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June 29, 2022

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Section 106 Historic Preservation Delegation and Tribal Consultation Timing

ORCF’s [March 24, 2021 Email Blast](https://www.hud.gov/sites/dfiles/Housing/documents/MarEmailBlast03242021.docx) announced the Delegation Memo authorizing FHA Lenders and their Authorized Representatives to initiate Section 106 consultation with State Historic Preservation Offices (SHPOs) on HUD’s behalf.  As stated in the Delegation Memo, Lenders and authorized representatives must consider timely comments HUD receives from Indian tribes before reaching final determinations of effect and submitting the final determination of effect to SHPO for concurrence. This may take longer than 30 days if an Indian tribe identifies concerns or effects of the project on historic properties. The Delegation Memo also includes the list of circumstances that will require HUD to resume responsibility for completing the Section 106 review. Lenders should be seeking information about historic properties from the SHPO while HUD is completing the initial consultation with Indian tribes.  HUD must contact the Tribes directly. The process for notifying HUD that your project requires tribal consultation and obtaining results of that consultation is as follows:

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

***Keywords:****Environmental, Section 106, SHPO*

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FHA Number Request Expirations in 232 Healthcare Portal

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

***Keywords:***  232 Healthcare Portal, FHA Number Requests

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Recent Legislation Changes in the State of New York

ORCF is aware of recent legislation changes in the State of New York ([here](https://www.nysenate.gov/legislation/laws/PBH/2828)) that impact Skilled Nursing Facilities.  To assess the impacts of this legislation to projects in underwriting, Lenders should address the following in their applications:

* Legislation’s requirements for the following:
  + 3.5 hours of care per resident per day
  + 70% of a nursing home’s revenue is to be spent on direct resident care and at least 40% spent on staffing
  + Nursing home operators in the state are required to return all profits in excess of 5% to the state, regardless of the quality of care or whether the operator sustained losses in prior years
  + Fines for noncompliance could be up to $2,000 per day
* The Lender’s staffing assessment in the [October 27, 2021 Email Blast](https://www.hud.gov/sites/dfiles/Housing/documents/OctEmailBlast10272021.docx) should incorporate additions to staff that may be required as part of this legislation.
* Any increased staffing expenses should also be addressed in the appraised and underwritten expense conclusions.
* Finally, the lender should make an overall risk assessment conclusion (for example: LOW IMPACT or HIGH IMPACT) on the project-specific impact of the legislation change.

***Keywords:*** *Application, Underwriting*

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New ORCF Staff

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

Production Division

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

***Keywords:*** *ORCF Staff*

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Update for Planned Changes to Quarterly Operator Reporting

As previously communicated in the [February 23, 2022 Email Blast](https://www.hud.gov/sites/dfiles/Housing/documents/FebEmailBlast02232022.docx), ORCF will be implementing several changes to the process of quarterly Operator financial reporting in the 232 Healthcare Portal.  Technology development is ongoing. To ensure that HUD delivers solid functionality, implementation will not commence with the first quarter of Fiscal Year 2022 as previously stated.

ORCF intends to modify the Batch File Upload Spreadsheet to include columns for Accounts Payable and Accounts Receivable data.  ORCF will continue to communicate with Lenders and will provide further procedural guidance regarding all planned portal upload process adjustments, and a revised implementation date, in future communications.

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

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Submitting Environmental Reviews to ORCF Asset Management in HEROS

Per the [December 16, 2021 Email Blast](https://www.hud.gov/sites/dfiles/Housing/documents/DecEmailBlast12162021.docx), lenders may now use the HUD Environmental Review Online System (HEROS) to voluntarily submit Section 232 changes in collateral transactions to the Asset Management division of ORCF.

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

***Keywords:*** *Asset Management, Environmental, HEROS*

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FROM THE CLOSING CORNER

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

Clarification when using [Survey Instructions and Borrower’s Certification (Form HUD-91111-ORCF)](https://www.hud.gov/sites/dfiles/OCHCO/documents/91111_orcf.docx) and specifically Section II of HUD-91111-ORCF: ***For non-223(a)(7) closings, HUD will only accept pre-existing surveys that have been updated (date of the last site inspection/field work) within a year of closing.***

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

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

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

Effective immediately, when you are ready to submit a **complete** closing package, please email [ORCFCloser@hud.gov](mailto:ORCFCloser@hud.gov), to request a Closer and OGC Attorney Assignment.  Please include information related to any recent transactions with an OGC Attorney (see data field below). Please provide [ORCFCloser@hud.gov](mailto:ORCFCloser@hud.gov) with the following information about the transaction:

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

**Please note:**  As shared in the [December 16, 2021 Email Blast](https://www.hud.gov/sites/dfiles/Housing/documents/DecEmailBlast12162021.docx), ORCF will request the assignment of the designated HUD OGC Attorney at the time a Section 223(f) or Section 223(a)(7) Closing Package is submitted to the ORCF Closing Coordinator.  ***This chart and information will be needed before a HUD OGC Attorney assignment request can be made.***  Please contact [ORCFCloser@hud.gov](mailto:ORCFCloser@hud.gov) directly if you have any questions.

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

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| Past Lean 232 Updates are [available online](https://lnks.gd/l/eyJhbGciOiJIUzI1NiJ9.eyJidWxsZXRpbl9saW5rX2lkIjoxMDEsInVyaSI6ImJwMjpjbGljayIsImJ1bGxldGluX2lkIjoiMjAyMTAxMDQuMzI3OTIyMzEiLCJ1cmwiOiJodHRwczovL3d3dy5odWQuZ292L2ZlZGVyYWxfaG91c2luZ19hZG1pbmlzdHJhdGlvbi9oZWFsdGhjYXJlX2ZhY2lsaXRpZXMvcmVzaWRlbnRpYWxfY2FyZS9tYWlsX2JsYXN0X2luZGV4P3V0bV9tZWRpdW09ZW1haWwmdXRtX3NvdXJjZT1nb3ZkZWxpdmVyeSJ9.wD_kyOelsVj0O18oGZ6vB1qZQYtIH2lojk5kd633DYc/s/1356292409/br/92636915983-l).  Have questions about the Lean 232 Program? Please contact [LeanThinking@hud.gov](mailto:LeanThinking@hud.gov).  For more information on the Lean 232 Program, check out: [http://www.hud.gov/healthcare](https://lnks.gd/l/eyJhbGciOiJIUzI1NiJ9.eyJidWxsZXRpbl9saW5rX2lkIjoxMDIsInVyaSI6ImJwMjpjbGljayIsImJ1bGxldGluX2lkIjoiMjAyMTAxMDQuMzI3OTIyMzEiLCJ1cmwiOiJodHRwOi8vd3d3Lmh1ZC5nb3YvaGVhbHRoY2FyZT91dG1fbWVkaXVtPWVtYWlsJnV0bV9zb3VyY2U9Z292ZGVsaXZlcnkifQ.1u0SLtDtXsU62834yVCK0A042fLMrX4ZfmVsijRPzQI/s/1356292409/br/92636915983-l).    Stay Connected with the Office of Housing and the Federal Housing Administration: |
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