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**PROCESS REVIEW OF PREPAYMENT OF A SECTION 202 DIRECT LOAN**

**Does the Note require HUD consent to prepay? If yes continue to section I, If no skip to section II**

**SECTION I**

This section applies to all prepayments of Section 202 Direct Loans that require HUD consent:  
*"the debt evidenced by this Note may not be prepaid prior to the final maturity date hereof without the prior written approval of HUD."*

**Or**

If the Section 202 Direct Loan does not require HUD consent for prepayment, the mortgage note:  
*"Privilege is reserved to pay the debt in whole or an amount equal to one or more monthly payments on principal next due, on the first day of any month prior to maturity, upon at least thirty (30) days prior written notice to the Payee."*

**PLEASE NOTE:** If the Owner of a project prepays the Section 202 Direct Loan and voluntarily agrees to the requirements listed in Section V of this Notice H2012-8 to include the recordation of the Section 202 Use Agreement and 20 year HAP, the project will be initially exempted from Mark-to-Market restructurings during the term of the financing used to prepay the Section 202 loan. The Owner may renew the HAP contract under Option 4 of the Renewal Guide. To qualify for the Mark-to-Market exemption, the Owner must meet all requirements listed in Section V and Section VII of this Notice.

1. \_\_\_\_\_  
Project Number [EH/SH Number]
2. \_\_\_\_\_  
Name of Project
3. \_\_\_\_\_  
City State

**The following documents must be reviewed:**

**Note:**

Review the Executed Note verifying information in IREMS (Date, loan amount, interest rate, fha#)

Review the executed Note for HUD consent for prepayment  
 " allows prepayment with approval of HUD"

**Or** "allows prepayment with 30-days prior to written notice to Payee" (if owner is prepaying in accordance to Notice)

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**Review Data in IREMS:**

Does the Enforcement Center have an active referral on the Owner? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, does the DEC have conditions or prohibitions related to the 202 prepayment? \_\_\_\_\_ Yes \_\_\_\_\_ No

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Is the Management and Occupancy acceptable? \_\_\_\_\_ Yes \_\_\_\_\_ No

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Is Management and Occupancy closeout date in IREMS? \_\_\_\_\_ Yes \_\_\_\_\_ No

Has the Owner filed its Annual Financials? \_\_\_\_\_ Yes \_\_\_\_\_ No  
 FYE \_\_\_\_\_

Have Annual Financials been reviewed and closeout in IREMS? \_\_\_\_\_ Yes \_\_\_\_\_ No

Physical Inspection \_\_\_\_\_ Date \_\_\_\_\_

Verify total number of Units \_\_\_\_\_

Verified the amount of Replacement Reserves as of the last FYE? \_\_\_\_\_ Yes \_\_\_\_\_ No

Verified the amount of Residual Receipts as of the last FYE? \_\_\_\_\_ Yes \_\_\_\_\_ No

Outstanding Flexible Subsidy Loan \_\_\_\_\_ Yes \_\_\_\_\_ No  
 \_\_\_\_\_ (estimated amount)

If re-refi of 202 has a Flex Subsidy, was the Flex deferred? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes date of approval \_\_\_\_\_  
 Outstanding HELP Loan \_\_\_\_\_ Yes \_\_\_\_\_ No  
 \_\_\_\_\_ (estimated amount)

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**(The request to defer repayment of a Flexible Subsidy loan must be processed in accordance with the provisions of Housing Notice 11-05. The Flexible Subsidy must be paid in full prior to or at closing, or approval to defer repayment must be approved prior to issuance of the approval to prepay).**

Other Outstanding Debt \_\_\_\_\_ Yes \_\_\_ No  
 \_\_\_\_\_ (estimated amount)

Any Use Agreements? \_\_\_\_\_ Yes \_\_\_ No

**HAP I & II:**

Review the HAP contract

Verified section 8 contract information under Subsidy Administration in IREMS? \_\_\_\_\_ Yes \_\_\_ No

Review the HAP contract for New Reg. or Old Reg. in regards to residual receipts. Refer to Housing Notice 2012-14, Use of "New Regulation" Section 8 Housing Assistance Payments.

**Sources and Uses:**

**Review** the total of sources and the total of uses to make sure amount matches, any difference must have a justification.

Sources to include (loan amount, residual receipts and replacement reserve if being used towards refinance)

Uses to include (existing debt, deposits to residual receipts and reserve for replacements, transaction costs, cost of improvements (critical & noncritical items))

Developers fee:

**Review** payments to the project owner, sponsor or third party developer of a Developer's Fee that the amount does exceed or duplicate the following:

- In the case of a project refinanced through the Low Income Housing Tax Credit (LIHTC) program, the fee
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permitted by the LIHTC program as a percentage of acceptable development cost. The Owner's prepayment application should include evidence of the fee permitted by the program in that State.

- In the case of a project refinanced through any other source of refinancing, up to 15 percent of the acceptable development cost. Acceptable development cost includes the cost of acquisition, rehabilitation, loan prepayment, initial reserve deposits, and transaction costs, as defined below. Transaction costs may include costs of third party reports such as market studies or physical inspection reports not otherwise captured in the development costs, and loan fees and closing costs.

### **Review for conformity of Notice Requirements**

#### **Application HUD form 9808:**

Receipt of an executed 9808 by Owner?  YES  No

Did the Owner give reasons for prepayment?  
(refer to 9808)  YES  No

Did the Owner give a detailed narrative of how prepayment is advantageous to the residents?  
(refer to 9808)  YES  No

Did the owner provide full justification for future use of total rental assistance currently being provided to the project?  
(refer to 9808)  YES  No

Did the owner provide full justification for future use of the project's residual receipts?  
(refer to 9808)  YES  No

Did the owner provide full justification for future use of reserve for replacement funds, currently escrowed for the project?  
(refer to 9808)  YES  No

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Does the owner agree to maintain the project under the current ownership entity or by a for-profit limited partnership the sole general partner of which is the project owner or a corporation wholly owned and controlled by the current owner?

**(refer to 9808)**

\_\_\_\_\_ YES \_\_\_\_\_ No

**Proposed Draft Use Agreement refer to Section V -A**

Has the Owner submitted the proposed Draft Use Agreement?

\_\_\_\_\_ Yes \_\_\_\_\_ No

The Use Agreement must be extended a minimum of 20 years beyond the original mortgage maturity date

**Acknowledgement of 20 year HAP refer to Section V- C**

Has the Owner agreed to execute a 20 year Renewal Contract?

\_\_\_\_\_ Yes \_\_\_\_\_ No

Both the Hub Director and the Owner must mutually agree to terminate the existing HAP contract and execute a Renewal Contract, which includes the "Preservation Exhibit" that is provided as Attachment 2 to Housing Notice H-2012-8. The term of the Renewal Contract must be equal to 20 years.

**Energy efficiency in capital repairs refer to Section V-H**

The Owner must consider the use of "ENERGY STAR" appliances and components in its plans for repair, rehabilitation and retrofit, as well as construction or rehabilitation of related facilities, if the Owner elects not to use ENERGY STAR appliances, the Owner should provide information on how the financial feasibility of "ENERGY STAR" was considered.

**Use of project resources refer to Section V-M**

Review allowable purposes for Reserve for Replacement and Residual Receipts funds and any subsequent guidance regarding Residual Receipts and Reserve for Replacement funds. HUD may allow a project sponsor to use any Residual Receipts held for that project in excess of \$500 per unit, or any Reserve for Replacement funds in excess of \$1,000 per unit for the cost of activities designed to increase the availability or provision of supportive services.

**Tenant involvement in prepayment or refinance refer to Sections V-N and IX**

Review to make sure the Owner provided the tenant notice at least 30 days before submitting a prepayment request to HUD.

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**Environmental review refer to Section V-0**

Review if prepayment transaction may require an environmental review pursuant to the requirements at 24 CFR Part 50.

**Temporary Relocation refer to Section V-P**

Review if significant repair work or substantial rehabilitation is planned as part of the Section 202 Direct Loan prepayment, the proposal may require the temporary relocation of tenants for the period of rehabilitation. Subject to requirements of the 24 CFR 891.155(e).

**Refinancing resulting in the Reduction in Debt Service?****Refer to Section VII-A**

Yes  No

The prepayment application must include a detailed Sources and Uses document and a summary financial analysis that demonstrates that the new loan will have a lower debt service payment than the original Section 202 Direct Loan. The reduction in debt service must be quantified.

Current Debt Service \$	
Minus	
Proposed Debt Service \$	
= Annual Debt Service Savings	

**PLEASE NOTE:** Special stipulations for pre 1975, if pre 1975 see section VIII of Notice 2012-8

**Use of proceeds from the refinance refer to Section VII-B 1-7**

The Owner must provide a narrative description of the proposed use of loan proceeds, including specific dollar amounts to be used for specific purposes, and the timing of the proposed use of proceeds. Funds must be used in accordance with AHEO and the guidance of allowable uses of loan proceeds.

**Refinancing to Address the Physical Needs of the Project refer to Section VIII A-D**

Is the Owner requesting a prepayment in order to obtain new financing to address the physical needs of the project?

Yes  No

HUD may approve a prepayment and refinancing of a Section 202 project that results in increased debt service. However, HUD will only approve a transaction with increased debt service if the Section 202 Direct Loan carries an interest rate of (6) six percent or lower.

Is the interest rate of (6) six percent or lower?

Yes  No

If yes the refinance must address the physical needs of the project and must meet these requirements section VIII A-D

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**SECTION II****PROCESS REVIEW OF PREPAYMENT OF A SECTION 202 DIRECT LOAN**

If the Section 202 Direct Loan does not require HUD consent for prepayment, the mortgage note, Form FHA-3432-EH (6/76) contains language similar to the following:

*“Privilege is reserved to pay the debt in whole or an amount equal to one or more monthly payments on principal next due, on the first day of any month prior to maturity, upon at least thirty (30) days prior written notice to the Payee.”*

**Please note:** if the Owner does not opt to follow the requirements listed in Section V and VII of this Notice, the project will not be exempt from Mark-to-Mark restructuring upon expiration of the Section 8 HAP contract, unless the Owner refinances the Section 202 Direct Loan conventionally.

1. \_\_\_\_\_  
Project Number [EH/SH Number]
2. \_\_\_\_\_  
Name of Project
3. \_\_\_\_\_  
City State

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**Note:**

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**HAP I & II:**

Review the HAP contract

Verified section 8 contract information under Subsidy Administration in IREMS? \_\_\_\_\_ Yes \_\_\_\_\_ No

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