

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-8000 OFFICE OF HOUSING

August 8, 2007

MEMORANDUM FOR: All Multifamily Hub Directors
All Multifamily Program Center Directors
All Multifamily Operations Officers
Owners and Management Agents of Project Based Section 8 Properties
All Contract Administrators
All HUD Servicing Mortgagees

FROM: Beverly J. Miller, Director, Office of Asset Management, HTG

SUBJECT: Supplement to July 13, 2007 Residual Receipts and Reserve Replacement Funds Guidance

This supplements the July 13, 2007, memorandum from John L. Garvin, Senior Advisor to FHA Commissioner/Acting Deputy Assistant Secretary for Multifamily Housing Programs titled Expedited Processing for Use of Residual Receipts and Reserve Replacement Funds. The memorandum allows use of reserves and residuals to pay short term operating costs where a specific property meets all the following conditions:

- Residual receipts and/or reserve for replacement funds may only be used if there are insufficient funds in the property's operating account to meet current expenses, including the mortgage payment;
- Owners must use all available residual receipts funds prior to using replacement reserve funds; and
- Residual receipts and/or replacement reserve funds must only be used for mortgage payment and necessary operating expenses.

However, in some cases a specific project has insufficient funds in residual receipts and reserves to draw upon. In those cases, the owner may consider an advance from another property, controlled by the same principals (inter-company advances), which has sufficient residual receipts and/or reserves. Any loaned funds should be drawn first, from the lending project's residual receipts, then from replacement reserves if necessary.

The authority to approve inter-company advances is being granted by HUD so owners can pay mortgage payments on a MF mortgage insured by FHA or held by HUD (including all regularly amortizing (*) Section 202/811 loans and capital advances) or to pay reasonable and necessary operating expenses of the property due to non-payment of HAP vouchers by HUD. These inter-company advances must be accounted for on the financial statements for both properties in accordance with HUD financial reporting requirements and Generally Accepted Accounting Principles (GAAP).

The certification below, relating to the advances, must be obtained by the Program Center or Hub Director in every case. The operating partner of the advancing property must have authority to make the advance, and the operating partner must certify as follows:

*I (**name of operating partner**) do hereby certify:*

*I have authority to make inter-company advances from the residual receipts and/or reserves from (**insert name of property and property ID number**), lending property, to (**insert name of property and property ID number**), debtor property, with HUD approval;*

*The debtor property does not have sufficient operating funds at this time due to non-payment of the Section 8 HAP by HUD. Inter-company advances will be no greater than the amount of the total unpaid Section 8 HAP vouchers and are necessary to pay mortgage payments and/or reasonable and necessary expenses of (**Insert Property Name**);*

*All inter-company advances will be repaid immediately upon receipt of delayed Section 8 HAP funding from HUD for (**Insert Property Name**), **debtor property**;*

*Inter-company advances made from (**Insert Property Name**), **lending property** will not cause financial hardship, delay in mortgage payments and/or delay or cessation of payments for operating expenses and services; and*

I will complete the inter-company advance upon receipt of a signed form HUD-9250.

Signed _____ Date _____

Name of signer

The Hub or PC Director may approve the inter-company advance and must arrange to track the Section 8 payments to the debtor property. As soon as the field office learns section 8 funds have been paid, the project manager will follow up with the appropriate operating partner/owner(s) and require documentation that all funds have been repaid to the property accounts from which they were advanced. The authority in this memorandum expires on the same date as shown in the July 13, 2007 memorandum, Expedited Processing for Use of Residual Receipts and Reserve Replacement Funds.