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**Feature**

by James H. Levine, Esq.

**Practical Advice for Closing HUD-Insured Loans**

Federal borrowing programs administered by the U.S. Department of Housing and Urban Development (HUD) offer some of the most efficient capital available for long-term financing. The process for accessing these low interest rates and long amortizations, however, has several steps that often make the process longer than that of traditional financing. These steps must be completed by various parties, with great attention to detail, from application through closing.

HUD borrowers – whether hospitals, long-term care or affordable housing providers – should be aware of the precise steps that will be required for HUD to insure a new loan after it issues a Firm Commitment. This article summarizes the events that must transpire in order to close the loan and contains practical advice for making the closing process as smooth as possible.

**Kickoff Meeting and Preparation of Closing Package**

Soon after receiving the Firm Commitment, all involved parties should meet to begin the closing process, delegate closing tasks and establish timeframes for their completion. Business representatives of the lender and borrower, their respective attorneys and any other advisors being used to facilitate the loan should be present.

Lender's counsel typically coordinates the assembly of the more than 30 draft loan documents that must be approved by HUD, and most of these will be prepared by lender's counsel, as well. However, several key documents are



the responsibility of the borrower and its counsel, including an opinion letter of borrower's counsel. Retaining borrower's counsel with experience in delivering the HUD opinion letter and familiarity with the myriad closing documents will save the borrower time and money, as the attorney will not have to spend billable hours learning HUD's rules.

A few important closing items will need to be prepared by third parties, including a pro forma title policy and an ALTA land survey plat and report prepared in accordance with HUD requirements. Using a reliable title company and surveyor with prior experience in HUD transactions is strongly encouraged. If the title company or surveyor does not have prior HUD experience, it is vital that they be provided with very specific guidance as to the format and content of their final product. Planning ahead to ensure the title company and surveyor meet delivery deadlines is vital to keeping the closing on track.

**Closing Logistics**

After HUD has received and reviewed the copious draft closing documents,

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provided its comments and become comfortable that the documents are satisfactory, HUD will permit the scheduling of a firm closing date.

All HUD closings are done the old-fashioned way: in person with the borrower, lender, counsel and a title company representative sitting physically around a closing table in the HUD field office that is processing the loan. Some HUD offices will allow the parties to suggest a recommended time to close; others will not. Maintaining a flexible schedule around the time the loan is predicted to close is a must.

In non-HUD mortgage loan transactions, lenders typically permit funding of the loan before recordation of documents in the land records as long as the title company insures the title during the “gap” period between funding and recording. HUD, however, does not permit its loans to close and fund until the applicable loan documents have been recorded in the land records and a final title policy has been issued and delivered. This can cause considerable logistical complications in getting the loan closed and funded on the same day. Detailed advance planning and preparation can simplify the process:

- It is highly recommended that all of the documents be pre-signed by the parties prior to arriving at the closing table and that closing begin first thing in the morning.
- It is also advisable to have someone on location at the local recording office ready to record the applicable original loan documents once HUD has granted authorization to record. Certain HUD attorneys permit “pre-recording,” allowing loan documents to be

recorded on the day before closing. This should be done if permitted by HUD because it reduces the risk of missing funding deadlines due to potential problems arising in connection with document recording.



Once HUD has received the final original title policy containing the book and page or instrument numbers of all recorded loan documents, the HUD attorney will authorize the promissory note to be endorsed by HUD. Upon endorsement, HUD has committed to insure the loan and the loan can be immediately funded.

### Conclusion

Once closed, HUD loans offer excellent fixed rates and some of the longest, most financially generous loan terms available. Borrowers should be

prepared to spend as much time seeing a HUD loan through from Firm Commitment to closing as they did preparing and submitting the loan application. Using an experienced HUD-approved lender such as Lancaster Pollard, knowledgeable counsel, and HUD-experienced third parties will make the entire process smoother. Staying organized, sticking with prescribed time frames and being familiar with the nuances of HUD are all musts for a smooth and successful closing.

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