



HUD SHUTDOWN ENDS, AT LEAST FOR THREE WEEKS

By Jessica Cassella

On January 25th, the President and Congress approved a short-term Continuing Resolution (“CR”) to reopen the federal government for three weeks. While there remains a possibility of another partial government shutdown when the three-week period ends on February 15th, the CR allowed HUD to resume normal operations on January 28th. Since their return, HUD employees have been making their way through a significant backlog of work that accrued during the 35-day partial government shutdown period. At the end of last week, HUD Multifamily issued new guidance (the “**HUD Guidance**”) describing how it would prioritize its work going forward relating to certain multifamily asset management and loan processing/closing functions. A brief summary of the HUD Guidance is included below:

Multifamily Asset Management

Rental Assistance Contract Renewals: On the asset management side, the HUD Guidance indicates that HUD’s “first priority” is work related to contract renewals and subsidy payments, and other matters relating to tenant health and safety. Specifically, HUD is currently allocating new funding provided by the CR to support the renewal of expired and expiring Section 8 Project Based Rental Assistance (“**PBRA**”), Section 202, and Section 811 contracts. The HUD Guidance also states that additional funding is now available for current Section 8 PBRA contracts to ensure timely payments through April 1, 2019.

HUD previously indicated that 1,175 rental assistance contracts expired during the shutdown, including approximately 301 Section 8 PBRA contracts, 430 Section 811 contracts, and 444 Section 202 contracts. HUD recently informed us that as of January 31st, it has renewed a total of 243 expired or expiring Section 8 PBRA contracts, Section 202 contracts, and Section 811 contracts. An additional 914 contracts have been authorized to be renewed, which HUD is currently working on. At this time, we do not have confirmation as to whether the remaining 18 expired contracts that have not yet been authorized to be renewed will ultimately get renewed.

According to the HUD Guidance, HUD recognizes that some properties with expiring contracts may not have their renewals “fully processed” by February 1, 2019. HUD indicates that if any such properties have HUD-controlled reserves, the owners/agents of such properties may request loans from the

reserve accounts in the interim. Requests for such reserve funds should be sent to the assigned incoming HUD e-mail address specified in the HUD Guidance. The HUD Guidance states that such requests must include a completed HUD Form-9250, the current balance in the account, the withdrawal amount, and a statement certifying that the released funds will be reimbursed once subsidy payments are received.

HAP Assignments, 2530s, Servicing Actions: The HUD Guidance indicates that HUD’s “second priority” on the asset management side is responding to “critical external deadlines,” such as servicing actions in connection with FHA closings and property sales that require HAP contract assignment processing or 2530 clearance. As might be expected, a substantial backlog of requests for HAP assignments and 2530 clearance resulted from the shutdown. HUD indicates that if a critical deadline exists, the owner/agent should submit a request for HUD to prioritize the requested action via the assigned incoming HUD e-mail address specified in the HUD Guidance. HUD indicates that all other requests for HUD approval, such as standard reserve for replacement withdrawals, will be processed in the order received.

Multifamily Loan Production

Loan Processing: The HUD Guidance indicates that HUD’s “first priority” for multifamily production activities is to identify and prioritize work on multifamily loans to parties that were issued a HUD firm commitment, and that submitted a complete closing package for initial or final endorsement prior to December 21, 2018. Of these, HUD’s priority will be loans with “critical external deadlines” (for example, projects with low-income housing tax credits, rate lock extension fees, and purchase and sale agreements with substantial penalties). HUD will also schedule closing dates for loans that do not have critical external deadlines but “are ready to close immediately.”

- For all other applications, HUD’s priority for processing applications will be (1) first, applications that were in process prior to the shutdown, especially those close to issuance of a commitment or invite letter, (2) next, applications that were in mid-process or received immediately prior to the shutdown, and (3) finally, applications that were submitted during the shutdown. Applications that were submitted during the shutdown will be date stamped January 28, 2019 and assigned to underwriters.
- Lenders may continue to submit new applications for mortgage insurance, although HUD notes that it will not begin scheduling new concept meetings until February 19, 2019.
- Third party reports (appraisals, market studies, environmental reports, and CNA submissions) whose expiration dates have lapsed pending submission of an application due to the shutdown may have the expiration date waived at the discretion of the HUD regional office.

In general, lenders, borrowers, and owners should expect longer than normal processing times as HUD continues to work through its significant backlog. And, of course, we are hoping that a new shutdown does not begin after February 15th. Please do not hesitate to contact me with any questions. I can be reached at jcassella@kleinhornig.com or 202-495-4087.