

Questions and Answers for Office of Multifamily Housing Stakeholders¹

[Coronavirus \(COVID-19\)](#)

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Contents

Emergency Preparedness	2
Resident Health.....	2
Policy and Operations	5
General MFH	5
Asset Management	6
Property Reviews and Inspections.....	9
Asset Management	9
Recapitalization and Rental Assistance Demonstration	10
Multifamily Production	10
Waivers, Extensions, and Other Relief.....	11
General MFH	11
Asset Management	12
Continuity of MFH Operations with Staff Working Remotely	12
General MFH	13
Recapitalization and Rental Assistance Demonstration	13
Multifamily Production	14
Office of General Counsel- MFH Closings	15

¹ Office of Multifamily Housing Stakeholders include tenants; property managers, owners, and agents; lenders and their partners; residential service coordinators; contract administrators; and other participants in FHA Multifamily mortgage insurance and Office of Housing rental assistance programs.

Emergency Preparedness

Q1: Who is coordinating COVID-19 efforts for Multifamily Housing (MFH)? Who will be the point of contact for housing providers?

A: Owners and agents should contact their field MFH Account Executive or Resolution Specialist for property specific inquiries. Jeff Little, the Associate Deputy Assistant Secretary for MFH Programs, is the main point of contact for Multifamily stakeholders.

(Added on 3/12/20)

Q2: Have MFH Field Offices been given guidance on how housing providers should prepare and respond to COVID-19?

A: The Office of MFH provides regular direction to field staff. On March 3, the Office sent an email message to external stakeholders that encouraged stakeholders to share information from the Centers for Disease Control and Prevention (CDC) on the Coronavirus with residents, stakeholders, and others. Please see the following information regarding Emergency Preparedness, Planning, Identification and Messaging for Aging and Disabled Networks: <https://www.naccho.org/uploads/downloadable-resources/Capacity-Building-Toolkit-for-Aging-and-Disability-Networks-2-5-19.pdf>

(Updated on 3/16/20)

Q3: What emergency preparedness steps does HUD recommend or require property owners and agents take?

A: Owners and agents should generally follow CDC guidelines and the directions given by local health officials for emergency preparedness. Chapter 38 of [Handbook 4350.1](#), Emergency and Disaster Guidance, should also be consulted.

The CDC provides guidance for [communities, businesses and schools](#) that can assist housing providers. Please see the following information as well regarding Emergency Preparedness, Planning, Identification and Messaging for Aging and Disabled Networks: <https://www.naccho.org/uploads/downloadable-resources/Capacity-Building-Toolkit-for-Aging-and-Disability-Networks-2-5-19.pdf>

(Updated on 3/16/20)

Resident Health

Q1: How does a HUD-assisted property learn about a positive COVID-19 case impacting its residents, staff, or the community?

A: Owners/agents will learn about COVID-19 cases and activities in the community from their local health departments. They should communicate with their local health department if they are concerned that residents or staff might have COVID-19.

(Added on 3/24/20)

Q2: In the event of a confirmed COVID-19 case at a HUD-assisted property, what steps should property owners and managers take to protect residents, staff, and the community? How should the owner/agent share this information?

A: MFH suggests property owners and agents follow Center for Disease Control (CDC) guidelines and the direction of local health officials, especially in the event of property quarantine.

HUD recommends that owners/agents create communication plans for distributing timely and accurate information during an outbreak. First, they should identify everyone in their chain of communication (for example, staff, volunteers, key community partners and stakeholders, and clients) and establish systems for sharing information. After identifying this information, they should maintain up-to-date contact information for everyone in the chain of communication as well as identify platforms, such as a hotline, automated text messaging, and a website to help disseminate information to those inside and outside of their organizations.

Owners/agents can provide notification of positive COVID-19 cases without giving the name/apartment number/other personally-identifiable information to their residents and staff. HUD reminds them that they continue to remain subject to HIPAA and other privacy laws.

(Updated on 3/24/20)

Q3: How would a HUD-assisted property owner/agent message to residents and staff when there is a positive COVID-19 case among their community?

A: CDC COVID-19 communication resources in both print and digital form are available at: <https://www.cdc.gov/coronavirus/2019-ncov/communication/index.html>

(Added on 3/24/20)

Q4: How should housing providers assist residents in accessing continued critical services from home- and community-based providers in the event of a quarantine or if community service providers close temporarily?

A: HUD encourages property owners and agents follow Centers for Disease Control guidelines and the direction of local health officials in all cases, including within the context of home and community-based service providers.

(Added on 3/12/20)

Q5: What steps is HUD taking to make sure that Fair Housing obligations will still be met in the event of an emergency?

A: Stakeholders are reminded to ensure that their responses remain faithful to obligations under the Constitution, Fair Housing Act and related regulations. Exigencies associated with important and timely response to issues surrounding COVID-19 are not the basis for unlawful discrimination based on race, color, religion, national origin, sex, disability or familial status.

(Added on 3/12/20)

Q6: It is thought that many seniors and people with disabilities are particularly susceptible to illness. What kind of communication and resources is HUD providing to communities to reassure residents and property management staff, and prepare them in the event of a confirmed COVID-19 case on site?

A: We encourage all parties to access information about the health impacts and proper handling of COVID-19 cases from the CDC, and/or state or local health officials.

We intend to provide regular updates to stakeholders and will continue to send written updated communications via email to national stakeholder groups for forwarding to their members, and to HUD Multifamily Field Offices for distribution to stakeholders in their jurisdiction. Where applicable, we will encourage stakeholders to forward COVID-19 communications from HUD to communities and residents.

(Added on 3/12/20)

Q7: Does HUD have guidance available on infectious disease preparation and response?

A: See information on the Coronavirus from the CDC's [Coronavirus web site](#).

(Added on 3/12/20)

Q8: If a person under quarantine has additional family members who need to be kept separate what are a property manager's options for meeting those needs? What if managers are being asked to use vacant units for quarantine?

A: Resident requests to occupy vacant units or temporarily relocate should be verified before being granted. Verification could include written communication from a medical health professional or through communication with the local health department. Managers may use electronic and telephonic communication to perform verification.

(Added on 3/12/20)

Q9: Does HUD have guidance on disinfecting common spaces and units, including how to protect our staff?

A: See these links from the CDC for recommendations on cleaning and disinfecting:

- *Environmental Cleaning and Disinfection Recommendations*, which provides recommendations on the cleaning and disinfection of rooms or areas of those with suspected or with confirmed COVID-19 have visited:
(<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>)
- *Disinfecting Your Facility if Someone is Sick*, which provides concise information on how to clean and disinfect facilities, from surfaces to electronics to laundry, in order to protect individuals from COVID-19.
(<https://www.cdc.gov/coronavirus/2019-ncov/prepare/disinfecting-building-facility.html>, which provides

(Updated on 3/24/20)

Q10: Does HUD have recommendations on where we can direct our residents for health checks?

A: See the link below to find a health center through the Health Resources and Services Administration. <https://findahealthcenter.hrsa.gov/>

(Added on 3/13/20)

Policy and Operations

General MFH

Q1: Does HUD plan to issue guidance on quarantine procedures for HUD-assisted housing that serves predominantly older adults?

A: HUD encourages property owners and agents to follow CDC guidelines on quarantine procedures and the direction of local health officials. Stakeholders should reference Chapter 38 of [Handbook 4350.1](#), *Multifamily Asset Management and Project Servicing*, which covers Multifamily emergency and disaster guidance.

(Added on 3/12/20)

Q2: Is HUD planning to update their Chapter 38 on emergency preparedness to include infectious disease protocol?

A: Multifamily plans to use lessons learned from the COVID-19 response in the update to Chapter 38. The Chapter is in the process of being redrafted. Stakeholders will be able to comment when the draft chapter is posted to the Multifamily Drafting Table.

(Added on 3/12/20)

Asset Management

Q3: What emergency funds can owners and agents access for outbreak preparedness and response (including extra supplies, additional administrative hours, and staff overtime), and what kind of approval do housing providers need from HUD in order to access the funds?

A: Multifamily property owners and agents can access property operating accounts for all reasonable and necessary COVID-19 related preparedness and response actions, including supplies, staff hours, and overtime. No advance HUD approval is required to access operating account funds.

To the extent that owner advances are required, owners should receive HUD approval in advance, especially if the owner expects repayment before the distribution of annual (or semi-annual) surplus cash. For those properties with reserve for replacement accounts and residual receipts accounts, funds should be accessed according to current policy in Handbook 4350.1, Chapter 4 (for reserve for replacement accounts), for eligible items. If the owner is seeking to use reserve for replacement and residual receipt funds for non-eligible uses, approval must be received from HUD field staff in advance.

(Updated on 3/16/20)

Q4: Will HUD be making COVID-19 prevention training available for property management and resident services coordinator staff? Will HUD be providing technical assistance for housing providers and residents?

A: HUD recommends that property managers and service coordinators avail themselves of all relevant training and supplies at the local, state, and federal level.

(Added on 3/12/20)

Q5: Is testing for the COVID-19 virus for property staff an eligible cost, and if so, under what source of funding? How about residents?

A: No, these are not eligible costs.

(Added on 3/12/20)

Q6: What should an owner or property manager do about residents that are ill or have concerns about coming to the office for their recertification interview, to sign consent forms, or to sign form HUD-50059?

A: The owner may consider extenuating circumstances (including COVID-19 considerations in the community) when the tenant is not available to attend the recertification interview, sign consent forms, or sign form HUD-50059. It is recommended the owner begin or accomplish the above actions within 90 days of being advised of the extenuating circumstance. When an extenuating circumstance is present, there is no change to the tenant's recertification

anniversary date. The Total Tenant Payment/Tenant Rent and the assistance payment are effective retroactively to the recertification anniversary date. The owner must document the file why the signature(s) was not obtained and, if applicable, when the signature(s) will be obtained.

For owners/agents (O/A) that are working on recertifications for residents impacted by COVID-19, HUD will allow electronic signatures as long as they obtain original, “wet” signatures on recertification documents at a later date. In particular, the HUD-9887/9887A, which is usually signed at the beginning of the recertification process and allows the owner/agent to begin verifying documentation, requires an original, “wet” signature. Other recertification documents that will require original, “wet” signatures to be obtained at a later date, include but are not limited to the HUD-50059, lease agreements/addendums, HUD-9887/9887A, affidavits of unemployment and zero income, and state lifetime sex offender forms.

Tenants can also provide the background documentation for the recertification process, including but not limited to paystubs, SS/SSI/SSP awards, bank statements, public assistance documents, by email to the O/A at their discretion. With the above flexibility, owners/management can complete a temporary recertification using electronic versions of these documents and can collect the original documents from the tenant at a later date.

(Updated on 3/24/20)

Q7: What steps should owners and agents take for subsidized residents who experience a reduction in income due to COVID-19? Can HUD provide any flexibilities for these recertifications under the circumstances?

A: Current policy states that owners must process an interim recertification if a tenant reports a decrease in income that will last for more than one month. The owner should already have this policy in writing and apply it consistently. See [handbook 4350.3, chapter 7, section 2](#).

Since owners and agents are required to make interim re-examinations of a tenant’s income upon tenant request within a reasonable timeframe, HUD encourages O/A to review and update their current policies to allow for expedited reviews of these requests. HUD will also work to expedite its review and approval of these interim certifications.

For owners/agents (O/A) that are continuing to work on recertifications for residents impacted by COVID-19, HUD will allow electronic signatures as long as they obtain original, “wet” signatures on recertification documents at a later date. In particular, the HUD-9887/9887A, which is usually signed at the beginning of the recertification process and allows the owner/agent to begin verifying documentation, requires an original, “wet” signature. Other recertification documents that will require original, “wet” signatures to be obtained at a later date, include but are not limited to the HUD-50059, lease agreements/addendums, HUD-9887/9887A, affidavits of unemployment and zero income, and state lifetime sex offender forms.

Tenants can also provide the background documentation for the recertification process, including but not limited to paystubs, SS/SSI/SSP awards, bank statements, public assistance documents, by email to the O/A at their discretion. With the above flexibility, owners/management can complete a temporary recertification using electronic versions of these documents and can collect the original documents from the tenant at a later date.

(Updated on 3/24/20)

Q8: Maintenance employees who need to enter resident units for service calls are concerned that residents may be ill with COVID-19. Can they ask tenants if they have COVID-19 symptoms before entering a unit? Can non-essential repairs be postponed?

A: Maintenance employees and other staff can ask a resident if it is safe to enter a unit before entering. Owner/management staff who do not feel safe should not enter a tenant's unit.

Residents suspected of having an unreported illness should be referred to a medical provider and/or local health officials.

The deferral of non-essential or non-health and safety repairs should be made on a unit-by-unit basis. If the repair is necessary for health and safety of residents and the staff person is not comfortable entering the unit as a result of a potential COVID-19 exposure, owner/management should consult local health guidance regarding the appropriate precautions to take. For example, the New York City Department of Health has guidance specifically developed for commercial or residential buildings posted at <https://www1.nyc.gov/assets/doh/downloads/pdf/imm/disinfection-guidance-for-commercial-residential-covid19.pdf>.

(Added on 3/24/20)

Q9: Are costs directly related to safety or preventative equipment for staff use in response to COVID-19, including maintenance staff, eligible costs of residual receipts funds for PBRA projects?

Yes, costs directly related to the safety or preventative equipment for staff in response to COVID-19 are considered project expenses.

(Added on 3/24/20)

Q10: What if property owners or managing agents either close rental offices or only offer limited hours/access? Would these actions result in any penalty?

A: Owners and agents should make decisions on limiting access to their rental offices on a case-by-case basis based on guidance from their local or state jurisdiction and the particular

circumstances at their property. HUD defers to them to determine the best course of action, accounting for the importance of ensuring the safety of residents, staff, and the property.

(Added 3/23/20)

Property Reviews and Inspections

Asset Management

Q1: In light of concerns about site visits to HUD properties, what is the status of REAC inspections on MFH properties?

A: Until further notice, Multifamily is postponing all REAC property inspections for all Multifamily properties. Where there is an exigent circumstance or reason to believe that there is a threat to life or property at a specific location, inspections will be conducted by HUD quality assurance inspectors in compliance with CDC guidelines. *Please note, this answer supersedes the initial guidance offered in the first version of this document on 3/12/20.*

(Updated on 3/16/20)

Q2: In light of concerns about site visits to HUD properties, what is the status of Management and Occupancy Reviews (MORs) performed by Performance-Based Contract Administrators (PBCAs)?

A: HUD recognizes that the President's March 13, 2020, emergency determination related to COVID-19 constitutes a significant administrative action that could disrupt performance under the Annual Contributions Contracts (ACC). HUD is hereby relieving PBCAs operating under both ACCs from notifying HUD that the Presidential emergency determination either limits, or in some cases, prevents, PBCAs from carrying out MORs and related activities. HUD is therefore suspending standard MORs until the PBCA determines that local conditions no longer limit or prevent the PBCA from performing MORs safely.

HUD is looking into a flexible model that would allow PBCAs to adapt to local conditions in a way that allows them to continue MORs on a modified basis to ensure acceptable conditions in HUD properties. Additional guidance and specifications will be forthcoming.

Please note, this answer supersedes the initial guidance offered in an earlier version of this document on 3/13/20.

(Updated on 3/16/20)

Q3: What should owners/property managers do if tenants refuse entry to inspectors, citing fears of COVID-19?

A: Until federal, state, or local public health officials counsel otherwise, owners and agents should follow published guidance covering apartment inspections. In this case, Paragraph 20 of the [HUD Model Lease](#) covers the rules governing the landlord's access to a tenant's apartment.

(Updated: on 3/12/20)

Q4: An owner's Rent Comparability Study (RCS) has triggered the need for a HUD RCS, but concerns from owners, tenants, and HUD contract appraisers are making it difficult to execute the HUD-sponsored RCS. How will this be addressed?

A: HUD RCSs are suspended in areas that are under a state or nationally declared emergency or where public health officials have imposed limited travel. HUD is rescinding guidance provided on 3/13/20 on how it will respond to an owner's previously submitted RCS and will be providing new guidance on this topic in the upcoming weeks.

(Updated on 3/23/20)

Recapitalization and Rental Assistance Demonstration

Q5: Will HUD relax its Rental Assistance Demonstration (RAD) Capital Needs Assessment requirements?

A: The Capital Needs Assessments are a core part of the RAD review process, as they are used to establish a basis on which to project the property's 20-year capital needs. The Office of Recapitalization will extend milestones and deadlines on a case-by-case basis if the capital needs inspection cannot be completed at this time due to COVID-19.

(Added on 3/13/20)

Multifamily Production

Q6: Will MFH Production relax its site visit requirements for third parties and lenders?

A: If a third-party capital needs inspector cannot physically inspect the required sample of units due to COVID-19 concerns, the Regional Production Director may waive the sampling requirements in favor of inspecting only vacant and model units on a case-by-case basis for recently built insured properties (within 10 years of submission) or non-insured properties built within the past five years. All other properties will require a complete inspection.

(Added on 3/13/20)

Q7: What if the lender is unable to visit the site to verify the inspection report's findings?

If the lender's travel is restricted (thereby limiting the lender from inspecting the site), the capital needs inspection report may be accepted for underwriting purposes on the condition that the lender inspects the property prior to the issuance of the insurance commitment. Therefore, to the extent that a lender is not able to physically inspect the property due to COVID-19 concerns, the conclusions of the report must be included without modification as part of the application.

HUD's appraisers and market analysts, as necessary, must inspect the property and subject comparables in accordance with Multifamily Accelerated Processing (MAP) requirements to insure a credible valuation conclusion.

(Added on 3/13/20)

Q8: Will MFH Production relax its site visit requirements for FHA site inspections as part of the environmental review process?

A: HUD currently requires a site inspection for all environmental reviews. Each Regional Production Director can waive this requirement on a case-by-case basis for currently insured or non-insured applications (for refinance or new construction) for which an environmental report has been submitted in HEROS with no significant issues; however, a waiver of this requirement can only occur if the lender's environmental consultant has inspected the property.

If a property does not meet the above criteria, it must have a HUD site inspection prior to the issuance of the firm commitment; however, in the event that a property is not able to be accessed for a prolonged period due to COVID-19 concerns, HUD will consider alternatives to site inspections.

(Added on 3/13/20)

Q9: Will MFH Production relax its site visit requirements for FHA lenders performing lease audits?

A: Yes. Lenders may perform lease audits electronically if the information is available and verifiable.

(Added on 3/13/20)

Waivers, Extensions, and Other Relief

General MFH

Q1: In the event of an outbreak in a locality with HUD-assisted housing, what regulatory waivers will apply for HUD housing?

A: HUD will consider policy, Handbook, and regulatory waivers on a case-by-case basis with the intention of providing flexibility to owners and agents to respond to unique needs.

(Updated on 3/12/20)

Q2: May FHA-insured borrowers as well as Section 202 and 811 property owners access their reserve for replacement accounts to cover items not consistent with Handbook 4350.1 Chapter 4 guidance, such as mortgage payments for delinquent mortgages?

A: Owners may submit requests to HUD field staff for non-traditional uses of reserve for replacement accounts. Field staff will review such requests based on account balances and future needs, project needs, owner compliance and other criteria consistent with Chapter 4 of HB 4350.1. In addition, HUD field staff will need to see evidence of the loss of rental receipts.

(Added on 3/23/20)

Asset Management

Q3: Will HUD make rent payment relief or additional assistance available for Project-Based Rental Assistance and Project Rental Assistance Contract units if tenants fall under adverse conditions due to COVID-19?

A: Multifamily Housing encourages all owners to work with impacted residents and families to adjust rent payments, enter into forbearance agreements, and lessen the impact on affected residents. At this time, no additional subsidy funding has been made available.

(Added on 3/12/20)

Q4: A multifamily owner's financial statements are complete, but their auditor is not comfortable coming into their office to conduct the audit. Can they get an extension?

A: To provide relief for multifamily property owners, HUD has extended the audited financial reporting deadlines until April 30. All entities required to submit financial information on or before April 30, 2020 are now required to submit their financial information no later than 120 days after the end of the fiscal year of the reporting period, and as otherwise provided by law. This waiver does not apply to the submission requirements for financial information that was delinquent as of March 23, 2020.

The Office of Multifamily Housing Programs will continue to monitor the situation and may provide additional extensions as warranted.

(Updated on 3/24/20)

Continuity of MFH Operations with Staff Working Remotely

*General MFH***Q1: In the event of HUD office closures and/or staff working remotely, how will MFH handle “in person” meetings?**

A: All meetings that cannot be held in person will be held via conference call. If a meeting must be held in person, contact the field Branch Chief or Director to discuss options.

(Added on 3/13/20)

Q2: In the event of HUD office closures and/or staff working remotely, what will be the process for subsidy contract renewals and funding actions?

A: Multifamily field and headquarters staff will process subsidy contract renewals and related funding actions remotely. Contract renewals and funding actions should still be submitted electronically via the local or Regional office email box, with a copy to the assigned Account Executive/Resolution Specialist, the Funding Specialist, and Branch Chief. Hard copies should still be submitted to the field office.

(Updated on 3/16/20)

Q3: Will MFH allow electronic signatures on its documents?

A: Production: For FHA insured transactions, please see the section on *Office of General Counsel-MFH Closings* below for specific information.

Asset Management: Electronic signatures are allowed for all subsidy administration, including contract renewals, rent schedules, and HAP Assignments, and all other Multifamily Housing submissions. State and local law determines the requirements for leases and 50059s.

Recapitalization: For RAD and other real estate transactions, the recorded documents typically have “wet” signatures that are notarized. The HUD closing attorney will have to advise if electronic signatures are acceptable in the recording offices in their jurisdictions. Documents that will not be recorded may be signed electronically.

For all transactions, electronic signatures must conform to applicable federal, state, and local requirements.

(Added on 3/24/20)

*Recapitalization and Rental Assistance Demonstration***Q4: How will Rental Assistance Demonstration (RAD) transactions be processed?**

A: Applications, requests for concept calls, financing plan submissions, submissions of closing documents, and many other processes under the RAD program are already conducted on-line. We will continue to receive and review these materials and communicate with project teams by e-mail and phone. There is no change from current practice and teleworking employees will still be able to process submissions and requests.

(Added on 3/13/20)

Q5: In the event of office closures, how will HUD conduct RAD closings?

A: Multifamily is coordinating with HUD's Office of General Counsel, and we anticipate arranging for execution and notarization of documents that need to be recorded in public records. Other documents will be distributed electronically or by mail to the extent practicable.

Please see the additional information included in the section on OGC-MFH Loan Closings below.

(Added on 3/13/20)

Multifamily Production

Q6: In the event of office closures, how will concept meetings be handled?

A: Continue to submit your electronic requests and packages as usual, and concept meetings will be handled remotely.

(Added on 3/13/20)

Q7: In the event of office closures, how will MFH Production handle the submission of applications since typically HUD requires an original and two hard copies of the application along with a physical thumb drive for certain types of projects?

A: HUD will permit applications and related documents to be submitted electronically, using a secure cloud storage service, as determined by the lender, instead of hard copies. HUD will arrange for architectural plans and specifications to be sent to the processing construction analyst identified at the concept meeting to be reviewed remotely.

(Updated on 3/16/20)

Q8: Will office closures affect HUD's underwriting and issuance of firm commitments?

A: No. HUD staff are equipped to perform underwriting functions and all other duties remotely; therefore, HUD does not anticipate a significant issue or delay in processing loans.

(Added on 3/13/20)

Q9: In the event of office closures, how will HUD conduct MFH Production loan closings?

A: MFH Production is coordinating with HUD OGC to ensure continuity of closings in the event of office closures. Certain reviews that are routinely performed electronically, and closings that are routinely conducted by mail, such as Section 223(f) and 233(a)(7) loans, will continue in the same manner.

OGC and MFH Production are working to expand the ability to conduct other types of reviews and closings, including for Section 221(d)(4) and other NC/SR programs, either electronically or by mail to the extent practicable. Additional guidance will be forthcoming as soon as it is available. Please see the additional information included in the section on OGC-MFH Loan Closings below.

(Added on 3/13/20)

Q10: In the event of office closures or staff on telework, how will HUD conduct construction administration?

A: Monthly draws, trip reports and change orders are routinely completed electronically; however, a site visit is required by the owner, architect and construction inspector (CI) to review progress and approve monthly draws. If the owner or architect can only attend remotely, exceptions can be made on condition that the CI is present. Should the CI be unable to attend, then the draw will need to be postponed. While HUD does not anticipate that the timeline for CI inspections to occur will extend past 60 calendar days, situations presented by prolonged unavailability of the principal participants should be raised with the Regional Production Director.

(Added on 3/13/20)

Q11: In the event of office closures or staff on telework, how will HUD handle cost certification/ Final Endorsement?

A: HUD anticipates no disruptions in the performance of these functions as they are routinely conducted electronically.

(Added on 3/13/20)

Office of General Counsel- MFH Closings

Q1: What is the Office of General Counsel (OGC) doing in response to the current COVID-19 Coronavirus outbreak and President's declaration of a national emergency?

A: While the Department of Housing and Urban Development and its offices remain open for business at this time, many employees, including closing attorneys are now engaged in full-time telework. OGC, in collaboration with Multifamily and the Office of Healthcare Programs has established protocols, rules, and procedures to best ensure continuity of operations in the event of an extended closure of a specific division, regional or field office, or the determination that OGC in its entirety should work remotely.

(Added on 3/24/20)

Q2: Will OGC continue to conduct in-person closings?

A: OGC's first goal is ensuring the health and safety of its employees, clients, and stakeholders. To that end, OGC has adopted a policy of avoiding in-person attendance at gatherings, including all in-person closings, to the greatest extent possible. Limited in-person closings will continue only under special circumstances in which closing by mail or electronic submission is clearly not feasible. The number of attendees should be limited as much as possible with signatures, document collation, and other closing functions coordinated by the FHA lender's counsel and completed before arrival at the closing location. Rarely should it be necessary for the attendees to include individuals other than the FHA lender's counsel, HUD closing attorney, and paralegal support staff.

(Added on 3/24/20)

Q3: How will OGC closing attorneys conduct reviews of closing packages?

A: OGC closing attorneys will continue the usual practice of providing comments on closing submissions by e-mail or telephonically with the recognition there is no "business as usual" across the country at this time. Additional conference calls to address logistical and other pertinent issues will be arranged as needed to ensure free and open communication during the review and closing process.

(Added on 3/24/20)

Q4: How will OGC closing attorneys receive and review packages electronically?

A: OGC closing attorneys will rely on electronic transmission of closing documents in lieu of hard copies in performing their initial reviews. This approach will ensure the continuation of reviews even if our external partners are unable to physically transmit the volume of paper documents needed at this stage.

While providing increased flexibility to lenders in submitting closing documents, this protocol does not authorize any additional substantive modifications to the closing process without approval of the appropriate Regional Counsel and the Office of Insured Housing in Headquarters.

(Added on 3/24/20)

Q5: Are there any standards for submission of draft closing packages?

A: OGC closing attorneys will accept draft closing packages in fully electronic form. If a hard copy of the survey is available for submission, it should be provided by mail to the closing attorney. OGC closing attorneys will not delay review of a closing package if a hard copy of the survey is unavailable. Closing, however, will remain contingent on an adequate title and survey review and the appropriate resolution of any identified issues. FHA Lender's counsel will need to make arrangements with the OGC closing attorney for the delivery of a hard copy of the survey if electronic review is not feasible due to the survey's size and complexity.

Additionally, to ease the transition to an electronic review process, OGC has developed a series of "Best Practices" for electronic transmission, available for your closing attorney. This document can be found online at:

[https://www.hud.gov/sites/dfiles/Housing/documents/Best Practices for electronic submission for MF Closings during COVID-19 pandemic.pdf](https://www.hud.gov/sites/dfiles/Housing/documents/Best_Practices_for_electronic_submission_for_MF_Closings_during_COVID-19_pandemic.pdf).

(Added on 3/24/20)

Q6: Is there a preferred method of electronic submission?

A: OGC understands that the various lenders and their counsel have differing security protocols in place governing the transmission of electronic documents. OGC has not established any mandatory submission method, but will accept electronically transmitted documents in various means, provided the transmitter can provide assurances as to the security of the transmission. Additionally, the electronic submission must be accessible by all HUD reviewers and cannot be unnecessarily restricted to impede access from appropriate parties within the Department.

(Added on 3/24/20)

Q7: How should I send in a supplemental submission?

A: The OGC closing attorney will provide written comments to the FHA lender's counsel by e-mail or telephonically (depending on local field counsel practice). The FHA lender's counsel should submit the revisions and supplemental documents via email or in the same fashion as the original electronic submission. The documents submitted should include comparisons ("redlines") showing changes from the last version reviewed when specifically requested by the OGC closing attorney or otherwise appropriate.

(Added on 3/24/20)

Q8: Can we expect to have different protocols being used in different field offices or by

different closing attorneys?

A: While the circumstances on the ground in any office or for any specific closing attorney may require flexibility in the closing process, the Regional Counsel will be working to ensure the temporary protocols established by the General Counsel are adopted and applied consistently across the regional and field offices within their purview.

(Added on 3/24/20)

Q9: Will there be any changes in the attorney assignment process?

A: Regional Counsel will continue to manage the attorney assignment process for closings, asset management requests, and other transactional work, as necessary. The Regional Counsel will consider staff availability, client deadlines, and the IT resources available to each employee in making assignments. OGC is working to ensure all closing attorneys have the necessary technology to perform electronic reviews at remote locations, where necessary.

The assigned OGC closing attorney will making prompt contact with the requesting program office and industry partners to establish mutual expectations, communication protocols, and shared goals for completion of the work matter, regardless of their physical working location. Should circumstances arise making closing by mail is impractical and the assigned Closing Attorney is unable to reasonably close the loan electronically, the appropriate Regional Counsel may reassign the transaction for closing.

(Added on 3/24/20)

Q10: Will the closing process be delayed or disrupted if the Regional Counsel has to change the attorney assignment?

A: OGC will strive to limit delays or disruptions to the closing process related to the reassignment of the closing. In particular, the attorney receiving the reassignment will generally be expected to rely on the legal work previously completed and continue with the closing as scheduled.

However, circumstances are in flux and all parties cautioned to anticipate delays. FHA lenders and their counsel should be cognizant that HUD closing attorneys may face significant workload challenges as they adapt to these new procedures and navigate local exigencies created by the pandemic (e.g. limited support staff and IT resources while working from home or other remote locations). Complete and well-prepared documents should be submitted as early as possible to ensure closing dates can be scheduled and accommodated well in advance of significant deadlines. The HUD Closing Attorney will strive to manage the expectations of all parties to a transaction and communicate developments as soon as it is reasonably possible in order to facilitate an orderly closing process.

(Added on 3/24/20)

Q11: How will the Lender and Lender's counsel know how to submit documents pre-closing?

A: Once HUD has provided written clearance to the Lender that the transaction is ready to close, the FHA lender's counsel is responsible for coordinating the submission of the final, executed documents by mail or electronic form, subject to specified limitations. The HUD closing attorney should hold a call with the Lender's counsel prior to the final submission to ensure that everyone is clear on the method of and requirements for submission. If closing by mail, the HUD closing attorney will advise the Lender's counsel as to the address for delivery of the closing dockets.

(Added on 3/24/20)

Q12: With the status of recorders' offices around the country uncertain, what flexibilities is HUD able to provide?

A: OGC prefers the pre-recording of the FHA security instrument, regulatory agreement, and other recorded documents where possible. OGC will accept Gap coverage (as has typically been offered in New York) when pre-recording is not feasible, provided the coverage clearly protects the status of the first lien through recordation, regardless of any unusual delay due to the closure of the recorder's office.

(Added on 3/24/20)

Q13: How will OGC closing attorneys conduct the closing?

A: OGC closing attorneys will conduct closings either by mail or through the use of electronic transmission of documents to ensure closing takes place as planned. The use of electronic transmission methods will require additional submissions and certifications for this method to be utilized.

(Added on 3/24/20)

Q14: Will HUD allow electronic signatures or the electronic transmission of a scanned document containing wet signatures on closing documents?

A: OGC **cannot** authorize the execution of the FHA note, mortgage, regulatory agreement, or other loan documents using a digital signature or other means of fully electronic authentication. However, OGC closing attorneys will accept electronic copies (i.e. scanned PDFs) of manually executed documents and will rely on such documents for purposes of releasing the endorsed FHA note at closing. The closing opinion delivered by borrower's counsel may not be modified to include additional qualifications or limitations related to the use or reliance on scanned documents unless discussed and approved by the OGC closing

attorney. Such changes will not be approved unless (i) clearly warranted by a duly cited state statute or local ordinance and (ii) the modification results in no additional risk to HUD.

(Added on 3/24/20)

Q15: How will the documents requiring wet signatures be handled?

A: The FHA Lender's counsel should arrange for delivery of the note, mortgage, regulatory agreement and any other transaction-specific recording documents to the authorized HUD signatory via an overnight courier. At times, HUD will need the Lender's counsel to provide a mobile notary to facilitate the execution process. The FHA Lender's counsel should also include prepaid mailing labels to ensure delivery of (i) the executed documents from the HUD signatory to the HUD Closing Attorney or other designated HUD official for safe-keeping until closing; (ii) all documents to be recorded to the appropriate recipient for recording; and (iii) the endorsed note to the FHA lender (or its designee) after endorsement.

(Added on 3/24/20)

Q16: What will happen at a remote closing?

A: As with a roundtable closing, the OGC closing attorney will ensure the documents, as executed, conform to the approved drafts.

(Added on 3/24/20)

Q17: Is there a deadline for submission of the documents – whether by mail or electronically?

A: The FHA Lender's Counsel and HUD Closing Attorney will need to discuss and establish a starting time for the closing that takes into account the submission method (electronic or hard copy); the closing location (field office or remote); mail/courier delivery times; and, when special circumstances compel an in-person closing, the essential attendees. Generally, submissions should arrive no later than 10:00 a.m. the morning of closing unless all parties have agreed to an alternative time. In HUD offices where closings begin earlier than 10:00 a.m. as a standard practice, the HUD Closing Attorney may require submission by the usual starting time.

(Added on 3/24/20)

Q18: What considerations are there for delivery of the Title policy?

A: The FHA Lender's counsel should make every effort to ensure the title insurance policy and, if customary in the closing jurisdiction, the recorded documents are organized and included in the same submission as the other closing documents. However, the OGC closing attorney may permit a separate submission from the title company or outside counsel when warranted by jurisdictional requirements, local custom, or other good cause. Additionally, if the time-

stamped recorded documents are not available, the title company's recording certification should be scanned as the first page. If delivered or signed electronically, the title insurance policy should contain an electronic signatures endorsement.

(Added on 3/24/20)

Q19: What considerations are there for the electronic delivery of documents for closing?

A: Where closing documents must be delivered by electronic means, the following is required:

- The submission must be organized for easy and efficient review on a computer monitor. Each submission should include a complete FHA closing checklist (identifying all standard and transaction-specific documents) to ensure efficiency of review and document location.
- If delivering via an electronic medium, the medium must be brand new, unencrypted, and contain no files other than the closing submission. Further, the drive may not be write-protected or otherwise secured in a manner that precludes the HUD staff from adding additional files.
- If alternative electronic delivery is arranged through a law firm's or title company's proprietary document storage site, or other such web-based arrangements, these sites may not impose use conditions on HUD staff (e.g. requiring an agreement to indemnify the firm or site host).
- The electronic submission should include signed certification evidencing the FHA lender's agreement (i) to provide an original, hard-copy set of the electronic documents once normal operations resume and (ii) to include a certification with the hard copy set that confirms the documents fully conform to the electronic versions accepted at closing.

(Added on 3/24/20)

Q20: What if errors are discovered requiring revision at closing?

A: In the event a need for revisions is discovered at closing, the FHA Lender's counsel will be responsible for transmitting, electronically or via courier, the complete corrected document(s) for the OGC closing attorney to consolidate with the full submission. Slip pages will generally not be accepted for electronic closings. The HUD Closing Attorney may suspend the closing, upon consultation with the client office and Regional Counsel, if the provided documents are determined to be materially deficient.

(Added on 3/24/20)

Q21: Given the remote work scenarios that are likely, will HUD agree to release the endorsed note to Lender's counsel or a third party to hold in escrow until closing?

A: At this time, HUD cannot release the FHA note prior to closing even if the Lender's counsel offers to hold the note in escrow or have the note escrowed by a third party. Arrangements will be made by OGC and Housing to ensure the note is endorsed prior to closing and held by the HUD closing attorney or other designated HUD official for safekeeping until the closing is completed. The OGC closing attorney or the closing coordinator will provide instructions in the event a mobile notary will be needed to complete the closing process.

(Added on 3/24/20)

Q22: When will the endorsed note be released?

A: Once all closing conditions are met, the OGC closing attorney will advise the Lender's counsel that the note is ready for release. FHA Lenders should be cognizant that a HUD Closing Attorney working remotely may be unable to accommodate requests to have the endorsed note scanned and circulated via e-mail on the day of closing. Upon request, it may be possible for the OGC closing attorney to have a photograph of the endorsed note transmitted.

(Added on 3/24/20)