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# Section III Asset Management

## Chapter 4 Financial Operations

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### 4.1 Introduction

8  
9 This chapter addresses loan servicing related to the financial operations of projects insured under  
10 Section 232. For the purposes of this chapter, the term “Mortgagee/Servicer” means the primary  
11 Servicer responsible for servicing the mortgage loan, whether such party is the originating  
12 Lender or third-party Servicer for the originating Lender.  
13  
14

### 4.2 Financial Submission Requirements

15  
16 The *Healthcare Regulatory Agreement - Borrower* (Forms HUD 92466, HUD 92466-EH and  
17 HUD 92466-ORCF) requires the submission of audited annual financial information for the  
18 Borrower. Additionally, amendments in 2012 to the Uniform Financial Reporting Requirements  
19 rule (24 CFR 5.801 et seq.), applicable to all Section 232 Operators (amendments addressed in  
20 this chapter and also delineated in the *Healthcare Regulatory Agreement – Operator*, Form HUD  
21 92466A-ORCF) require submission of quarterly/year-to-date and annual financial statements  
22 from the Operator. This same 24 CFR 5.801 requires that financial submissions for all Section  
23 232 related projects (both Borrower and Operator) be submitted concurrently to HUD and the  
24 Mortgagee/Servicer.  
25

26 Borrowers are required to submit their annual financial statements within ninety days of their  
27 fiscal year end into the Financial Assessment Subsystem (FASS) which uploads the financial  
28 statements into the Integrated Real Estate Management System (iREMS), which ORCF uses in  
29 its routine asset management of projects. Guidelines for accounting from HUD’s Real Estate  
30 Assessment Center (REAC), revised submission procedures formulated in 2004, and the  
31 guidelines for REAC submissions, can be found on the REAC website.  
32

33 HUD systems perform an analysis of the financial submission of the Borrower to measure the  
34 financial condition of the project and to assess compliance with applicable laws, regulations and  
35 business documents. HUD requires Borrowers to submit audited financial statements each year  
36 to the Mortgagee/Servicer and to HUD. HUD analyzes these financial statements to assess  
37 compliance with program requirements, to evaluate the financial strength of the Borrower, and  
38 for many other purposes. Mortgagee/Servicers should conduct their examination to the extent  
39 necessary to classify asset values and make risk assessments.

40  
41 A. FASS performs an initial assessment of the financial condition of the Borrower’s statement,  
42 as well as a review of the project’s compliance with applicable laws, regulations and business  
43 documents. Compliance deficiencies identified either by this assessment or the project’s  
44 auditor may be referred to ORCF or the Departmental Enforcement Center (DEC).

45  
46 ~~B.~~ Borrower Submission Requirements:

47 ~~C.B.~~ . In addition to Regulatory Agreement financial submission requirements, the Uniform  
48 Financial Reporting Requirements rule (24 CFR 5.801 et seq.) requires the electronic  
49 submission to HUD and the Mortgagee/Servicer of Borrower financial information prepared  
50 in accordance with Generally Accepted Accounting Principles (GAAP).

- 51
- 52 1. For Profit Borrowers are required to electronically submit an audited Annual  
53 Financial Statement (AFS) within 90 days after the end of each fiscal year,  
54
  - 55 2. Non-profit Borrowers are required to electronically submit a Borrower-certified  
56 (unaudited) AFS within 90 days after the end of the fiscal year. An electronically  
57 submitted, audited AFS is due no later than nine months after the end of the fiscal  
58 year pursuant to 2 CFR 200. The Borrower may opt to submit the audited AFS  
59 within 90 days after the end of the fiscal year. By submitting the audited AFS within  
60 90 days the Borrower may eliminate the additional step of submitting a Borrower-  
61 certified AFS. ORCF recommends Borrowers refer to 2 CFR 200 Subpart F for  
62 current exemption thresholds as well as how to calculate the amount of federal  
63 financial assistance received.  
64
  - 65 3. Non-profit Borrowers (receiving less than \$~~500~~750,000 annually in combined federal  
66 assistance) are required to electronically submit a Borrower-certified AFS within 90  
67 days after the end of the fiscal year.  
68

69 ~~D.C.~~ The HUD systems review of the Borrower’s financial statement in FASS may generate  
70 an “AFS Evaluation Financial Risk” action in the HUD system. The AE will review the  
71 action and contact the project or Mortgagee/Servicer for additional details or actions  
72 necessary to comply with the FASS deficiency. Commonly, if an “AFS Evaluation Financial  
73 Risk” action is generated, or if other conditions indicate ongoing financial issues, the  
74 Account Executive may require submission of a Monthly Accounting Report, which consists  
75 of Monthly Report for Establishing Net Income, Form HUD-93479-ORCF, Schedule of  
76 Disbursements, Form HUD-93480-ORCF and Schedule of Accounts Payable, Form HUD-  
77 93481-ORCF. The Borrower must continue to submit these forms until advised by the  
78 Account Executive that submissions should cease.

79  
80 ~~E.D.~~ Operator Submission Requirements:

- 81
- 82 1. As set forth in 24 CFR Part 5.801 and in the Healthcare Regulatory Agreement-  
83 Operator, Section 232, Form HUD-92466A-ORCF, unless otherwise specified by  
84 HUD, Operator shall submit, to the Lender on a quarterly and year-to-date basis (or  
85 more frequently if specified by HUD), ~~prepared and certified by an authorized~~

86 ~~representative or agent of Operator, such~~ financial reports relating to the operation of  
87 the Healthcare Facility in the formats and at such times as may be approved by HUD  
88 Project. These reports must be prepared in accordance with Program Obligations.  
89 GAAP and certified by an authorized representative of Operator.  
90

- 91 2. Detailed requirements for Operator quarterly and year-to-date ~~submissions~~reports will  
92 be ~~conveyed~~updated via the Section 232 Program website. HUD would anticipate  
93 that for most operators, such reports will be of a type kept in their ordinary course of  
94 business, but must, as a minimum include the following financial statements prepared  
95 in accordance with GAAP. Reports prepared on the tax basis will not be accepted:  
96

- 97 • ~~Such reports~~Balance Sheet
- 98 • Profit & Loss Statement/Statement of Operations
- 99 • Statement of Cash Flows
- 100 • Schedule of Disbursements
- 101 • Schedule of Aging Accounts Receivable
- 102 • Schedule of Aging Accounts Payable

103  
104 Once the financial reports are received, the Mortgagee/Servicer will determine the  
105 Period Ending, Months in Period, Total Operating Revenues, Operating Expenses,  
106 FHA Insured Principal and Interest Payment, FHA Mortgage Insurance Premium  
107 (MIP), the Actual Number of Resident Days and other data fields that HUD may  
108 identify. The Mortgagee/Servicer will then load the information into the Section 232  
109 Portal Website using the prescribed upload format. The definitions and data format  
110 required for the submission can be found on the 232 Portal Website as a tab under the  
111 upload template link.  
112

- 113 3. Thereports must be submitted no later than sixty (60) days after the period covered by  
114 the reports, except for reports relating to the final quarter of each year, which shall be  
115 submitted no later than ninety (90) days after end of the fiscal year. Such reports are  
116 subject to the sanctions contained in 18 U.S.C. Sections 1001, 1010, 1012 and ~~1012~~.  
117 12 USC §1735f.-15.  
118

- 119 4. Based on indications of facility risk, ORCF may request Operators and/or Borrowers  
120 to submit monthly accounting reports using prescribed formats. These reports are  
121 submitted by the Operator and/or Borrower to both the Mortgagee/Servicer and  
122 ORCF.  
123

124 F.E. Ongoing Master Tenant Financial Requirements:

125  
126 As required in the Healthcare Regulatory Agreement-Master Tenant,  
127 Form HUD-92337-ORCF, Master Tenant shall submit, or cause to be submitted, to  
128 HUD and Mortgagee/Servicer, on a quarterly and year-to-date basis (or more  
129 frequently if specified by HUD), prepared and certified by an authorized  
130 representative or agent of Master Tenant, such financial reports relating to the Master  
131 Tenant. ~~Such reports~~ Reports must be submitted no later than sixty (60) days after the

132 period covered by the reports, except for reports relating to the final quarter of each  
133 year, which shall be submitted no later than ninety (90) days after end of the fiscal  
134 year. Such reports are subject to the sanctions contained in 18 U.S.C. Sections 1001,  
135 1010, and 1012. Additional information regarding the [procedure for submitting the](#)  
136 Master Tenant financial submission will be provided for on the Section 232 Program  
137 website.

138  
139 **G.F.** Midsize and Large Portfolio Post Closing Quarterly Financial and Operational Review  
140 and Analysis:

141  
142 For the entity that was the subject of a corporate credit review, HUD will require ongoing  
143 submission of the same financial and operational information. The data to be collected will  
144 be similar to [that required during for the initial review material, and made. The e procedure](#)  
145 [for submitting the data will be](#) available on the Section 232 Program website.

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147 **4.3 Financial Assessment System (FASS) Submissions**

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149 A. The Borrower must notify their Mortgagee/Servicer within two business days of receiving a  
150 Notification of Failure to File Financials by the required deadline in Financial Assessment  
151 System (FASS).

152  
153 This notification is sent automatically to the email the project registered in the system when a  
154 deadline for submission of annual financial information is missed. [The Borrower must](#)  
155 [submit the Operator's and/or Borrower's Notification to HUD of Threats to Permits and](#)  
156 [Approvals , Form HUD-93335-ORCF. Reference Handbook Section III, Chapter 3.10 for](#)  
157 [additional notification requirements.](#)

- 158  
159 B. Once notified, the Mortgagee/Servicer must work with the Borrower to ensure submission is  
160 forthcoming, and address any delays. [The Mortgagee/Servicer must submit Servicer's](#)  
161 [Notification to HUD of Risks to Healthcare Project , Form HUD-93334-ORCF consistent](#)  
162 [with the timeframes listed in the form.](#)

163  
164 The Mortgagee/Servicer must notify the AE if there are extenuating circumstances that are  
165 preventing the immediate submission, and provide the AE with the action plan to submit the  
166 required information expeditiously.

- 167  
168 C. Extended periods without filing FASS requirements by the deadline will warrant referral to  
169 the DEC, and additional actions may be taken by HUD to ensure compliance.

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171 **4.4 Financial Risk Metrics of Operator**

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173 A. Key Indicators

174  
175 The annual and quarterly review of the project operations by the Operator, coupled with the  
176 annual Borrower financial submissions, will allow both HUD and the Mortgagee/Servicer to  
177 maintain an ongoing understanding of performance. Key indicators of the Operator financial  
178 statements will be used to monitor performance and to measure against future routine  
179 reviews. Typically, the annual and quarterly reviews are all that are necessary for monitoring  
180 the financial operations of a project; however, HUD does reserve the right to require monthly  
181 financial reports (of the Operator, the Borrower, or both) to be submitted (to HUD, the  
182 Mortgagee/Servicer or both) if financial indicators suggest this level of monitoring is needed  
183 or if noncompliance with HUD business agreements (by the Borrower, Operator or  
184 Management Agent) is suspected.

185  
186 If the Borrower is the same legal entity as the Operator, then the Borrower itself will submit  
187 the Operator financial data. Detailed instructions for the submission of quarterly and annual  
188 Operator financials, using the Section 232 Healthcare Portal, may be found on the Section  
189 232 Program website.

190  
191 ~~B. Withdrawal of Project Funds (Distributions)~~

192  
193 B. Post-Closing Mezzanine Debt Financing-Reference Section II, Chapter 3.4. of this Handbook  
194 for additional information.

195  
196 C. Lease Payment Changes

197  
198 If a change in the lease payment is contemplated, a Lease Payment Analysis should be  
199 conducted to evaluate the change to determine if it enhances or improves the financial  
200 stability of the Project. Lease payments must be sufficient to (1) enable the Borrower to  
201 meet debt service and impound requirements; and (2) enable the Operator to properly  
202 maintain the Project and cover operating expenses. The minimum annual lease payment  
203 must be at least 1.05 times the sum of the annual principal, interest, mortgage insurance  
204 premium, reserve for replacement deposit, property insurance and property taxes. Reference  
205 Section II, Chapter 8.6 of this handbook for additional information.

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208 **4.5**

**Withdrawal of Funds from Borrower Entity or Operator Entity**

209 A. As set forth in federal regulation 24 CFR 232.254, and applicable only to transactions for  
210 which a firm commitment has been issued on or after July 12, 2013, with mortgage insurance  
211 transactional documents consistent with the regulation (see ~~in~~the particular the ORCF  
212 *Healthcare Regulatory Agreement—Operator, Borrower* and specifically Sections 15 and  
213 16 thereof), a Borrower may make and take distributions of mortgaged property, to the extent  
214 and as permitted by the law of the applicable jurisdiction, provided that:

216 1. The Borrower is in compliance physically, financially and with all legal documents  
217 signed by HUD and other program obligations, in order for the Borrower to take any  
218 distributions or surplus cash.

219  
220 4.2. The calculation shall be made no less frequently than semi-annually.

221  
222 2.3. The Borrower must demonstrate positive surplus cash. To the extent that surplus cash  
223 is negative, the Borrower must repay any distributions taken during such calculation  
224 period within 30 calendar days, unless a longer time period is approved by HUD.

225  
226 3.4. The Borrower shall be deemed to have taken distributions to the extent that surplus  
227 cash is negative, unless in conjunction with the calculations of surplus cash, the  
228 Borrower provides to HUD documentation evidencing, to HUD's reasonable  
229 satisfaction, a lesser amount of total distributions was taken.

230  
231 Note, however, that the distributions of an Operator in transactions for which a firm  
232 commitment was issued on or after July 12, 2013, are governed separately by 24 CFR  
233 232.1013, and if a Borrower and Operator are the same legal entity then that entity's  
234 distributions are constrained by both the Borrower restrictions and the Operator restrictions.

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236  
237 C. Mortgagee/Servicer's Analysis of Its Overall Portfolio

238 Certain non-profit Borrowers may be allowed distributions depending on the form of  
239 Regulatory Agreement issued. Please reference the specific Regulatory Agreement in force  
240 for the particular Project in order to assure these provisions apply. Appendix 4.2, "Borrower  
241 Distributions Chart-Guidance on the Regulatory Agreements Regarding Distributions and  
242 Residual Receipts" is provided for reference.

243  
244 B. Borrower Advances and Contributions

245  
246 If the Borrower has advanced funds to the Project for operational or other expenses, and  
247 expects repayment of that advance with or without interest, advance notification of ORCF is  
248 required, regardless of the issuance of a corresponding Surplus Cash Note. Reference  
249 Section III, Chapter 3.4.5 of this handbook for further guidance. Only surplus cash can be  
250 used to repay recognized Borrower Advances.

251  
252 If a Borrower contributes funds to the Project for operational or other expenses, or for any  
253 other reason with no recourse, no advance ORCF notification is required. Advances and  
254 Contributions should be recorded in the financial records.

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257 **4.6**

**Mortgagee/Servicer's Analysis of Its Overall Portfolio**

258 To have a full and accurate picture of the financial condition of its portfolio,  
259 Mortgagee/Servicers must assess the probability that existing loans might not be repaid.

260 Mortgagee/Servicers will need to estimate the losses that could be incurred and to establish  
261 procedures for assessing the risk inherent in each loan in their portfolios. An annual meeting  
262 between a Mortgagee/Servicer and their assigned AE(s) should be conducted to align risk  
263 mitigation efforts. The Mortgagee/Servicer shall contact the AE when the project is  
264 experiencing operational challenges which may warrant discussions amongst the parties.

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