



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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

January 5, 2004
Updated and Re-Issued: March 25, 2004

MEMORANDUM FOR: All Multifamily Hub/Program Center Directors
All OMHAR Staff

A handwritten signature in black ink that reads "Beverly J. Miller".

FROM: Beverly J. Miller, Director, Office of Asset Management, HTG

SUBJECT: OMHAR's February 6, 2003 Policy on Accounts Payable

Background:

On February 6, 2003, OMHAR issued a policy (attached) on clearing excess property accounts payable. This policy is part of its efforts to restore properties to sound physical and financial condition while resetting Section 8 rents and restructuring the underlying debt. You should review that policy to gain a general familiarity with the goals and process since the policy requires a review of payables by Multifamily Housing to establish their eligibility.

Discussion:

This is not a change in policy or new standard; OMHAR's policy relies on existing Multifamily standards regarding payment of eligible property expenses. OMHAR wishes to avoid including any item(s) that Multifamily has challenged previously or would challenge upon review. **Only reasonable and necessary property operating expenses may be included as eligible transaction costs.** Examples of payables not eligible for inclusion in the transaction costs, include unpaid distributions to owners shown as payables; entity expenses; corporate charge-back expenses; Section 8 repayments caused by improper billing; or other items only payable from surplus cash such items are **not** considered operating expenses of the property and may not be included as eligible transaction costs.

The Owner must therefore supply a list of specific payables with identifying information for Field Office review. The Owner must provide any additional explanatory information you need to identify the source cause of the payable, and make your determination of eligibility. OMHAR informs Owners that not all payables are eligible as transaction costs. Because of Multifamily's knowledge of the history of the property and familiarity with reasonable and necessary property expenses, OMHAR defers to Multifamily regarding specific payables.

In addition, you should be aware that:

- **Disallowed payables must be cleared.** If there is any obligation deemed ineligible by Multifamily, the owner must pay that obligation from non-project funds before OMHAR will close the M2M transaction.
- **Cash and receivables are considered in the analysis.** Even if Multifamily approves all payables, not all will be included in transaction costs. The owner must disclose and certify to operating cash and receivables, which are considered available to apply against payables.
- **Some transactions will not require Multifamily Housing's review.** Properties that had positive Surplus Cash on their most recent financial statement, and for which the owner has certified that if audited statements were issued there would likely be surplus cash as of the date of the certification, will not have payables included as transaction costs. (If there has been a significant deterioration in cash flow despite any earlier Surplus Cash position and the owner believes it is not likely to have surplus cash, payables would be considered.)

Conclusion:

Multifamily should promptly review requests for approval of payables from OMHAR, and should reply to the PAE using OMHAR's form (copy attached). Denied payables will be cleared from the balance sheet and properties will emerge from OMHAR in a stronger cash position. The result furthers our shared goal of returning properties to financial soundness while evenly applying standards for eligible payment of payables.

Attachments: February 6, 2003 OMHAR Memorandum
Response form

Internal HUD Distribution:						
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