

OMHAR RESOURCE DESK BROADCAST EMAIL ARCHIVE

Sent: Wednesday, November 12, 2003 11:05 AM

Subject: Additional Guidance for Rehab Escrow Administration and Modification Requests

Attachments: REAT Guidance 11.10.2003.doc; Form 9.10 & 9.11.xls

As a follow up to the August 14th, 2003 REAT policy and in response to the numerous inquiries received, the attached memorandum provides clarification and simplification for requesting Rehabilitation Escrow Deposit Agreement (REDA) modifications and guidance on the transfer of excess funds.

Questions on this policy should be directed to Dao Vuong, REAT Manager (dao_vuong@hud.gov) or Richard Daugherty (Richard_P._Daugherty@hud.gov), Portfolio Director, New York Production Office.

OMHAR Resource Desk
Work Product for Internal Use of OMHAR and PAEs Only



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Jacob K. Javits Federal Building
26 Federal Plaza, Room 32-102
New York, NY 10278-0068

Office of Multifamily Housing Assistance Restructuring

November 12, 2003

MEMORANDUM FOR: All OMHAR Staff,
Participating Administrative Entities,
Multifamily HUB Directors and Staff,
Rehab Escrow Administrators

FROM: Dao Vuong, REAT Manager

SUBJECT: Additional Guidance and Clarification of Roles and
Responsibilities in Rehab Escrow Administration and
Modification Requests

PURPOSE

This memo is intended to:

- ? Help Rehab Escrow Administrators (REA's) and other stakeholders recognize the circumstances under which modification of the Rehabilitation Escrow Deposit Agreement (REDA) is needed;
- ? clarify and simplify the mechanism for requesting REDA modifications;
- ? provide recommendations for handling of surplus escrow funds upon the completion of rehab work.

BACKGROUND

Since the August 2003 launch of the Rehabilitation Escrow Administration Tracking (REAT) program, over 75 REDA modification requests have been received by the REAT team, and many questions have been received regarding acceptable uses of post-completion surplus escrow balances. Based on the significant number of unnecessary and incomplete modification requests, as well as the abundance of questions regarding escrow closure, we conclude that insufficient direction has been provided in these areas and offer this memo as further guidance.

REDA MODIFICATIONS

REDA modification requests fall into two general categories: additional time needed for repairs, and changes to the scope of work. Some time extensions have been granted to allow delayed materials to arrive, or labor shortages to be overcome or for similar plausible circumstances. Some changes in scope of work have been approved where a more urgent need could be demonstrated in another type of physical repair. However, many modification requests have been denied because they were unnecessary. Often the work in question was completed while the modification request was in transit to the REAT team, or the changes

requested were insignificant or non-material. In some cases the requests simply did not make sense or were not supported by other stakeholders.

One common thread to all requests received to date is that **the factual circumstances were not clearly presented with the requests** and significant additional research had to be conducted before a decision could be made. The following procedure has been created to simplify and expedite the process.

WHEN IS A MODIFICATION NOT NECESSARY?

- ? Not to merely capture the most recent cost estimates for the work elements contained therein. It is expected some bids may exceed and some may be less than the budgeted costs for individual work items.
- ? Not after the fact of work completion even if beyond 12 month period. The modification is not a Waiver, nor is a Waiver needed. No penalty or punitive action is contemplated on tardy, but complete, escrows.
- ? Not be modified to document final escrow closure and disbursement of any existing surplus funds.
- ? Not because contingency funds must be expended. However, if the REA believes that the escrow funds (including contingency) will not be adequate, the REA should advise the property owner and OMHAR.
- ? If REA discovers that the escrowed funds (including contingency) are not sufficient to cover the full cost of the repairs, and the owner has not deposited additional funds (or otherwise demonstrated to the satisfaction of the REA that the owner will fund all repair costs in excess of escrowed funds), an Event of Default may have occurred, but no modification to the REDA is required.

Please bear in mind that rehab work should continue uninterrupted even while awaiting a response to a modification request.

FORMS 9.10 AND 9.11

Effective immediately, all new rehab-related requests (including but not limited to time extensions, modifications to the original scope of work, and surplus usage queries) will be submitted using the REAT Multipurpose Form 9.10, attached to this broadcast. The form requests the following information:

- ? Property Identifiers
- ? Description of Request Type – Short Version
- ? Closing Date, Original and Current Escrow Information
- ? Justification for the request – Specific explanation of question or requested change to REDA.
 - o Must include description of circumstances promulgating request, numbers, dates and reasons including (if applicable) new completion target dates.
 - o A summary of what rehab work items have been completed and what rehab items remains to be completed should be provided in this section as well

- ? Concurrence By: Form 9.10 should be signed by initiating party – generally expected to be the REA, with accompanying 9.11 forms for other parties to the REDA to indicate concurrence with the 9.10 request.

If additional information is needed for a decision to be reached, the REAT staff will contact you as needed; all final decisions will be made by the REAT Director.

**Note - All rehab related requests submitted to Dao Vuong prior the date of this broadcast message will not require the Form 9.10 and will remain with the New York Office for processing.*

SURPLUS FUNDS/OTHER SPECIAL CIRCUMSTANCES OR INQUIRIES

Please refer to the REDA for specifics on Excess Funds.

On the Transfer of Funds

For funds applied to the MRN, HUD's lockbox address for excess funds is:

HUD Multifamily Payment Processing Center
P.O. Box 70764
Chicago, IL 60673.

ATTN: Project Name, City, State, REMs ID#; excess M2M Rehab Escrow funds to be applied to MRN

REA will remit the portion that is due to the Owner, if any, based on the Owners instructions.

For instructions on transferring funds to the R4R or project operating account, please obtain this information directly from the Mortgagee.

For any other instructions, please address your inquiry on the Form 9.10.

The current REDA makes no distinction between contingency funds and other funds. If there is a surplus, regardless of whether the surplus comes from contingency, it is applied to the MRN.

Other Special Circumstances/Inquiries

For all other inquiries, please be specific as to the nature of the question/concern/ issues/etc. Any supporting documentation (i.e., inspection reports, tenant comments, etc.) that would impact OMHAR's decision-making should also be submitted.

Mark-to Market

OMHAR REAT MULTI-PURPOSE FORM

Form 9.10

TO: New York OMHAR, Attn: Dao Vuong; Washington D.C. OMHAR, Attn: Tracy Barnes:
FROM:

ASSET INFORMATION:

ASSET NAME _____

PROPERTY ID NUMBER _____

ITEM DESCRIPTION(S) _____

(eg, REDA Time Extension/Scope of Work Modification/Surplus Usage/Other Special Circumstance or Inquiry)

Please complete the below and provide an explanation of the nature of the request, inquiry and special circumstances that may impact a recommendation or decision by OMHAR. Attach additional pages as needed.

M2M Closing Date:	_____	Original Escrow Balance:	_____
REDA Expiration Date (1-Yr. Anniversary of Closing Date):	12/30/00 (Auto-calculation)	Current Escrow Balance:	_____
Proposed Extend Due Date (if applicable):	_____	Funds Dispersed to Date:	\$0.00 (Auto-calculation)
		Rehab Yet Completed (\$Amount):	_____
		Surplus (Including Interest):	_____

Enter Justification (ie, Reasons for the delay, Issues, Etc.)

All signors of the original REDA must provide their approval and/or comments on the request, except for the party submitting the request and unless OMHAR deems it unnecessary. The following additional stakeholders have reviewed the request (Attach a signed copy of the 9.10(B) for each party involved):

Owner <input type="checkbox"/> Approves	<input type="checkbox"/> Disapproves	<input type="checkbox"/> Add'l Info Needed	MF HUD Project Manager <input type="checkbox"/> Approves	<input type="checkbox"/> Disapproves	<input type="checkbox"/> Add'l Info Needed
		<input type="checkbox"/> Opinion Not Required			<input type="checkbox"/> Opinion Not Required
Rehab Escrow Administrator <input type="checkbox"/> Approves	<input type="checkbox"/> Disapproves	<input type="checkbox"/> Add'l Info Needed	OMHAR Relationship Manager <input type="checkbox"/> Approves	<input type="checkbox"/> Disapproves	<input type="checkbox"/> Add'l Info Needed
		<input type="checkbox"/> Opinion Not Required			<input type="checkbox"/> Opinion Not Required
PAE <input type="checkbox"/> Approves	<input type="checkbox"/> Disapproves	<input type="checkbox"/> Add'l Info Needed	Other _____ <input type="checkbox"/> Approves	<input type="checkbox"/> Disapproves	<input type="checkbox"/> Add'l Info Needed
		<input type="checkbox"/> Opinion Not Required			<input type="checkbox"/> Opinion Not Required

This Request is Submitted by:

Name of Authorized Official AND Stakeholder Role (I.e., Owner, REA, HUD, etc.)

Signature Date

OMHAR REAT Evaluation:

Manager's Recommendation: ☐ Approved ☐ Denied

Director's Decision: ☐ Approved ☐ Denied

Name of Authorized Official

Name of Authorized Official

Signature Date

Signature Date

OMHAR REAT MULTI-PURPOSE FORM - DOCUMENTATION OF STAKEHOLDER OPINION

T
O
: New York OMHAR, Attn: Dao Vuong; Washington D.C. OMHAR, Attn: Tracy Barnes
FROM:

ASSET INFORMATION:

ASSET NAME	
PROPERTY ID NUMBER	
ITEM DESCRIPTION(S)	COMMENTS TO THE FORM 9.10 REQUEST

Provide comments/concerns/opinions/position on the request if disapproves (ie, is the request reasonable, does your party support it, and if not, why and what does the party recommend); these may be brief or long as the party needs them to be. All signors of the original REDA must be on board in order to obtain OMHAR approval. Attach additional pages as needed.

--

Stakeholder: ☐ Approves ☐ Disapproves ☐ Add'l Info Needed

Name of Authorized Official AND Stakeholder Role (Owner, REA, HUD, etc.)

Signature

Date