
HUD's LEAN 232 Program
Office of Healthcare Programs (OHP)
Update as of August 19, 2010

Portfolios and "Placeholders":

The November 20, 2009 Email Blast (under "Logistics of our Queue") stated that on midsize and large portfolios, "once the portfolio is approved by Headquarters and the lender receives verbal approval, the lender may submit one application upon finalization of the review but prior to receipt of the approval letter. This individual submittal will then secure the position in the queue for all of the applications for that tranche". Midsize and large portfolios are defined in HUD Notice H 01-03.

We would like to call your attention to two important changes to Lean Processing of portfolios:

First, to ensure fairness and consistency and to remove any confusion, effective immediately, no individual portfolio application, for midsize and large portfolios, will be allowed to be submitted and to enter the queue prior to the actual date of the portfolio approval letter to the lender. A copy of the signed, dated portfolio approval letter should accompany the first application submittal.

Second, to improve the speed and quality in processing applications, we are no longer allowing placeholders (as discussed in the November 20, 2009 Email Blast) – an individual submittal securing the position in the queue for all the applications in that portfolio or tranche. **All projects currently in the queue or entering the queue in the future must have submitted electronic copies of all Firm Application packages in that portfolio or tranche (whether the portfolio is small, midsize or large).** Moreover, on portfolios submitted in tranches, the place in the queue will be based upon the date HUD receives electronic Firm Applications for all projects in that tranche – not the date the original tranche of that portfolio was submitted. There is no change to our requirement of a Firm Application Fee check prior to entry into the queue. If you have a portfolio that is currently in the queue on which you did not submit electronic copies of all applications in that portfolio or tranche, please email [Amee Welch](mailto:Amee.Welch@HUD.GOV) by August 24, 2010 with your timeline for submittal of any missing electronic Firm Applications.

Addendum to Operating Lease has been Posted!

A HUD Addendum to Operating Lease is posted to HUD.GOV under "Sample Closing Documents". We strongly urge you to use this addendum on all

applicable projects as soon as possible. This document will be a Firm Commitment condition for all projects with Operating Leases where a Firm Commitment is issued on or after September 30, 2010. This document is also posted under "Loan Servicing Guidance" as HUD OPERATING LEASE ADDENDUM. This document is required when there is a Transfer of Physical Assets which affects the lease or there is a change in the lessee.

Two Stage Firm Submittal Process:

As long as the Final Submission is submitted to HUD prior to the Firm Commitment's expiration date (including approved extensions), HUD will not regulate when the Final Submission may be submitted to the OHP Underwriter.

OIHCF is now OHP:

The Office of Insured Healthcare Facilities is now officially known as the Office of Healthcare Programs (OHP).

Sinking Funds:

We are following MAP Guide Section 3.9 J on Sinking Funds. Any project that meets the criteria in the MAP Guide should include a special condition in the Firm Commitment that is submitted with the Firm Application package requiring the establishment of the appropriate escrow and discuss this issue in the Lender Narrative under Risk Factors. Please note, the revised 223(f) Narrative Template briefly discusses this issue under "Income Capitalization Approach" "Revenue" and "Welfare (Medicaid)". Future versions of the Lender Narrative templates will likely address this situation in Risk Factors as a yes/no question.

Indemnification Provisions:

All forms of mortgagor entities are to be treated the same regarding indemnification provisions in their organizational documents. Thus, the indemnification restriction in the MAP Guide, Chapter 12.1.4.F.2.e, applies to corporations, partnerships and LLCs.

Corporate articles of incorporation and bylaw provisions which make the corporation responsible for indemnifying its officers and/or board members are not acceptable, except to the extent mandated by state law and/or to the extent that such indemnification is limited to liability insurance coverage or distribution approved by HUD from residual receipts or surplus cash.

Reminder on Reporting Requirement:

OHP Loan Servicing would like to remind mortgagees they are all required to electronically report mortgage delinquencies, defaults, reinstatements, assignments, elections, withdrawals of assignment elections, and related mortgage information electronically in the MDDR system. Moreover, HUD needs this data to be input timely - it is not acceptable for servicers to enter the 30-day, 60-day and 90-day delinquencies for a property simultaneously. The only exception in the Regulation is for mortgagees that hold or service fewer than 10 multifamily mortgages. These mortgagees may report the required information in writing on Form HUD-92426 only with specific HUD approval. HUD will grant approval, upon application from the mortgagee, for reasons of hardship due to insufficient resources. (Mortgagee Letter 02-18)

Revised AFHMP:

There is a revised Affirmative Fair Housing Marketing Plan (HUD-935.2A) posted to HUDCLIPS – dated 5/2010. Please use this form for all future submittals requiring this form.

Lender Inspection of 232 Projects:

In the September 18, 2009, Email Blast, we stated that “OIHCF will require the site inspection be done by either the Lender’s Underwriter or Lender’s qualified construction site inspector, so long as this individual is not connected with the loan origination”. We are revising this language as indicated below:

On projects involving the addition of beds/units (through new construction, substantial rehabilitation, or Section 241(a)), the Lender’s Lean Approved Underwriter of record on the project must inspect not only the subject site but also the market competitors and/or comparables from the appraisal/market study. HUD is not requiring inspection of all comparables listed in the appraisal/market study – it is up to the Underwriter to determine which comparables will give them enough information to become familiar with the market.

On Section 223(a)(7)’s, there is no change to the February 6, 2009 Email Blast, which only required a lender inspection on 223(a)(7)’s submitted without a new Property Capital Needs Assessment. However, we do want to clarify that such inspection can be performed by either the Lender’s Lean Approved Underwriter of record or by a qualified construction site inspector employed by the lender (so long as this individual is not connected with the loan origination).

On Section 232/223(f)’s, the site inspection must be performed by either the Lender’s Lean Approved Underwriter of record or by a qualified construction site inspector employed by the lender (so long as this individual is not connected with the loan origination).

HUD pre-approval of the qualified construction site inspector is required – email resume' to Amee.Welch@hud.gov.

Assessment Fees on 232 Projects:

There has been confusion on whether assessment fees are allowed on 232 projects. Assessment fees are paid upon entry to the facility for the purposes of covering the cost of assessing new residents' need for services. These fees are different than "founders fees" or "life care fees", which are prohibited in FHA Insured projects. If you have a project that you are underwriting that charges an assessment fee, the lender narrative should document that the fee charged is typical for the market, what the fee amount is per new resident, whether or not any of it is reimbursable (and if so what the terms are), and that the amount of the fee is based upon the cost of performing such an assessment.

Lean Thinking:

OHP staff are now meeting weekly to discuss questions sent to leanthinking@hud.gov. As a result of this, we are now able to provide better response times to questions than we have in the past. Thus, we ask that all questions/comments relating to Section 232 projects that haven't been assigned to an OHP Underwriter or relating to Section 232 Lean Processing issues be sent directly to the Lean Thinking mailbox. This will enable us to ensure consistency in our responses and will aid in our upcoming compilation of previous questions and answers into an updated FAQ (to be posted to HUD.GOV).

Owner Architect Agreement (B181 vs. B108):

HUD has not officially transitioned from the B181 to the B108 document. OHP continues to require the B181, where applicable. As soon as the B108 (and related HUD Amendment) are approved, we will make the required changes to HUD.GOV and announce such changes via an Email Blast.

COMPLETION OF FORM HUD-2453, Commitment to Insure Upon Completion (SECTION 232/223F):

Prior to the submission of your firm commitment application, all forms must be carefully reviewed to insure that the information entered is correct. Specifically, the draft firm commitment (form HUD-2453) must be completed correctly. All information entered on this form must be accurate and the numbers must be consistent with other underwriting forms. Also, please remember to add the Mortgagor's Name to the first paragraph of the commitment. Errors and omissions can delay the issuance of the firm commitment and delay loan closing.

Postings to HUD.GOV:

We have posted the following documents to HUD.GOV recently (some of the changes are listed below also):

FHA Number Request Form: added "Number of Memory Beds" and now asking whether the project is a small sized portfolio (per Notice 01-03).

Lender Duties Related to the PreConstruction Conference: Changes include inviting the Office of Healthcare Programs' Closing Coordinator and Account Executive to the PreCon, as well as a more detailed description of preparing the required three sets of Plans and Specifications for the PreCon and Initial Closing. In addition, OHP is now requesting legible reduced-size sets of the "HUD Master Set," and "HUD Inspection Set" Plans.

HUD Labor Relations Protocol: Changes include identifying the OHP Underwriter as the primary contact during Firm Commitment processing, the OHP Closing Coordinator as the primary contact during Initial and Final Closing, and the OHP Construction Manager as the primary contact during the Construction Phase.

Lender's PreConstruction Conference Agenda: A number of additions/clarifications have been added, including:

- **Reminder for Lender to transmit PDF copy of Monthly Requisitions to the HUD Construction Manager**
- **Change Orders: Architect's Certification, and number of copies to send to HUD**
- **Clarification regarding the Construction Progress Schedule**
- **Permission to Occupy: attachments, and number of copies to send to HUD**
- **Updated bullet list of issues that must be completed prior to scheduling the Final HUD Inspection**

Revised Closing Checklists for Section 223(a)(7) and Section 223(f): checklists now only require two copies of closing documents.

Updated List of Lean Projects with New Construction Units: we are currently working on filling in the data on number and types of units/beds.

Queue Update: most recent and previous versions that weren't posted have now been posted.

HUD Signatory Closing Documents:

Effective immediately for all Section 232 projects processed by OHP, the maximum number of copies of HUD signatory closing documents, such as Regulatory Agreements, letters, et cetera, that may be submitted for signature is four. We will not sign more than four copies of each type of closing document.

Updated information on 232/223f Projects:

Once a 232/223f project is assigned from the queue, we will be requesting the Lender's Underwriter to provide updated occupancy, NOI and existing indebtedness figures (with applicable certifications) – if the lender has not already submitted updated information while the project was in the queue per our appraisers' request. Your ability to provide this quickly will help in expediting our review.

Occupancy Information on 232/223a7's:

Once a 232/223a7 project is assigned from the queue, we will be requesting the Lender's Underwriter to provide current occupancy information.

Firm Commitment Amendments-232/223f Transactions:

The HUD closer will allow (without further investigation) small increases (less than \$10,000) to the reserve for replacement account to avoid small mortgage reductions as a result of cost certification. Any proposed increase to the replacement reserve account above that amount should include an explanation of the proposed uses (line item and timing) for the additional deposit.

Need to Reference Previous LEAN 232 Updates?

Previous E-Newsletters (Email Updates) can be found at:

http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page/underwriting_guidance_home_page/previous_e_newsletters

LEAN Thinking Mailbox – LeanThinking@hud.gov

Have questions about the LEAN 232 Program? Please send them to LeanThinking@hud.gov

Interested in getting updates on the LEAN 232 Program?

Join our email list by sending your contact information to: Kristine.Martin@hud.gov

For more information on the LEAN 232 Program, check out:
[http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section 232/lean processing page](http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/healthcare_facilities/section_232/lean_processing_page)

Or check out:

www.hud.gov/healthcare
