

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4679-N-08]

HUD-2004-0005; Changes in Certain Multifamily Mortgage Insurance Premiums

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with HUD regulations, this Notice changes the mortgage insurance premiums (MIP) for the Section 221(d)(4) and the Section 232 Federal Housing Administration (FHA) mortgage insurance programs whose commitments will be issued in Fiscal Year (FY) 2005.

DATES: Comment Due Date: September 22, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Interested persons may also submit comments electronically through either:

- The Federal eRulemaking Portal at: <http://www.regulations.gov>; or
- The HUD electronic Web site at: <http://www.epa.gov/feddocket>. Follow the link entitled "View Open HUD Dockets." Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available, without revision, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Copies are also available for inspection and downloading at <http://www.epa.gov/feddocket>.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, (202) 708-1142 (this is not a toll-free number). Hearing- or speech-impaired individuals may access these numbers through TTY by calling the Federal Information Relay Service at (800) 877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

On March 17, 2003 (68 FR 12792), HUD published a final rule on

"Mortgage Insurance Premiums in Multifamily Housing Programs," which adopted, without change, the interim rule published on July 2, 2001 (66 FR 35072). The final and interim rule revised the regulatory system for establishing the MIP. Instead of setting the MIP at a specific rate, the Secretary is permitted to change an MIP within the full range of HUD's statutory authority of one fourth of one percent to one percent through a notice, as provided in section 203(c)(1) of the National Housing Act (the Act) (12 U.S.C. 1709(c)(1)). The final rule states that HUD will provide a 30-day period for public comment on future notices changing MIPs in multifamily insured housing programs. These regulations are codified at 24 CFR 207.252, 207.252a, and 207.254.

This Notice announces a change in the MIP for programs authorized under Sections 221(d)(4), 232, and 241(a) of the National Housing Act for FY 2005 (12 U.S.C. 1715l(d)(4), 1715w, and 1715z-6 respectively). The mortgage insurance premium for the Section 221(d)(4) new construction and substantial rehabilitation multifamily apartment program without low-income housing tax credits has been lowered from 50 basis points to 45 basis points. The mortgage insurance premium for the 232 new construction and substantial rehabilitation of health care facilities and 241(a) supplemental loans for Section 232 projects has been increased from 50 basis points to 57 basis points. The effective date of these changes is October 1, 2004.

Certain project mortgages with low-income housing tax credits (LIHTC) require a 50 basis point MIP. Thus, an application under Section 221(d)(4), which requires 45 basis points without LIHTC, requires 50 basis points with LIHTC. In the rare occasion when the new construction of an assisted living facility has LIHTC, the MIP is 50 basis points instead of 57 basis points. Under the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235 (Approved December 15, 1989) and HUD's implementing instructions, a sponsor is required to submit a certification regarding governmental assistance including low-income housing tax credits with all mortgage insurance applications.

Whether or not LIHTC are involved, the multifamily programs under the following Sections of the Act will remain at 80 basis points and will continue to require a credit subsidy obligation: Section 221(d)(3) for nonprofit and cooperatives for new construction or rehabilitation, Section 223(d) for operating loss loans for both

apartments and health care facilities, and Section 241(a) supplemental loans for additions or improvements to existing apartments. The MIP for Sections 207, 213, 220, 223(a)(7), 207 pursuant to 223(f), 231, 232 pursuant to 223(f), 234(d), 242 and Title XI remain unchanged at 50 basis points.

The mortgage insurance premium for risk-sharing applications under Sections 542(b) and 542(c) of the Housing and Community Development Act of 1992 remains at 50 basis points. The premium is shared by the Participating Entity or by the Housing Finance Agency in proportion to the risk assumed by the Entity or Agency. Premiums and risk under Section 542(b) are shared equally. The premiums for 542(c) are contained in 24 CFR 266.604.

The mortgage insurance premiums to be in effect for FHA firm commitments issued, amended, or reissued in FY 2005 are shown in the table below:

FISCAL YEAR 2005 MULTIFAMILY LOAN PROGRAM

	Basis points
Section 207—Multifamily Housing—New Constr/Sub. Rehab	50
Section 207—Manufactured Home Parks	50
Section 220—Housing In Urban Renewal Areas	50
Section 221(d)(3)—Moderate Income Housing	80
Section 221(d)(4)—Moderate Income Housing	45
Section 221(d)(4)—Low-Income Housing Tax Credits	50
Section 223(a)(7)—Refinancing of Insured Multifamily Project	50
Section 223(d)—Operating Loss Loans	80
Section 207 pursuant to 223(f)—Purchase or Refinance Housing	*50
Section 213—Cooperatives	50
Section 231—Housing for the Elderly	50
Section 232—Health Care Facilities	57
Section 232—Low-Income Housing Tax Credits	50
Section 232 pursuant to Section 223(f)—Purchase or Refinance Health Care Facility	*50
Section 234(d)—Condominium Housing	50
Section 241(a)—Additions & Improvements for Apartments	80
Section 241(a)—Additions & Improvements for Health Care Facilities	57
Section 242—Hospitals	50
Title XI—Group Practice	50

*First Year MIP for these programs remain at 100 basis points.

Applicable Mortgage Insurance Premium Procedures

The MIP regulations are found in 24 CFR part 207. This Notice is published in accordance with the procedures stated in 24 CFR 207.252, 207.252(a), and 207.254.

Transition Guidelines

A. General

If a firm commitment has been issued at a higher MIP for a Section 221(d)(4) loan, and FHA has not initially endorsed the note, the lender may request the field office to reprocess the commitment at the lower MIP and reissue the commitment on or after October 1, 2004. If the initial endorsement has occurred, the MIP cannot be changed.

B. Extension of Outstanding 50 Basis Points Firm Commitments

FHA may extend outstanding firm commitments when the Hub/Program Center determines that the underwriting conclusions (rents, expenses, construction costs, mortgage amount and case required to close) are still valid in accordance with Mortgagee Letter 03-21, "FHA Policies for Controlling Multifamily Firm Commitments and Credit Subsidy," dated December 3, 2003.

C. Reprocessing of Outstanding 50 Basis Points Firm Commitments

- FHA will consider requests from mortgagees to reprocess outstanding firm commitments at the lower mortgage insurance premium for Section

221(d)(4) once the new premiums become effective on October 1, 2004:

1. Outstanding commitments with initial 60-day expiration dates on or after the effective date of this MIP notice.

- FHA Multifamily Hub/Program Center staff will simply reprocess these cases to reflect the impact of the lower MIP and reissue commitments with a new date.

2. Outstanding commitments with initial expiration dates prior to the effective date of this MIP notice which have pending extension requests or have had extensions granted by FHA beyond the initial 60-day period of the commitment.

- These cases will require more extensive reprocessing by FHA staff. Reprocessing will include an updated FHA field staff analysis and review of rents, expenses, construction costs, particularly considering any changes in Davis-Bacon wage rates, and cash required to close. (An updated appraisal and other exhibits may be required from the mortgagee depending on the age of the appraisal and the age of the commitment. (See Mortgagee Letter 03-21) If reprocessing results in favorable underwriting conclusions, Hub/Program Center staff will reissue commitments with a new date at the new MIP.

D. Reopening of Expired 50 Basis Points Firm Commitments Under Section 221(d)(4)

FHA will consider mortgagee's requests, which may be either updated Traditional Application Processing

(TAP) firm commitment applications or updated Multifamily Accelerated Processing (MAP) applications with updated exhibits, to reopen expired 50 basis points commitments on or after October 1, 2004; provided that the reopening requests are received within 90 days of the expiration of the commitments and include the \$.50 per thousand of requested mortgage reopening fee. Reopening requests will be reprocessed by FHA field staff under the instructions in paragraph C.2 above and Mortgagee Letter 03-21.

After expiration of the 90-day reopening period, mortgagees are required to submit new applications with the \$3 per thousand application fee (MAP applications must start at the pre-application stage).

Credit Subsidy

In FY 2005, the same three programs will require credit subsidy as in FY 2004: Section 221(d)(3) for nonprofit and cooperatives for new construction or substantial rehabilitation, Section 223(d) for operating loss loans for both apartments and health care facilities, and Section 241(a) for supplemental (additions or improvements for apartments) loans for additions or improvements to existing apartments only.

Dated: August 13, 2004.

Sean Cassidy,

General Deputy Assistant Secretary for Housing.

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