

Section II Production

Chapter 1

Introduction and Application Processing

1.1 Introduction

The Production section of the Office of Residential Care Facilities reviews and approves applications for new Section 232 loans. ORCF has standardized submission and review requirements for all Section 232 applications. This portion of the handbook details the process for application submission, review, construction administration and closing.

1.2 Section 232 Approved Lenders

Only an approved Section 232 Lender and underwriter may submit an application for mortgage insurance for Section 232 projects. As the Section 232 approved Lender is the key player in the process, potential borrowers are encouraged to contact a Lender as early in the process as possible. The Lender will explain the process from initial discussions to underwriting and submittal of the application to the closing of the loan. The approved Lender list can be found at: <http://portal.hud.gov/hudportal/documents/huddoc?id=aprvlend.pdf>. Those Lenders marked with an asterisk can originate Section 232 loans.

1.3 Application Requirements

Application checklists for all of the Section 232 programs are located on the Section 232 program website. All exhibits on each application checklist are required, as applicable.

It is the Lender's responsibility to diligently review every exhibit to assure that it is complete and accurate prior to submitting the application to ORCF. The Lender is to submit an electronic version of the entire application. ORCF retains the right to request a hard copy of any application exhibits that facilitate the underwriting review process, e.g. documents with original signatures, documents illegible in electronic format, or large exhibits such as third party reports. Lenders are required to maintain a copy of the application in their files for monitoring.

The submission of computerized forms generated by a Lender is acceptable, as long as the retyped form has the Office Management and Budget (OMB) number, expiration date, form title, form number, is identical in content and in the order of the line items on the ORCF Form. The retyped form must be completed subject to that form's instructions.

1.4

Application Process

Under ORCF processing procedures, the Lender submits an application for a Firm Commitment. In the application, the Lender completes a full underwriting analysis of the transaction and must present its recommendation to ORCF in the Lender Narrative. The Lender Narrative provides a summary of the Lender's analysis as it relates to each of the exhibits in the application.

There are two application processes, Direct-to-Firm and the Two-Stage Process. Projects under Section 232/223(f), Section 232/241(a), 232/223(a)(7), 223(d), and 232(i) may only submit a Direct-to-Firm application. For New Construction and Substantial Rehabilitation projects the Lender may choose whether to submit the application Direct-to-Firm or via the Two-Stage process.

- A. **Direct-to-Firm Application Process.** The Lender submits the entire Firm Application at one time for review by ORCF. ORCF will either issue a Firm Commitment or will reject the application. In either instance, HUD will retain the application fee.
- B. **Two-Stage Application Process.** The Lender submits exhibits for the Initial Submission review by HUD. HUD's Initial Submission review includes the Underwriting Review, Appraisal and Market Study Review, Part 1 Legal Review, Title/Survey Review and Environmental Review. ORCF will either issue an Initial Submission Firm Commitment or a rejection letter. This differs from the Multifamily Firm Invitation process in that a Firm Commitment can be issued at the initial review phase. Once an Initial Submission Firm Commitment is issued, the Lender has 120 days to submit the Final Submission application. HUD will review the Final Submission application, which includes architecture, cost, professional liability insurance, labor relations and satisfaction of any conditions from the Initial Submission Firm Commitment. ORCF will confirm that there are no material changes to the application prior to issuing an Amended and Restated Firm Commitment. Mortgage increases of 5% or more will be re-evaluated by the ORCF Loan Committee. If an Amended and Restated Firm Commitment is issued, the project may proceed to closing.

The HUD application fee is paid at the Initial Submission stage. If the Initial Submission stage does not result in a Firm Commitment being issued, the Lender may request a refund of 50% of the HUD application fee.

- C. **Deficiencies.** When an application is received, the ORCF underwriter will advise the Lender of any defects or deficiencies. The Lender will have 10 business days, or such other brief timeframe as specified by ORCF, to cure the defects or deficiencies. Other applications pulled for review while the application is on hold awaiting Lender revision will take

precedence over the hold application. If not cured, the ORCF underwriter may take the project to Loan Committee as is, which could result in rejection of the application.

- D. Lenders are encouraged to contact ORCF at LEANThinking@hud.gov during assembly of their applications in the following instances or with any other questions that impact the underwriting of the application:
1. **Waivers.** When the approval or denial of a waiver impacts the feasibility of a project, ORCF may review waiver requests in advance of the application submission.
 2. **Environmental Concerns.** Where single item environmental concerns warrant consultation in order to avoid wasted time and effort, ORCF may review the issue prior to application submission. Examples of items that may merit early consultation include:
 - a. **Unusual Site Conditions,** such as soil contamination, explosive hazards, unacceptable noise levels, fall hazards, etc.;
 - b. **Flood Hazards or Wetlands:** If the site contains flood hazards or wetlands, an 8-step process can be initiated prior to application;
 - c. **State Historic Preservation, US Fish and Wildlife:** In cases where HUD involvement is required to contact the State or regional office, Lenders can request that ORCF initiate the consultation process. The Lender must provide the research necessary for HUD to make a recommendation.
 3. **Davis Bacon.** When the Lender is unsure whether Davis Bacon prevailing wage requirements apply, or which wage decision will be required, ORCF will work with HUD Labor Relations staff, as necessary, to provide an initial determination.

1.5

Loan Committee

Once the ORCF underwriter has reviewed the application and the Lender's conclusions, the ORCF underwriter will make a recommendation of approval or rejection to the ORCF Loan Committee. The Loan Committee will review the application and will either approve or reject it. If the Loan Committee approves of the application, a Firm Commitment will be issued. If the Loan Committee does not approve the application, a rejection letter will be issued and HUD will retain the application fee. In some instances, the Loan Committee may approve an application with special conditions or added risk mitigation so the project will be an acceptable risk to the FHA insurance fund.

1.6

Closing Process

After a Firm Commitment is issued for a project, the Lender and the Lender's attorney must begin compiling the required closing documents. The Lender must work directly with the ORCF closing coordinator, and the Lender's attorney must work directly with the assigned HUD

closing attorney. A closing date will be scheduled between the HUD closing attorney and the ORCF closing coordinator. The Lender must inform the HUD closing attorney and ORCF closing coordinator of any deadlines that must be met. While ORCF is unable to guarantee a specific closing date, the HUD closing attorney and ORCF closing coordinator will make every effort to accommodate deadlines whenever possible.

ORCF encourages Lenders to make every effort possible to accomplish the closing within this prescribed effective date of the firm commitment. In the event of extenuating circumstances, the Lender may request an extension. The extension request must provide justification acceptable to ORCF to support why extension of the Firm Commitment is warranted and necessary. See Production, Chapter 9.3 for more information.

To the extent Amendments to the Firm Commitment are required during the closing process, the Lender is encouraged to consolidate these requests to minimize the number of amendments requiring review and processing.

See Production, Chapter 9 for more details on closing requirements and the closing process.