



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

DATE: August 5, 2022

MORTGAGEE LETTER 2022-12

Cross Reference: HUD Handbook 4350.1
Notice 2022-04

TO: All FHA-Approved Multifamily Mortgagees and Servicers

SUBJECT: Reserve for Replacement Lender Delegation

I. Purpose:

This Mortgagee Letter (ML) is to provide awareness and guidance on the Reserve for Replacement (RFR) Lender Delegation policy. This ML accompanies Housing Notice XXXX-XX. Please note that this Mortgagee Letter and its accompanying Notice do not apply to subsidized properties or properties financed through programs not enumerated in Section 1 of the General Requirements heading of this Mortgagee Letter. Additionally, this notice supersedes section of the Asset Management Handbook 4350.1, Chapter 4 on reserve for replacement accounts, which is currently under review.

II. Background:

The RFR Lender Delegation Policy is designed to increase efficiency and timeliness in processing borrowers' requests for disbursement of funds from RFR accounts. Under this Policy, there are two (2) Delegation options: Full Delegation whereby lenders review and approve borrowers' requests for disbursements and Partial Delegation whereby lenders review and recommend that HUD approve borrowers' requests for disbursements. Lenders undertaking either Delegation option for their portfolio will reduce the need for the Department of Housing and Urban Development (HUD) to fully review each disbursement. In the case of Full Delegation, lenders also would eliminate the need for HUD to approve each disbursement. A prerequisite for Lender's use of either Delegation option is HUD approval of an amendment to the lender's Quality Control Plan (QCP).

III. Lender Approval Process:

1. Lenders who wish to participate must submit a written request on company letterhead and email the request to the following mailbox: RFR lender approvals@hud.gov.
2. The request must include a revised QCP that specifies the business processes and controls it

will use to administer RFR disbursements.

The QCP must describe in detail the following:

- a. Procedures for intake, review, approval, and rejection of form HUD-9250 “Funds Authorizations.”
 - b. Identification of the staff assigned to oversee the task, the qualifications of the identified staff, an explanation of why these qualifications are sufficient to handle the assigned roles, and a primary point of contact. The staff that will oversee RFR requests must have the following minimum qualifications:
 - i) Must be a full-time salaried employee of the lender.
 - ii) Must have a minimum of one-year Multifamily Asset Management experience.
 - iii) Must have a minimum of one-year experience with the HUD-9250 form and an understanding of HUD’s handbooks and policies.
 - iv) The employees overseeing RFR delegation may not hold an equity position greater than five (5) percent in, or be a principal of, the lender or any of the lender’s affiliates.
 - c. Lenders will notify HUD in writing of any staff changes related to the RFR Lender Delegation program.
3. HUD will monitor lenders to ensure compliance through QCP submission and review, and the Annual Financial Statement (AFS) review of the property.
 4. Lenders will notify HUD in writing of any staff changes to their Lender Delegation Program.

IV. General Requirements:

1. This mortgagee letter will be applicable to RFR in Market Rate insured properties under Sections 220, 221(d)(3), 221(d)(4), 223(a)(7), 223(f), and 231.
2. The lenders can market RFR delegation as a service they offer but are prohibited from charging a fee for administering releases from the RFR account.
3. HUD will retain responsibility for release of RFR funds when there is an identity of interest between the lender and the borrower as described in section 2.7 of the MAP Guide.
4. HUD will retain responsibility for release of RFR funds on properties that are on HUD’s watchlist, properties under a HUD mandated action plan, properties undergoing substantial rehabilitation, properties that have REAC scores under 60, and other properties identified by HUD. HUD maintains the right to retain responsibility for the release of RFR funds on

properties or rescind previously delegated responsibility for release of RFR funds on properties at HUD's sole discretion.

5. The Multifamily Asset Counterparty Oversight Division ("MACOD") will provide a quarterly list to field offices and participating lenders of ineligible properties. The Lender may rely on this list, however if the Lender is aware of any change in property status that would make the property ineligible, then the Lender shall decline to process under its delegated authority. Under Partial Delegation, the field office shall include in its approval review confirmation of the property's continued eligibility. Under Full Delegation, the field office shall notify the lender via email should a property become ineligible for lender delegation prior to issuance of the quarterly list.
6. HUD staff will document that a property will have the RFR releases administered by the lender in the Integrated Real Estate Management System (iREMS) e.g. on the Servicing Reserve Tracking screen.
7. Lender compliance with the requirements of this ML and the QCP will be monitored in accordance with the specific provisions of the QCP and the MAP Guide provisions for lender quality monitoring as described in Chapters 2, 15 and Appendix 2.
8. This Mortgagee letter does not apply to subsidized properties.

V. Full Delegation

Under the Full Delegation Option, the lender is responsible for reviewing and approving the form HUD-9250, Funds Authorizations prepared by the owner/agent (O/A) documenting the RFR transaction(s). Lender approval of the disbursements will be evidenced by signing in the designated space for lenders on the form HUD 9250, and checking the box indicating that this is approved under delegated processing. The Lender is only authorized to approve RFR requests at this time. Lenders do not need to sign the form if they are rejecting the request; however, lenders must notify HUD of the rejection so the Account Executive can document it the Integrated Real Estate Management System (iREMS).

VI. Partial Delegation

Under the Partial Delegation Option, the lender is similarly responsible for reviewing and ensuring the form HUD-9250 completed by the O/A is filled out correctly and the request is in accordance with HUD policies. The Lender will then certify to HUD via email that this is the case and forward the HUD-9250 for final approval by HUD. Once the Lender recommends approval of the RFR disbursements, the HUD Account Executive assigned to the property shall review and approve the form HUD-9250. The Lender does not need to certify if they are rejecting the request. Lenders must notify HUD of the rejection so the Account Executive can document it in iREMS.

VII. Qualified Repairs and Replacement Expenses:

1. The RFR account is established by the Office of Multifamily Production staff during the underwriting process in accordance with the requirements published in Chapters 5, 6, and 7 of the MAP Guide. The purpose of the RFR account is not to provide for a dollar to dollar ability to meet all future needs of the property, but to provide a source of capital to help offset the cost of replacing building repairs and replacements in the latter years of the project. The RFR account shall not be considered as the primary source of funds for the capital project repairs and replacements, but only as a supplemental source of funds.
2. The approved lender that utilizes the Full Delegation option may approve the release of RFR funds to pay for the repair and replacement of capitalized assets that are part of the mortgaged security. The lender must ensure that the owner and property manager are consistent in following the appropriate treatment of eligible RFR draws versus expenses that are ineligible. A list of ineligible items can be found in HUD Handbook 4350.1.

As noted in the 2020 MAP Guide, there are legitimate differences in the business choices owners make when distinguishing between operating expense and capital replacement items, and at the lender must review past patterns of spending in determining whether to release funds for a particular cost not listed in the Capital Needs Assessment (CNA). The owner's discretion must be expressed in a defined policy and consistently applied year after year.

3. Draws from the RFR escrow will be compared to an owner's past pattern of expenditures, a property insurance schedule, or a CNA described schedule of repairs and replacements. The comparison is only to be used as guidance as to the kinds and categories of repairs and replacements, and not as to the timing of such repairs and replacement. While disbursements will be permitted for emergency and unforeseen needs, in general, the lender/servicer will not authorize draws for items or categories of items not consistent with the past pattern or identified by any CNA.
4. Periodically, modifications to the RFR for items not listed in the CNA may be necessary. If an owner submits a request for an item not listed in the CNA, property insurance schedule, or owner's past pattern of expenditures the lender is to forward that request to the property's assigned HUD Account Executive for HUD approval determination.
5. If lenders suspect, becomes concerned, or becomes aware that the property no longer has sufficient reserves to meet its capital needs, they must contact the property's assigned HUD Account Executive. Sufficient reserves are defined as the RFR account being at or above the fixed minimum unit per annum established in the underwriting process. When a minimum balance has not been established in the underwriting, lenders will use \$1,000 per unit as a minimum.
6. Requests for RFR withdrawals exceeding 20 percent of the current RFR balance or exceeding \$50,000 for a single item, must be accompanied by the most recent CNA 10-year update that shows that the remaining balance in the RFR is sufficient for future needs identified in the CNA. These requests should be submitted to HUD.

7. Lenders must certify in their QCP that releases will not be made without prior HUD approval if the release will result in the RFR account being drawn below the fixed minimum unit per annum established in the underwriting process. Additionally, lenders should certify this in the Lender checklist recommended with each RFR release (see attachment 1). When a minimum balance has not been established in the underwriting lenders will use \$1,000 per unit as a minimum.
8. The following are eligible capital items expenses for the RFR Account. The capital items include, but are not limited to:
 - a. Major appliance replacements in dwelling units, such as refrigerators, ranges, dishwashers, and garbage disposals;

Note: HUD promotes the use of ENERGY STAR labeled appliances. Lender/Service staff should communicate this to those requesting the use of RFR for the purpose of replacing major appliances. Additionally, Properties that received a lower MIP for Green Standards must continue to follow the Green Standard when replacing appliances.
 - b. Kitchen and bathroom sinks, counter tops, bathroom tubs, water closets, and doors (exterior and interior);
 - c. Major roof repairs, including major replacements of gutters, downspouts, and related eaves or soffits;
 - d. Major plumbing and sanitary systems repair and replacements;
 - e. Central air conditioning and heating systems replacements or major overhauls, including cooling towers, water chilling units, furnaces, stokers, boilers, and fuel storage tanks;
 - f. Major overhaul of elevators or stairways;
 - g. Major sidewalks, parking lots, and driveways repaving or resurfacing;
 - h. Major building exterior repainting;
 - i. Major siding replacement on a building;
 - j. Lawn sprinkler systems replacement;

- k. Swimming pool or playground equipment replacement or major repairs.
9. Owner/managers should utilize the RFR account to reimburse any capital item in the same fiscal year in which the expenditure occurs, preferably at least sixty days prior to the close of the project's fiscal year.
 10. The RFR provides for project stability and capital systems and equipment replacement. To ensure this goal is met, the RFR may be used in special circumstances, as determined in writing by the regional center or satellite office director or his or her designee. The lender shall submit request for the following items to the regional centralized mailbox:
 - a. Lead-based paint testing and lead-based paint hazard assessment, and either control or abatement;
 - b. Asbestos testing and asbestos hazard assessment, and either control or abatement;
 - c. Unexpected 10 percent or more one-time increases in utility costs or insurance;
 - d. Project-wide repairs or upgrades to eliminate conditions considered health or safety hazards;
 - e. Certain bedbug and cockroach remediation activities:
 - i) Relocation from units is not necessary for effective pest treatment. HUD encourages use of integrated pest management techniques to minimize the use and toxicity of pesticides (see www.stoppests.org). If reasonable temporary relocation is necessary, the owner/management may request withdrawals from available project funds (when authorized by HUD) for any day when treatment for bedbugs or cockroaches may render the unit uninhabitable.
 - ii) When other sources of funds are not available or sufficient for the prevention or treatment of bedbugs or cockroaches, the regional center and/or satellite officer director or designee may honor requests to reimburse Owners for infestation treatment from the Reserve for Replacement account.
 - iii) All withdrawals of this type must be approved by the regional center and/or satellite officer director or designee. These requests should be

submitted through the HUB's centralized mailbox, and include the AEs name, and property name in the subject line.

- iv) Any temporary relocation must be carried out in accordance with applicable nondiscrimination, equal opportunity, and accessible requirements, including those under Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Fair Housing Act, as applicable, and any applicable HUD guidance. This includes, among other obligations, providing accessible relocation housing that meets the disability-related needs of tenants, and providing reasonable accommodations for individuals with disabilities.

- f. Accessibility. Alterations in order to make a property accessible in compliance with federal accessibility laws and federal architectural standards.

VIII. Documenting Reserve for Replacement Transactions:

The O/A must always use current Office of Management and Budget (OMB) approved forms.

The regional center and/or satellite office ensures all sections of the reserve tracking screen in the iREMS are up-to-date, and the documentation is appropriately retained and stored.

- 1. In order to ensure proper maintenance of the disbursement, the Lender must follow the following procedures:
 - a) Establish an internal RFR file for the project.
 - b) Provide copies of form HUD-9250 and other supporting documents for each RFR withdrawal to the HUD field staff within seven (7) business days of lender/servicer approval. This documentation must include the date of the request for RFR and must be emailed to the designated HUD mailbox listed in the Processing RFR Reimbursement Instruction section.
 - c) The lender/servicer should also retain documents in accordance with the following requirements:
 - 1. Lender is required to keep copies of all form HUD-9250 on file for the lifetime of the loan. These forms provide a basis for establishing asset replacement dates.
 - 2. If the required audited annual financial statement (AFS) covering the

time period of the expenditure has been submitted, reviewed, and concluded with no further action, a party may discard copies of supporting materials, such as invoices that are on file and are more than three years old. However, in unusual circumstances, such as defaults or major findings from previous reviews or audits, retain copies of all supporting materials which otherwise would be discarded.

3. For projects not required to submit audited AFSs, retain copies of contracts and bids for at least three years or for the term of any warranty or guarantee.
4. Copies must be kept in an easily retrievable format and made available to HUD within 14 days of a request.

IX. Reserve for Replacement Reimbursement Request:

1. For goods, materials, supplies, equipment, and appliances identified in the CNA, owner/managers must make a written RFR reimbursement request to the lender/servicer according to contractual agreements among the parties, using form HUD-9250. Owner/managers should include the following information with the request:
 - a. A Mortgagor Certification;
 - b. Specify the unit(s) where goods, materials, equipment or appliances were used or installed.
 - c. Copies of invoices are not required to be submitted if the description of the work done or items replaced is sufficiently detailed to permit an inspection or verification. The description must include any serial numbers for equipment and appliances. The owner/manager must keep copies of the invoices on file for at least three years and have the invoices available for HUD staff to review.
 - d. The owner must obtain at least three (3) bids if the RFR reimbursement is expected to exceed the larger of \$50,000 or 20 percent of the current RFR balance. If an owner/manager is unable to obtain three bids, then the owner/manager must submit a detailed justification to the lender as to why three bids were not acquired and supporting documentation for the proposed use of the funds to the lender/servicer. The lender is then authorized to approve the request based on reasonable justification. For example, consideration may be given to the urgency of the work, the uniqueness of the work, or the location of the property. The lender will reach out to the account executive if he/she has any concerns or questions regarding the justifications. Justifications will be kept on file for three years.

2. For reimbursement for work or services that have been performed, owners must submit a written RFR reimbursement request and must provide a detailed description of the work or services that have been performed following instructions found on the back of form HUD-9250. The description must identify:
 - a. The specific location(s) and service(s) provided, including the affected dwelling unit(s), if applicable, for purposes of a work inspection during subsequent visits to the property.
 - b. Copies of invoices are not required to be submitted if the description of the work done or items replaced is sufficiently detailed to permit an inspection or verification. The description should include any serial numbers for equipment and appliances. The owner/manager must keep copies of the invoices on file for at least three years and have the invoices available for HUD staff to review.
 - c. The owner must obtain three (3) bids if the RFR Reimbursement is expected to exceed the larger of \$50,000 or 20 percent of the current RFR balance. If an owner/manager is unable to obtain three bids, then the owner/manager must submit a justification to the lender as to why three bids were not acquired and supporting documentation for the proposed use of the funds to HUD or the lender/servicer. For example, consideration may be given to the urgency of the work, the uniqueness of the work, or the location of the property. The lender will reach out to the account executive if he/she have any concerns or questions regarding the justifications. Justifications will be kept on file for three years.
 - d. An owner certification is required.
3. The owner/manager must maintain copies of all bids for three years in an easily accessible format on site for examination during a management review.

X. Advance of RFR Funds:

1. Typically, RFR releases are made for reimbursement on work that is completed. However, advances may be approved in situations where upfront or partial payments to the contractor(s) are required prior to the work being completed.
2. Emergency Advances must be approved by HUD.
3. When the owner/manager is requesting an advance from the RFR account for work that is to be done, the owner must obtain at least three (3) bids. The bids, the bid specifications, and the scope of work must be submitted for prior approval only for requests which exceed the following thresholds:

100 Units or Less	\$25,000
101-250 units	\$50,000
Over 250 Units	\$100,000

If an owner/manager is unable to obtain three bids, then the owner/manager must submit a detailed justification to the lender as to why three bids were not acquired and supporting documentation for the proposed use of the funds to the lender/servicer. For example, consideration may be given to the urgency of the work, the uniqueness of the work, or the location of the property. The lender/servicer is to contact the AE if they are concerned about the sufficiency of the justification. All justifications must be kept on file for 3 years.

4. The lender/servicer reviews, and approves or disapproves, an advanced release based on the use and availability of funds in the project operating and RFR accounts.
5. The lender/servicer should require a dual-party check issued to the contractor for any advances of the approved items.
6. If the owner does not select the lowest bid, the owner/manager must provide a detailed justification to the lender/servicer as to why another bidder was selected. For example, consideration may be given to a bidder's reputation for quality workmanship, materials, timely performance and to the urgency of the repairs. The lender/servicer is to contact the AE if they are concerned about the sufficiency of the justification. All justifications must be kept on file for 3 years
 - a. The lender/servicer, in accordance with contractual agreements among the parties, must retain a copy of all documents the owner submits and returns originals to the owner upon completing the review process.
 - b. The owner/manager must retain original documents for three years, or for the term of any warranty or guarantee, whichever is longer.
7. To ensure contract performance, the owner/manager must require the contractor to provide completion assurance bonds.
8. To ensure satisfactory completion of contracts for services, the owner/manager may choose to pay in installments at the completion of stages of work. For example, the owner/manager may pay one-third when the work begins, one-third midway through the work, and one-third at satisfactory completion.

XI. Frequency, Timing, and Follow-Up of a Reserve for Replacement Reimbursement Request:

1. Quarterly Request

It is recommended that requests for withdrawals shall be made no more often than quarterly. Additionally, requests for withdrawals shall be made no more than one year after the expenditure occurred, unless the appropriate HUD field office has approved and

provided a waiver. Lenders are not authorized to provide waivers. Reimbursement requests should be made at least 60 days before the close of the project's fiscal year.

- a. Projects restructured under a Partial Payment of Claim (PPC) must have any reimbursement request approved during the calendar year in which the work was completed, or capital item was replaced.
- b. If the lender/servicer approves a request but has not satisfied the request before the end of the property's fiscal year, the owner should treat the anticipated reimbursement as a receivable in the surplus cash computation.
- c. The lender/servicer is prohibited from granting reimbursement for invoices older than one year from the date the work was completed.

2. Follow-up inspection

A follow-up inspection or certification of the satisfactory completion of contract work is not mandatory if the overall cost is the lesser of \$50,000 or 20 percent of the RFR account balance; however, the regional center and/or satellite office may review the work during subsequent visits to the property. For repairs over \$50,000 or 20 percent of the RFR account balance the owner must include a certification of the satisfactory completion of contract work.

XII. Processing RFR Reimbursement Instructions:

1. The O/A will request disbursements using form HUD-9250 Funds Authorizations. Approved lenders will compare RFR release requests based on the owner's previous disbursements for capital replacements and the most current CNA schedule of repairs and replacements. If a CNA was not performed or not available, the most recent reserve analysis or proforma should be used.
2. HUD will provide a history of the owner's past withdrawals at the lender's request.
 1. The HUD field staff assigned to a project will be the lender's point of contact for any question including whether an item is eligible for reimbursement. The comparison is only to be used as guidance as to the kinds and categories of repairs and replacements, and not as to the timing of such repairs and replacement. Lenders shall provide copies of the form HUD-9250 as specified in this ML in Documenting Reserve for Replacements section. Copies will be provided electronically and must include the lender's name, property name and FHA number in the subject line. The submissions must include the lender's point of contact name and information. Attachments must be in a PDF format with the form HUD-9250 as page one and include supporting documentation. The copies must be submitted to the appropriate field mailboxes listed below:

Atlanta	ATL.incoming@hud.gov
Baltimore	BAL.incoming@hud.gov
Boston	BOS.incoming@hud.gov
Chicago	CHI.incoming@hud.gov
Detroit	DET.incoming@hud.gov
Denver	DEN.incoming@hud.gov
Fort Worth	MFSouthwest@hud.gov
Jacksonville	JAX.incoming@hud.gov
Kansas City	MFSouthwest@hud.gov
Minneapolis	MN.incoming@hud.gov
New York	NY.incoming@hud.gov
San Francisco	SF.incoming@hud.gov

2. HUD reserves the right to request additional documentation and details regarding form HUD-9250 submission if it has concerns with submitted inspection reports or supporting documentation.
3. When the following criteria are met, the lender/servicer, according to its contractual agreement, will review and approve owner/manager's RFR request, or the lender will notify the owner/manager in writing if it needs additional time to review the request and state the reason(s) why extra time is needed.
 - a. The loan is current;
 - b. The property is eligible for lender delegation. The property is not on HUD's watchlist, is not under a HUD mandated Action Plan, is not undergoing substantial rehabilitation, the property does not have a REAC scores under 60, and not a property marked as ineligible for other reasons by HUD.
 - c. There are no known uncured Regulatory Agreement violations or any other applicable HUD business agreements violations;
 - d. The owner has no unresolved findings from management reviews or financial assessment subsystem (FASS) compliance reviews, or other HUD reviews;
 - e. The project is not designated as troubled in iREMS;
 - f. After the release, the RFR account balance must meet or exceed the minimum threshold that was established in underwriting requirement. If no minimum threshold has been established, then the threshold is \$1,000 per unit;
 - g. The owner's request does not include payment of special fees to the management agent; and

- h. If the invoice request is to an identity-of-interest vendor, then the capital items must be reasonable, necessary, and at or below the cost of arms-length, open-market purchases.
4. Suspension of Disbursements: If an owner/manager develops a pattern of errors, such as continually requesting ineligible items, the mortgage goes into default, or the project becomes troubled or is placed on a watchlist, or for other reasons determined by HUD the regional center and /or satellite office solely has the authority to temporarily suspend the RFR funds expenditure, except in cases of emergency as determined by HUD. If HUD suspends an RFR account, the lender's delegation of that account is rescinded, and the Lender will not be authorized to approve reimbursement requests for the suspended account.

XIII. Surcharges and Penalties:

OAMPO will not surcharge or penalize Mortgagee/Serviceicers for approved RFR releases provided that the instructions in this mortgage letter and on applicable HUD forms were compiled with.

XIV. Paperwork Reduction Act:

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned under OMB control number 2502-0555. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

For further information contact Michael Bruggman at (202) 402-5619 or Michael.Bruggman@hud.gov Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1.877.TDD.2HUD (1-877-833-2483).

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