



OFFICE OF HOUSING

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

JUN 26 2013

MEMORANDUM FOR: All Multifamily Hub Directors  
All Multifamily Program Center Directors  
All Multifamily Operations Officers  
Office of General Counsel

FROM: Mark B. Van Kirk, Director, Office of Asset Management  
Theodore K. Toon, Director, Office of Multifamily Development

SUBJECT: Guidance on Housing Notice H 2013-17, Updated Requirements  
for Prepayment and Refinance of Section 202 Direct Loans

The recently published Housing Notice H 2013-17, Updated Requirements for Prepayment and Refinance of Section 202 Direct Loans, has received feedback from industry partners since publication on June 4, 2013. Based on the feedback received, we have recognized several areas needing correction and revision and will issue an updated Notice as soon as possible. In the interim, we ask that you immediately adhere to the following directions in regard to the implementation of Housing Notice H 2013-17:

**I. Developer Fee**

In Section IX.A.7, please strike the fourth bullet on the 223(f) Developer Fee and replace this bullet with the following language:

*223(f): Developer Fee is allowed under the following circumstances:*

- *Projects with non-profit owners (defined in Section V.L of this Notice) refinancing a Section 202 direct loan with a Section 223(f) FHA-insured mortgage, are eligible for a developer fee and equity-out if the project is at or below market rents. If the project has above market rents, said project is eligible for a developer fee but not equity-out;*
- *Projects participating in the Multifamily Low-Income Housing Tax Credit Pilot, as detailed in Housing Notice H 12-01; or*
- *Projects converting under the Rental Assistance Demonstration (RAD) Program as detailed in PIH Notice 12-32.*

*Owners should refer to the MAP Guide for additional policies and procedures regarding the use of FHA financing to refinance a 202 and Section VII.B.4 of this Notice for guidance on calculating the Developer Fee.*

Section IX.B.2, which pertains to re-refinanced Section 202 Direct Loans should be amended to read:

*No Developer Fee is allowed from the proceeds of an FHA-insured mortgage in the case of a re-refinanced 202 project, unless the new financing provides for a Developer Fee (e.g., LIHTC). For Section 223(f) loans limited to 80 percent Loan to Value based on market rents and valuation which generate mortgage proceeds exceeding recognized closing requirements (i.e., cash out) such proceeds may be used for any purpose, including a Developer Fee.*

All 223(f) applications submitted after the publication of Housing Notice H 2013-17 should be reviewed using the above guidance. Please do not disapprove 223(f) applications on the basis of the 223(f) Developer Fee language in Housing Notice H 2013-17.

**II. Use of Loan Proceeds**

Housing Notice H 2013-17 places a constraint on the use of loan proceeds at other HUD-assisted properties, and requires that the other HUD-assisted senior housing projects receiving the proceeds from the refinance must be located in the same geographical region as the Section 202 project (i.e. Metropolitan Statistical Area). This stipulation was included in Housing Notice H 2013-17 because of the administrative challenge of administering the use of loan proceeds at properties outside of the geographic region. HUD understands that some Owners would like to use the loan proceeds outside of the geographic region at other HUD-assisted properties. If an Owner would like to use the loan proceeds outside of the geographic region, the Owner can submit a waiver request with their prepayment approval package. This waiver request will be sent to HUD Headquarters for review and final approval.

**III. Grandfathering Under Housing Notice H 2012-08**

<b>Applicable Housing Notice</b>	<b>Prepayment Application</b>	<b>FHA Financing Application</b>
Housing Notice H 2012-08 and FAQs	Submitted to the Department prior to June 4, 2013  <b>OR</b> Associated FHA Financing Application was submitted to the Department prior to June 4, 2013.	Submitted to the Department prior to June 4, 2013.  <b>OR</b> Associated prepayment application was submitted to the Department prior to June 4, 2013.
Housing Notice H 2013-17	Submitted to the Department on June 5, 2013 or after.	Submitted to the Department on June 5, 2013 or after.

The guidance outlined in this memorandum is effective as of the date of this memorandum. Please contact Lauryn Alleva at (202) 402-2609 if you have questions and/or concerns.