



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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

April 18, 2013

MORTGAGEE LETTER 2013-13

TO: All FHA-Approved Multifamily Mortgagees and Servicers

SUBJECT: Lender Delegation of Non-Critical Repair Administration

I. Purpose and Background

This Mortgagee Letter (ML) authorizes delegation of the non-critical repair escrow administration to Federal Housing Administration (FHA) approved Multifamily Lenders and Servicers who voluntarily agree to administer the escrow process within the Section 223(f) and 223(a)(7) program underwriting guidelines. This authority applies only to FHA Multifamily Accelerated Processing (MAP) transactions originated under Sections 223(f) and 223(a)(7). Delegation of this task will eliminate the need for the Department of Housing and Urban Development (HUD) approval for each disbursement release and is intended to expedite the non-critical repair escrow release process while maintaining management controls necessary to ensure the repairs are completed in accordance with the terms of the FHA Firm Commitment. A prerequisite for participation is HUD approval of revisions to the servicing lender's Quality Control Plan incorporating the requirements of this ML.

II. Lender Approval Process

Servicing Lenders who wish to take responsibility for administration of non-critical repair escrows should submit a written request (original hard copy and an electronic copy) to the Director of the Office of Multifamily Development. The request must include a revised Quality Control Plan addressing the following items:

- Procedures to ensure the work is completed within the Project Capital Needs Assessment (PCNA) scope of work, within budget, and on time.
- Procedures to ensure completion of the Supplemental Cost Certification (if required).
- The identification of the staff assigned to oversee the escrow administration and a primary point of contact. The Lender staff approving draw requests must be an approved Construction Loan Administrator.
- Performance and schedule of payment for third party inspections.
- A proposed addendum to Form HUD-92476.1M Escrow Agreement indicating that the lender has been approved to release funds from the Escrow for completed work without HUD approval for all releases with the exception of the final draw.

HUD will review the request and respond within 30 days, with an approval letter, a request for additional information, or a letter denying the request. Servicing Lenders approved to administer the non-critical repair escrow will be designated in HUD's intranet website. HUD will retain responsibility for release of non-critical repair escrow funds in all cases where there is an identity of interest between the Borrower, the Lender, or affiliates of either.

III. General Requirements

Should the lender elect to take responsibility for this task (and receive HUD approval to do so), the HUD inspection fee required to be paid to HUD per the Multifamily Accelerated Processing (MAP) Guide, Section 3.2.G, will be waived if the total cost of repairs is less than \$100,000. Otherwise, the inspection fee paid to HUD may not be waived.

Servicing Lenders must engage a third party inspector, who typically will be the same entity which performed the PCNA. Fees to pay the inspector should be included and treated in the mortgage origination in the same way as other third party due diligence costs.

The HUD Asset Manager assigned to the project will be the Lender's point of contact, and will be responsible for review and approval of the Supplemental Cost Certification (if applicable.) The HUD Asset Manager will consult with Office of Multifamily Development staff, as necessary, if there are questions about the scope of work, progress schedule, or similar matters.

IV. Processing Instructions

1. The Lender's Firm Commitment application must specify that the Lender will assume non-critical repair escrow administration per the terms of this notice. HUD staff will confirm that the Lender has been approved by HUD Headquarters by reference to HUD's intranet site. The Firm Commitment will include a Special Condition acknowledging that the Lender has been approved to administer the non-critical repair escrow.
2. The Firm Commitment will include a construction progress and draw schedule based on percentage of completion of the work items. The Lender has discretion in establishing the schedule, but generally draws will be processed at completion of work for transactions with limited repairs, and at 35 percent, 65 percent, and 100 percent completion schedule for more substantive repairs. The owner/borrower will request disbursement using the Form HUD-92464M (Escrow Agreement) per the schedule specified in the PCNA and Firm Commitment. The lender has authority to approve interim draws, and will send a copy of the draw request and supporting documentation to the HUD Asset Manager. Lender approval will be evidenced by signing as Mortgage Credit Examiner on the Form HUD-92464M. HUD reserves the right to question said report if there are concerns with the submitted inspection reports or supporting documentation.
3. The final draw request must be signed by the Multifamily Hub or Program Center Director or their designee as Authorizing Agent.

4. The Lender must advise the HUD Asset Manager in writing if there are delays or cost overruns, or a proposed change in the scope of work.

V. Supplemental Cost Certification Requirements

If the mortgage is greater than 80 percent loan to value and there are non-critical or other deferred repairs, a Supplemental Cost Certification is required. In cases where the actual costs are less than estimated, the borrower may request and the Lender may recommend one of the following options: 1) maximum insurable mortgage will be recalculated, or 2) the excess funds will be deposited into the Reserve for Replacement account.

VI. Implementation

This ML is effective immediately and applies to Firm Commitment applications submitted by approved Lender Servicers. This ML remains effective until amended, superseded, or rescinded.

If there are any questions regarding this Housing Notice please contact Lauryn Alleva at 202-402-2609 or Lauryn.K.Alleva@hud.gov, in HUD Headquarters. Persons with hearing or speech impairments may access this number via TDD/TTY by calling [1.877.TDD.2HUD](tel:1877TDD2HUD) 1-877-833-2483.

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Sincerely

Carol J. Galante
Assistant Secretary for Housing-
Federal Housing Commissioner