



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

OFFICE OF AFFORDABLE HOUSING PRESERVATION

Date: August 19, 2005

To: OAH Preservation Offices
HUB Directors
Rehab Escrow Administrators

Through: Richard P. Daugherty, Manager, Rehabilitation Escrow Administration Tracking

From: Dao Vuong, Rehabilitation Escrow Specialist

Subject: Rehabilitation Escrow Administration Tracking (REAT)
Updated Comprehensive Guidance for Rehab Escrow Administrators (REAs)

The Comprehensive Guidance for REAs was last distributed on November 16, 2004. We recently announced revised policies, which are incorporated in the attached updated guidance, that are designed to routinize the “back end” of escrow processing and focus administrative efforts on the “front end” to ensure that Owners are starting work in a timely manner. The specific changes in the updated guidance are outlined below:

1. Excess Funds Subject to an Expired Rehabilitation Escrow Deposit Agreement (REDA)

REAT has always had a high evidentiary standard to satisfy in order to authorize additional repairs from excess funds. Generally, excess funds are viewed as being the result of an excessive partial payment of claim at closing which should be returned to HUD. There is an even higher standard to satisfy if the escrow account is or has been late. Please review paragraph I.B.3(c) of the attached guidance for instruction.

2. “30/10 Rule”

Effective immediately, REAs are required to issue the final approved reimbursement to an Owner after receipt of a completed draw request and within thirty (30) days of the REA’s acceptance of the final inspection report that certifies that all repairs have been completed in a satisfactory manner. For this reason, the final reimbursement date and the final inspection report acceptance date is to be captured on the Form 9.10 (or Form 9.12, if one is required by the Rehabilitation Escrow Specialist).

Further, REAs are required to submit any request for use of excess funds other than application to the MRN, CRN, or payment to the FHA Fund, within ten (10) days of the REA making the final approved reimbursement to the Owner.

3. Stakeholder Orientation Calls

The Rehabilitation Escrow Specialist will organize a Stakeholder Orientation Call on all new escrows with the REA, Owner, Site Management, and HUD Project Manager, to be conducted within the first thirty (30) days of establishing the escrow. The purpose of this Call is to:

- confirm that the Owner and Site Management are aware of the scope of work and that they have a plan to complete the work on time;
- confirm that the Owner has approval for any zoning, permitting, and historic preservation requirements that must be satisfied before the work can commence;
- discuss any applicable lessons learned that the REA or Rehabilitation Escrow Specialist deem useful given the Owner’s scope of work;
- confirm that the Owner has contracts in hand to complete the work, or is working to that end, and will comply with the REDA requirement (paragraph 7(a)) to submit bids/contracts;
- ensure the REA explains to the Owner its requirements for invoices and supporting attachments, engaging the inspector, and making reimbursement to the Owner;
- explain OAHP REAT’s oversight role and use of default remedies when escrows are not completed on time; and
- answer any questions that stakeholders may have with regard to REAT procedures.

REAT requires that the Stakeholder Orientation Call be conducted **on all new escrows**. The results of the Call will likely be the first substantive comments the REA enters in the OAHP Resource Desk. The Rehabilitation Escrow Specialist has discretion to waive the requirement for the Call in those instances where the Rehabilitation Escrow Specialist determines that the Call is unnecessary (e.g., Owner and REA have completed other M2M escrows on time). The Rehabilitation Escrow Specialist will document the waiver in the REAT Database.

4. Compliance with REDA Provision Requiring Bids/Contracts from Owner

The January 27, 2003 version of the REDA (see paragraph 7(a)) requires that PAE-approved bids/contracts are to be submitted to the REA within a certain number of days. Our research has revealed that PAEs are generally requiring the bids/contracts be submitted to the REA within thirty (30) to sixty (60) days.

Effective immediately, REAs are required to monitor compliance with this REDA provision, which seeks to ensure that the work is started early and ultimately, that the work is completed on time. We expect REAs to discuss the requirement on the Stakeholder Orientation Calls and to report compliance in the comments entered in the OAHP Resource Desk. In those instances where the Owner does not submit the required

bids/contracts by the date specified, the REA and Rehabilitation Escrow Specialist should discuss the appropriate enforcement action, including placing default remedies.

Please review this updated guidance and contact your Rehabilitation Escrow Specialist with any follow-up questions. Thank you.

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I. SERVICING ACCOUNTS

A. REPORTING

1. Monthly Online Reporting

The REDA requires that the REA report to OAHP on the status of the repairs and of the escrow account. REAs can report through an online portal at the OAHP Resource Desk, at www.oahp.net.

Staff with new REAs and or first time REA users of the Resource Desk must first register and request an OAHP Resource Desk Account. This is accomplished at the Resource Desk, www.oahp.net. All new subscribers to the Resource Desk tool must register as a Rehab Administrator when prompted to “Select User Type.” Once OAHP has received and verified your REA status, REAs should be able to login (with a user name and password) and go to “Update Rehab Information.” Each REA will be able to view and update only its own active portfolio of rehab escrow projects. If there are other open or active escrows that have been omitted from your active portfolio, or should you have any problems using the system, please notify Dao Vuong, Rehabilitation Escrow Specialist.

The REA’s initial report must document the results of the Stakeholder Orientation Call, which is to be conducted within thirty (30) days of opening the escrow. The next required report is to document the Owner’s compliance with the REDA requirement to submit bids/contracts. Monthly reporting is required thereafter on all escrows open for three months or more, with input expected by the 30th of the month. If there has been no change in status since the last reporting period, please note this in the comment section, and include the reason(s) for the delay or why there has been no activity or progress. Please keep comments current, factual, and concise. Of course, there may be occasions when you need to speak to your REAT Specialist immediately, to resolve a problem or answer a question.

The Resource Desk data and comments are subject to on-going REAT Team review and further follow-up (with REAs, Owners, Property Managers, HUD Field Office Project Managers, etc.), as needed, to ensure the assigned Rehabilitation Escrow Specialist has an accurate, current status of the rehab escrow work. Providing clear, comprehensive information will reduce the need for telephone follow-up by REAT Specialists.

2. Reporting to the REAT Team

REAs are expected to be proactive and take ownership of their rehab escrow accounts.

By “proactive,” we mean that REAs are expected to notify OAHP REAT as soon as they become aware of any issues delaying the progress of work, either via the Resource Desk or through contacting the Rehabilitation Escrow Specialist assigned to that account. It is further expected that REAs will be familiar enough with their rehab portfolio that at any time a Rehabilitation Escrow Specialist calls for further information, the REA can fill in the blanks.

In servicing the escrow accounts, we offer the following checklist of questions for REAs to consider:

(a) For New Accounts (1-2 months)

- 1) Have bids been received as required in the REDA?
- 2) Are the necessary permits in hand?
- 3) Have the contractors been selected?
- 4) Does the Owner have a plan to complete the work on time?
- 5) Does the property have a low REAC score (i.e., less than 60)?
- 6) Have repairs commenced? If not, are there any issues delaying the start of work, and when do you expect work to start?
- 7) Are the Owner and Site Management communicating about the scope of work and status of completion?
- 8) Is the Owner/primary property contact cooperating with the REA's efforts to stay abreast of the status of the repairs?

(b) For Late Accounts (>12 months)

- 9) What are the owner's reasons for the delay? Estimated date of completion?
- 10) In your opinion, should the project be subject to default remedies? Why/Why not?
- 11) If a default remedy is not justified, has/will the Owner file for an extension? If it is to be filed, when can the REAT Team expect submission of the Form 9.10 extension request?
- 12) Are there any issues REAT Team management should be aware of?

(c) For ALL Accounts

- 13) What work has been completed?
- 14) What work remains to be completed or is in progress?
- 15) What are the Owner's plans to complete the work by the REDA due date? Has the REA obtained a timeline for completion of work by the REDA due date, if appropriate?

In general, the larger the escrow and the later the escrow, the higher the profile, and hence, the more important it is that the Rehabilitation Escrow Specialist stays abreast of the progress. REAs should also be alert to any projects with a REAC score of less than 60. We would expect repairs to be completed on these high profile properties as quickly as possible. REAs must be well-informed and maintain current comments on the Resource Desk.

It is important to note that the REAT Team's implementation of default remedies does not impact the REA's responsibilities. Unless the REAT Team instructs the REA otherwise (via formal notification), late projects with default remedies applied are still subject to servicing and monitoring by REAs. Therefore, REAs should proceed to disburse funds for completed and satisfactorily inspected work.

B. FORMS 9.10 and 9.11 OAHP REAT MULTIPURPOSE REQUESTS

As part of a REA's servicing responsibilities, REAs must prepare the Form 9.10 OAHP REAT Multipurpose requests for time extensions, scope of work modifications, additional repair or excess fund inquiries, additional funds guidance, and to close-out the escrow (which may also require the Alternate Form 9.12).

Note: It is NOT necessary to submit a Form 9.10 for cost changes between the original REDA line items and actual amount spent.

Refer to OAHP's website for the latest forms:

<http://www.hud.gov/offices/hsg/omhar/readingrm/forms/frm9-10.xls>

1. Two copies of each request should be sent to Dao Vuong for processing at:

OAHP New York
Jacob K. Javitz Building
26 Federal Plaza, Suite 32-102
New York, NY 10278-0068
(email) dao_vuong@hud.gov
(office) 212.542.7698
(office fax) 212.264.5080

2. Prior to submitting any Form 9.10 requests for processing:
 - (a) *The Owner must sign off on all such requests or inquiries (except for close-out), as well as the PAE, if it is a party to the REDA. Other signatures may be required, including HUD's, depending on the nature of the request and as specifically mentioned below under items 3(a), 3(b), 3(c), and 3(d).*
 - (b) *The REA must also indicate whether it agrees or disagrees with the Owner's request. If the REA disagrees, the REA must provide its written perspective and recommendation on Form 9.11. In making this decision, the REA should consider:*
 - 1) What is the likelihood that the Owner will complete the work by the new deadline?
 - 2) Has the owner provided a compelling reason for the change(s)?
 - 3) If there is no assurance that work will be completed by the new deadline or that the request is not otherwise in the best interest of HUD and the property, the REA should not support the request.
 - (c) *The REA completes the financial summary as reported near the top of Form 9.10.*
 - (d) *The REA provides a detailed description of all REDA-required rehab (attaching the Exhibit A to the REDA and the relevant pages from the Physical Condition Assessment report).*
 - (e) *In its justification, the REA should list:*
 - 1) the REDA work completed to date,
 - 2) work still in progress, and if applicable,
 - 3) amount of invoices currently in hand; and
 - 4) a line item discussion of all REDA-required rehab that has not been completed.
3. Depending on the type of request or guidance submitted and as part of the justification, the REA must provide additional information as required to evaluate the request (including that mentioned below).
 - (a) *Time Extensions*
 - 1) Provide a proposed new completion date (in the space provided on the form).
 - 2) Include a detailed discussion of the cause(s) of the delay, along with any supporting documentation the owner can provide.
 - 3) Attach supporting documentation (e.g. a contractor agreement or construction schedule showing the completion date) to discuss the feasibility of the requested revised completion date.

- 4) Obtain and attach the Owner's statement that the incomplete work can be completed within the original REDA cost estimates, given potential price changes with the passage of time, and the owner's commitment to assume responsibility for any cost overruns, from non-project sources, associated with approval of such extension requested.
- 5) Communicate with:
 - i. The HUD Project Manager and the PAE, as necessary, to provide a detailed discussion of how the time delay may or may not impact the financial performance of the property, the physical condition of the property, and living conditions of the tenants.
 - ii. The PAE, to comment on whether the extension request is for repairs that supported an increase in rents in the HAP Contract completed for the M2M restructuring, such as the addition of central air conditioning when none previously existed.

(b) *Modifications to the Scope of Work (SOW)*

The Owner is required to complete all work listed in the original REDA; SOW change requests are rarely approved as the existing scope was agreed upon by the Owner, PAE, and the OAHF decision-makers, after a thorough review of the PCA report.

- 1) Specify what repairs were required in the original SOW.
- 2) Explain the benefit of the deviation from the original SOW.
- 3) Discuss the reasons for the SOW change.
- 4) Discuss the benefits of the SOW change, and/or detriment resulting from denial.
- 5) Provide a proposed completion date if the SOW change were approved.
- 6) Obtain the signature of the PAE and its opinion on the SOW request on the Form 9.10 & 9.11, and address:
 - iii. The impact of the SOW change on tenants' quality of life.
 - iv. Any health and safety issues that are being addressed, or conversely, that would result from the SOW change.
- 7) Comment on whether the SOW change is also addressed in the 20 year PCA analysis and if so, identify in which year(s). If the change in scope is prompted by the owner's belief that the item(s) is no longer necessary or that there is a more effective way of achieving the same result, a letter from an engineer or other professional acceptable to the parties supporting the request. (NOTE: Payment for services of the professional third party is never considered an eligible expense for reimbursement from the escrow).
- 8) Note the disposition of any excess funds. If the request is approved for removal from the scope of work, it is expected that the corresponding amount of funds associated with those items, whether the item is dropped entirely or modified in a manner that costs less, will be paid to the Mortgage Restructuring Note (MRN).

(c) *Excess Funds/Additional Repairs*

Note the proposed distribution of any excess funds. Application of these funds to the MRN principal is the rule; exceptions must be supported by terms of the REDA.

The REAT Team's practice has been to generally require that excess funds be applied to the Mortgage Restructuring Note (MRN), or if there is no MRN to the Contingent Repayment Note (CRN), or if there is no CRN, to the FHA Fund. The REAT Team has generally declined requests to use excess funds for other purposes, such as for

additional repairs. This practice is based on the determination that excess funds are the result of an excessive partial payment of claim made at the closing of the restructuring, and should be returned to HUD.

To consider a request for additional repairs from excess funds in a current escrow, the REA, Owner, and HUD Field Office Project Manager must satisfy all of the criteria below:

- (a) The requested repairs are "rehab escrow eligible"; in other words, had the need for these repairs been known during the project's underwriting, they would have been included in the rehab escrow; and
- (b) There are no other sources of funds to complete the requested repairs (such as the Reserve for Replacements Account); and
- (c) The additional repairs provide benefit to the property and its tenants.

To consider a request for additional repairs from excess funds in a late escrow, the REA, Owner, and HUD Field Office Project Manager must satisfy all of the criteria below:

- (a) All of the above requirements for additional repairs from excess funds in a current escrow have been satisfied; and
- (b) The additional repairs are exigent health and safety items.

The REAT Team will not consider requests to complete additional repairs (repairs not identified in the REDA, Exhibit A) until all required repairs (repairs identified in the REDA, Exhibit A) have been completed and satisfactorily inspected. The REA must submit the Form 9.10 requesting that excess funds be used to complete additional repairs within ten (10) days after making final disbursement for all the required repairs.

- 1) Submit the request for additional repairs only if the original scope of work has been completed.
- 2) Submit the request to OAHP no more than ten (10) days after the final disbursement has taken place, certifying satisfactory completion of all items in the original scope of work.
- 3) Identify a proposed completion date if the additional repairs were approved. The Form 9.10 must contain a proposed completion date.
- 4) Obtain a detailed discussion from the PAE of the requested additional repairs, why the repairs were not included in the original rehab escrow, how the repairs will benefit the property and its tenants (include any supporting documentation the owner can provide), and the estimated costs and time to complete.
- 5) Confirm that inspections will be completed and how they will be funded. Inspection(s) must follow completion of the additional repair(s). The burden of obtaining the additional inspection rests with the REA because the inspector must be an independent agent in their employ. This is most commonly resolved with the Owner funding the cost of the additional inspection(s) by making another deposit to the escrow using non-project funds. The inspection arrangements must be discussed in the Form 9.10.

(d) *Additional Funds Guidance*

When the owner obtained the additional source(s) of funds (i.e. *tax credits, HOME funds, or Community Development Block Grants (CDBG)*), **after** the M2M closing, the rehab required by the respective funding sources is likely to have some overlap that requires further review and consideration.

If some of the REDA-required rehab no longer needs to be performed, the Rehabilitation Escrow Administration Manager would generally be favorable to approving a reduction in the scope of repairs and a corresponding application of funds to the MRN. If all the REDA-required rehab still needs to be performed, the Rehabilitation Escrow Administration Manager would generally not consider modifying the REDA, but would expect some type of agreement with the non-M2M funding source to ensure coordination of repairs and reimbursement of costs.

To review a Form 9.10 request that is caused by receipt of non-M2M sources of funding after closing, please refer to paragraphs I.B.1. and 2. as needed, depending on the REA's request as a result of the additional rehab or sources of funding. In addition, the items below must be addressed in the request package.

- 1) Include evidence of the non-M2M funds. Approval of the Form 9.10 request will generally require actual existence and binding commitment of the additional source(s) of funds (e.g. an application or request for outside funding in itself does not constitute the receipt of outside funds, and is not acceptable nor a basis for approval).
- 2) Provide a complete rehab schedule, detailing both M2M and other rehab to be completed, funding for the rehab, and completion dates (at a minimum, an overall completion date, and preferably, completion dates for interim milestones); note the specific M2M rehab items that will be postponed or delayed and justify the request as required under item 1 for extensions.
- 3) Develop a plan for coordinating progress reports, draw requests, and inspections with the Non-REDA escrow administrator, for the rehab that can be separately monitored.
- 4) Develop an agreement between the escrow administrators, Owner, and OAH
REAT, in the event the REDA-required and non-M2M funded required rehab items are not distinct and cannot be separated from one another. Typically the REDA allows for some work items to over-fund while other under-fund. In these cases, fixed amounts should be established that set forth the maximum contribution to be made from the REDA-required escrow for each individual repair item.
Documentation for these transactions may vary from case to case, but generally it is envisioned that an amendment to the REDA will suffice via either a change to the terms or to the Exhibit A.

C. FUND DISBURSEMENTS

1. All work must have been certified by an inspector as to its satisfactory completion prior to making reimbursement to the Owner.
2. Further, in accordance with the REDA, "The Funds shall be withdrawn from the Escrow Account based on the actual invoices of Contractors for materials and equipment or services actually provided, less a ten percent (10%) holdback (the "Holdback Amount", often called "retainage")."

- (a) The Holdback Amount will be held until all work has been completed and satisfactorily inspected, all liens have been released or waivers obtained, and title updates have been received, and the REA can confirm the HUD liens have not been jeopardized.*

Note: The 10% contingency and 10% Holdback Amounts are not the same. Holdbacks are retained or held (not disbursed) until all work is completed, inspected, title updates are completed, and all liens released. Contingency is an amount collected at closing and added to the escrow balance. It is intended to be used in the event of cost overruns. If total repair costs exceed the total original escrow amount plus the contingency, payment of the shortfall is the responsibility of the Owner and must be funded with non-project resources. Conversely, any escrow balance (regardless of its origin) remaining after all M2M required rehab is complete is considered excess funds.

3. REAs are required to make the final disbursement to the Owner within thirty (30) days of the REA's acceptance of the report from the inspector that certifies that all REDA Exhibit A repairs have been completed in a satisfactory and workmanlike manner.

II. CLOSING ESCROW ACCOUNTS

After all M2M required rehab and any approved additional repairs have been completed and satisfactorily inspected, the REA has confirmed there are no liens on the property as a result of the rehab work, and the REA has made the final disbursement from the escrow, the REA must timely submit the final Form 9.10 with its certification and supporting documents, as described below, in order for the escrow account to be closed.

Effective immediately, the required timeframes for submitting the Form 9.10 are as follows:

- No excess funds: REA to submit Form 9.10 **within thirty (30) days** of making final disbursement to the Owner.
- Excess funds applied to the MRN (or CRN or FHA Fund): REA to submit Form 9.10 **within thirty (30) days** of making final disbursement to the Owner.
- Excess funds with request to use the funds other than to the MRN (or CRN or FHA Fund): REA to submit Form 9.10 **within ten (10) days** of making final disbursement to the Owner.

A. Form 9.10

1. Complete the Asset and Financial information.
2. Include sufficient comments or supporting justification:
 - (a) For deficit of funds/shortfall accounts, show the amount of the shortfall, and a confirming statement that it was covered by the Owner from non-project sources.*
3. For excess funds, show the amount of the surplus, and note the disposition of the excess funds (applied to the MRN, for example). Certify the completion of work and close-out of the account:
 - (a) If there are excess funds, include the amount, date of distribution, and how it was distributed (e.g., as a principal payment on the MRN).*
 - (b) If there are no excess funds, state "N/A" in the area provided in the certification for the excess funds amount and date of distribution.*

4. Sign the Form 9.10. Only the signature of the REA is required on the Form 9.10 requesting closing of the escrow account.

B. Attachments to the Form 9.10

1. Include a copy of the REA's accounting ledger or final bank statement.
2. (If requested by the Rehabilitation Escrow Specialist) Complete Alternate Form 9.12 to document the funds deposited and withdrawn from the escrow.

NOTE: The Rehabilitation Escrow Specialist will require the Alternate Form 9.12 in those instances where the accounting supplied by the REA does not adequately reflect deposits and withdrawals or details of work items completed.
3. Include a copy of the respective project's updated Resource Desk page showing:
 - (a) *Status of Work: select "Complete – Per Final Inspection"*
 - (b) *% Work Complete: insert 100%*
 - (c) *Date Work Complete Per Final Inspection: insert date (dd/mm/yy)*
 - (d) *Funds Disbursed to Date: insert amount disbursed to Owner*
 - (e) *Date Account Closed: insert date (dd/mm/yy)*
 - (f) *Comments: insert comments that reflect the appropriate disposition as discussed in paragraph*
4. For excess funds, include a copy of the transmittal letter that went to the MF HUD Payment Processing Center and a copy of the letter sent to DP Services requesting receipt of payment.

C. Lockbox and Transmittal Letter

1. 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, FHA#, MRN#*

2. The transmittal letter should include instructions that the enclosed check represents excess funds from the M2M Rehab Escrow to be applied as a principal payment to the MRN [if no MRN, to the CRN; if no CRN, to the FHA Fund]. In addition, the REA must include their contact information should follow up be required.
3. Until the final Form 9.10 certification and the supporting documents (including the Alternate Form 9.12 when required) are submitted to, and approved by, the REAT Team, the escrow will remain active and subject to monitoring.

III. FREQUENTLY ASKED QUESTIONS

- 1) Do REAs need to update the Resource Desk online if there have been no changes to the status of the rehab escrow account since the last month's update?

Answer: Yes. REAs are required to update the Resource Desk, within the first 30 days of the escrow, with the results of the Stakeholder Orientation Call. REAs are also required to note the Owner's compliance with the REDA requirement to provide bids/contracts (generally within the first 30-60 days of the escrow). For all accounts open for 90 days and more, the Rehabilitation Escrow Specialist looks for a monthly update. If there is no update, the Rehabilitation Escrow Specialist will have to call the REA. The REA can avoid this by

going to the Resource Desk and noting there is no update and either what is expected to next occur, or why there is no update.

2) Is the Stakeholder Orientation Call required on all new escrows?

Answer: Yes. The REAT Team's experience shows that the major reason that escrows are not completed on time is that the work was not commenced in a timely manner. We believe that the Call will ensure the Owner has a reasonable plan to complete the work on time. In those instances where no such plan exists, we can institute a mitigation plan immediately. A prompt start to the rehab work is critical to completing the work on time.

3) Can the Stakeholder Orientation Call be waived, for example, when the Owner has demonstrated that they can complete M2M escrows on time?

Answer: Yes. The Rehabilitation Escrow Specialist or Rehabilitation Escrow Administration Manager are the only ones who can waive the requirement for the Call. Until we observe that escrows are routinely closing on time, we do not expect to approve more than a minimal number of waivers.

4) Is the REA required to obtain from the Owner bids for the work to be completed or actual agreements with contractors?

Answer: The relevant language is in paragraph 7(A) of the REDA (version 01/27/03). The goal is for the owner to be making progress on the rehab; bids from contractors are a good start, but contracts are better. Either way, the "proposed binding agreements" must contain at least the following information:

- *Sufficiently clear description of the work;*
- *Identification of the proposed contractor;*
- *Price and payment terms; and*
- *Proposed start and completion date, or estimated time to complete job.*

The PAE should consider the following questions before approval of a bid or contract:

- *Is the cost within reasonable range of the Exhibit A estimates?*
- *Is the contractor non-identity of interest (IOI), or have IOI conditions have been satisfied (refer to the REDA, paragraph 7.A)?*
- *Is it clear that no advance payments are required by the contractor, or the Owner has made satisfactory arrangements to cover the advance from funds outside of the rehab escrow?*

5) When rehab work is not completed by the completion date in the REDA, should the REA freeze the escrow account and not make further reimbursements? What about once a default remedy is applied?

Answer: No. The REA must continue to administer the escrow account, including completing inspections and making reimbursements, unless and until the REAT Team or other HUD department officially provides notification to do otherwise.

- 6) When the REDA-required work has been completed and there are no excess funds in the escrow account, does the REA still have to complete the "close out" process?

Answer: Yes. The REA must complete the Form 9.10, with the attachments including the accounting ledger or bank statement (the Alternate Form 9.12 if required by the Rehabilitation Escrow Specialist), and the copy of the Resource Desk update reflecting the account is closed out.

- 7) When is the REA required to use the Alternate Form 9.12?

Answer: The Rehabilitation Escrow Specialist will require the Alternate Form 9.12 in those instances where the REA's supplied accounting does not adequately explain the deposits and withdrawals to the escrow account.

- 8) Should the REA offer its opinion to the REAT Team on whether a Form 9.10 request for an extension of time, change in scope of work, or use of excess funds other than application to the MRN, should be approved?

Answer: Yes. The REAT Team relies on the REA to evaluate the request and offer sufficient justification to support its recommendation to approve or decline.

- 9) What are OAHP REAT's policies with respect to the timing of the final reimbursement to the Owner?

Answer: Effective immediately, the REA is required to make final reimbursement to the Owner after receiving a complete draw request and within thirty (30) days of the REA's acceptance of the certification from the inspector that all repairs have been satisfactory completed.

- 10) Once the last of the required rehab work has been completed, satisfactorily inspected, and payment has been made to the Owner, must the REA proceed to close out the account quickly?

Answer: Yes. Until an escrow account is closed, it continues to be subject to active monitoring by the REAT Team. The REAT Team would expect that accounts will be routinely closed out within 30 days of making the final reimbursement to the Owner

- 11) Will the REAT Team approve the completion of additional repairs at the property with any excess funds?

Answer: Generally, no. The existence of excess funds can generally be construed as indicating that the FHA claim paid at the closing of the restructuring was too large, and those excess funds should be returned to HUD (generally by payment to the MRN). The M2M restructuring involves careful consideration of what repairs must be made in the initial 12 months following closing and the REAT Team is generally disinclined to second-guess that decision after the fact. The REAT Team's interpretation of the REDA is that the standard for approving excess funds for additional repairs is even higher if the escrow is, or has been, late. See paragraph 1.B.3(c) of this memorandum for guidance.

- 12) Is there a time requirement for submitting the Form 9.10 requesting that excess funds be used to complete additional repairs?

Answer: Yes. The REA must submit a request for additional repairs from a current escrow account within ten (10) days of making the final disbursement (for the REDA Exhibit A repairs) to the Owner. Requests for additional repairs from a late escrow account will not be considered; those excess funds are to be applied to the MRN.

- 13) If interim completion dates are included as terms of the REDA, will the REAT Team monitor those?

Answer: Yes. Interim completion dates in the REDA are contractual terms, as is the final completion date. Failure to complete the work within those interim timeframes could lead to the REAT Team applying default remedies and/or declaring a default.