: |

Borrower Completes This Portion

**Request for Permission to Occupy**
Federal Housing Administration
Permission is requested for the occupancy of (Number) _____ living units identified as _____ and located in (Describe structure, wing, entrance, etc.) _____.

All work in connection therewith has been substantially completed and all of the above-described living units are suitable for occupancy, with the fixtures and equipment installed and in operating condition, and are compliant with accessibility requirements. Light, heat, water, gas, and sanitary services have been connected and are available for use. The premises have been inspected by the public authorities have jurisdiction and permission to occupy granted by them as evidenced by the certificates attached hereto. Safe and adequate approaches to the site and the aforesaid living units have been provided, including temporary or permanent guard rails, barricades, walks, lights, and other provisions necessary to the protection of residents and the public.

Borrower:
Date: MM/DD/YYYY | Signature: **Owner / Borrower**

**Architect's Certificate of Substantial Completion**
I have inspected the units listed above and have found construction to be sufficiently complete and in accordance with contract requirements so that owner may occupy the above described living or service units for the uses intended. I have examined all required certificates of permission to occupy as issued by public authorities having jurisdiction and found same to be in proper order.

Architect:
Date: MM/DD/YYYY | Signature: **Architect**

**Contractor's Certification**
This is to certify that all work or correction necessary to complete the above-described

Previous versions obsolete | Page 1 of 2 | Form **HUD-92485-ORCF** (06/2019)

**PTO will be sequentially numbered (if phased occupancy).**

**Provide address, building number and unit numbers (if phased occupancy).**

**Address shall match what is shown on the Firm Commitment and Certificate of Occupancy**

living units in accordance with the contract requirements and in a manner acceptable to the Federal Housing Administration will be performed without delay and at no additional cost regardless any of adverse conditions resulting from the occupancy of the aforesaid living units.

Contractor:
Date: MM/DD/YYYY | Signature: **General Contractor**

**Lender's Statement**
Federal Housing Administration
All insurance risks have been covered in conformity with Federal Housing Administration Hazard Insurance requirements issued in connection with this project. The above request is acceptable to the undersigned.

Lender Name, Address, City, State, Zip:

Date: MM/DD/YYYY | Signature: **Lender**

**FHA Inspection Report**
Examination of the living units described above, including the available means of access thereto, reveals they are suitable for occupancy with the exception of those enumerated below, which are considered unsuitable for occupancy at this time for the reasons stated.
Exceptions:

Inspection Date: MM/DD/YYYY | Signature: **HUD Inspector**
☐ ORCF Contract Inspector
☐ ORCF Construction Analyst

Approved: ☐ as reported above; ☐ as modified by me
Approved Date: MM/DD/YYYY | Signature: **HUD ORCF CM**
ORCF Senior Construction Analyst

**Permission to Occupy**
Permission is granted for the occupancy of the living units identified on the FHA Inspection Report portion of this form as suitable for occupancy. It is understood that this does not constitute and shall not be construed as acceptable of construction and that completion of these living units in accordance with the contract documents is essential and will be performed prior to acceptance of the construction.

Federal Housing Administration,
Signature: **HUD ORCF CM**
Date: MM/DD/YYYY | ORCF Senior Construction Analyst

Previous versions obsolete | Page 2 of 2 | Form **HUD-92485-ORCF** (06/2019)

The units may <u>not</u> be occupied until the HUD ORCF Construction Manager has executed the PTO

# HUD's Permission to Occupy

HUD-92485-ORCF

## Submittal & Processing Procedures

### 3 Step Process:

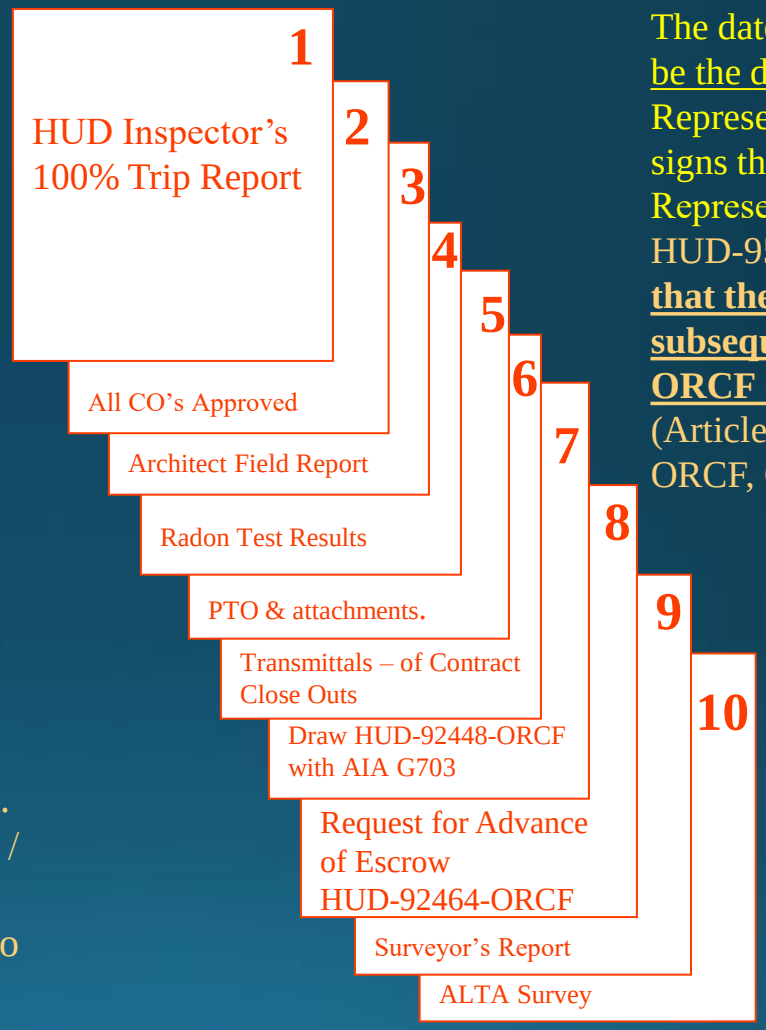
1. The **Owner / Borrower** emails the full signed PTO package (with all required attachments – not just the HUD PTO Form) to the Lender.
2. Lender reviews (particularly the insurance coverage) and signs the HUD PTO Form. Lender emails the full submittal (with attachments) to the HUD ORCF Construction Manager
3. HUD ORCF Construction Manager reviews the PTO submittal and, if acceptable, executes and emails the approved PTO to Lender, Borrower, GC, Architect, HUD Contract Inspector, HUD ORCF Closer and HUD Asset Management. Once fully signed and approved by the HUD ORCF Construction Manager, the facility may be occupied.

**Please note, appropriate licensing must be in place prior for operation of the facility for its intended use.**

# HUD 100% Final Completion Documents

## Required Documents for 100% Final Completion:

1. HUD-95379-ORCF - 100% Final Completion Trip Report (by HUD Inspector). List Items of Delayed Completion if appropriate.
2. Confirmation All CO's Approved. **NO exceptions**.
3. Architect's Field Report(s) – last to 100%.
4. Radon Test results demonstrating levels below4 picocuries per liter of air (pCi/L) with mitigation, as necessary.
5. HUD-92485-ORCF - Permission to Occupy Form & Documents if not previously submitted.
6. Copy of Transmittals of all Contract Close-out (per spec) items to Owner / Borrower - approved As-Built Record Drawings, Operating and Maintenance Manuals ,keys, spare parts, excess materials, etc., training of Owner / Borrower's maintenance staff on equipment and systems as required by specifications.
7. HUD-92448-ORCF – Contractor's Requisition for 100% with AIA G703 (certificate for payment) formatted breakdown as back-up.
8. HUD-92464-ORCF - Last Requests for Advance of Escrowed Funds – for review and approval of completed change order and/or offsite work.
9. HUD-91111-ORCF - Surveyor's Report (if by Contractor. If by Owner / Borrower then allowed to be an IDC if not complete).
10. ALTA Survey (if by Contractor. If by Owner / Borrower then allowed to be an IDC if not complete).




The date of Final Completion shall be the date the HUD Representative (HUD Inspector) signs the final HUD Representative's Trip Report (form HUD-95379-ORCF) **provided that the trip report is subsequently endorsed by the ORCF Construction Manager** (Article 3.D of form HUD-92442-ORCF, Construction Contract)

**Note: If change orders submittals are delayed, or in dispute, Final Inspection be held-up until issues are resolved.**

# Guarantee/Warranty Inspections

(232 Handbook Section II, Production, Chapter 10)

Purpose:

Identity and correct any latent defects, due to faulty materials or workmanship, which appear within twelve (12) months from the Date of Final Completion (Article 3.D of form HUD-92442-ORCF, Construction Contract), the date the HUD Contract Inspector signs form HUD-92379-ORCF, Final HUD Representative's Trip Report.

# Guarantee/Warranty Inspections

## **9-Month** Guarantee/Warranty Inspection:

1. The 9-Month Guarantee/Warranty Inspection team shall include (at a minimum): HUD Contract Inspector, Supervisory Architect, Borrower, General Contractor, and if possible, Onsite Maintenance representative; Architect shall identify any latent defects in the materials or work performance, the method of correction, and estimated cost.

| | | |
|---|---|---|
| 1. latent defect | method of correction & identification of who is responsible | cost estimate $ |
| 2. latent defect | method of correction & identification of who is responsible | cost estimate $ |

   This is done through visual inspections of the project, and through conversation with the Owner / Borrower, Property Manager and Maintenance staff. The Contractor is responsible for correcting these items prior to the 12-month inspection.

2. The Owner / Borrower is responsible for correcting damage resulting from lack of proper maintenance, or normal wear and tear prior to the 9-month inspection.

3. Any latent defects noted will be subject to an escrow of 150% of the cost to repair as determined by the Architect. The latent defect escrow will be returned to the Borrower when it has been confirmed by Architect that the repairs are acceptably completed.

4. At this time the Architect can verify completion of any of the approved Items of Delayed Completion established at the 100% Final inspection.

# Guarantee/Warranty Inspections

## **12-Month** Guarantee/Warranty Inspection:

1. During the 12-Month Guarantee/Warranty Inspection (same team that attended the 9-Month Guarantee/Warranty Inspection) at approximately 335 days beyond the Final Inspection, the Architect verifies Contractor's correction of all latent defects identified during the 9-Month Guarantee/Warranty Inspection as well as any new latent defects in the materials or work performance observed during this inspection, must also be reported by the Architect. The Contractor must correct items identified since these are still covered under the warranty period.
2. Any latent defects noted will be subject to an escrow of 150% of the cost to repair as determined by the Architect. The latent defect escrow will be returned to the Borrower when it has been confirmed by Architect that the repairs are acceptably completed.
3. The Owner / Borrower is responsible for correcting damage resulting from lack of proper maintenance, or normal wear and tear prior to the 12-month inspection.
4. This is the last opportunity for the Architect to verify completion of the approved Items of Delayed Completion (if any) established at the 100% Final inspection. If not completed at this time, the escrowed funds can be used by the Owner / Borrower to complete the work.
5. Any incomplete latent defects or new repairs/maintenance identified at the 12-Month Warranty Inspection may require a follow up Warranty Inspection by the HUD Contract Inspector for any new or remaining latent defects reported to verify they are acceptably completed, on a case-by-case basis as determined by the HUD ORCF Construction Manager.