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October 27, 2021

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New ORCF Staff

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

Production Division

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

Asset Management Division

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

Policy, Risk Analysis and Lender Relations Division

* Crystal Martinez, Washington, DC

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

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State Compliance with Keys Amendment for Board and Care Facility Applications

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

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

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

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Portfolio/Allocated Debt

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

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***Keywords:*** *Portfolios, Existing Indebtedness*

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Discussion of Staffing Shortages in Lender Narrative and Appraisal

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

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

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

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

***Keywords:*** *Staffing, Appraisals, Lender Narrative*

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Floodplain Management

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

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

To assist lenders and consultants with floodplain submissions, HUD presented a webinar on May 12, 2020 titled “24 CFR Part 55: Floodplain Management for Multifamily and Office of Residential Care FHA Programs”.  The recorded webinar, the slides and the Q&A’s are available ([here](https://www.hudexchange.info/trainings/courses/24-cfr-part-55-floodplain-management-for-multifamily-and-residential-care-fha-programs-webinar/)).

***Keywords:*** *Floodplain, Environmental, Floodways, Webinar*

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Section 106 Consultation with State Historic Preservation Offices

As noted in the March 24, 2021 Email Blast, “Delegation to FHA Lenders and their Authorized Representatives to initiate Section 106 Consultation with State Historic Preservation Offices,” lenders and their authorized representatives have been delegated the authority to contact the State Historic Preservation Offices (SHPO) on behalf of HUD.  This delegation is intended to assist HUD with the completion of its environmental reviews.  The delegation process can be employed by either the lender or its third-party environmental consultant.  HUD’s Memorandum delegating this authority is available online ([here](https://www.hud.gov/sites/dfiles/OCHCO/documents/HousingSection106.pdf)).  If a Lender chooses not to use the delegation, HUD must consult with the SHPO directly.

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

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

For additional guidance, HUD presented a webinar on the Delegation of Authority for lenders and consultants on 3/17/21.  The webinar was recorded and is available ([here](https://www.hudexchange.info/trainings/courses/map-guide-briefing-webinars-webinar-5/3985/)).

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

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Environmental Inquiries with ORCF Prior to Application

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

***Keywords:*** *Environmental*

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Reminder on Requirement for Corporate Credit Reviews on Change of Participants Above the Small Portfolio Threshold

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

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

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Uploading Asset Management Transactions in 232 Healthcare Portal in Sequential Order

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

***Keywords:*** *Asset Management, 232 Healthcare Portal*

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Submitting Environmental Reviews to ORCF Asset Management in HEROS

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

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

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

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

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

Guidance for ORCF stakeholders using HEROS is available online at ORCF’s Environmental Resource website ([here](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/environmental_resources)).

Lenders and stakeholders are also encouraged to access the ORCF Lender's Environmental Checklist ([here](https://www.hud.gov/sites/documents/223f_EnvChecklist.xlsx)) for additional environmental guidance.

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

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October 2021 ORCF Webinar Presentation Focusing Primarily on Asset Management Matters Available Online

On October 21, 2021, ORCF participated in a webinar hosted by the American Health Care Association/National Center for Assisted Living (AHCA/NCAL) on Asset Management matters. The webinar provided a brief overview of the Section 232 program and addressed asset management matters. The webinar is now available online ([here](https://educate.ahcancal.org/products/hud-orcf-webinar-presentation-focusing-primarily-on-asset-management-matters#tab-product_tab_overview)). Membership to AHCA/NCAL is not required to access this webinar. Please use your AHCA login used when registering for the webinar (*If you have forgotten your password click*[*here*](https://members.ahcancal.org/Dashboard/Sign-In-Help)*).*

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

**How to Create Account:**

* To avoid technical problems, use Google Chrome.
* If you are new to the AHCA site, you can create an account [here](https://members.ahcancal.org/Dashboard/Create-New-User-Account). After creating an account, you will be able to access the webinar.

For further assistance, please email [educate@ahca.org](mailto:educate@ahca.org).

***Keywords:*** *Asset Management, Webinar*

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FROM THE CLOSING CORNER

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

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

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

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Lender’s Change Order Escrow Requirements

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

***Keywords*** *– Change Order Escrows, Construction Changes*

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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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