

RELIEF FOR HUD SECTION 108 BORROWERS IMPACTED BY CORONAVIRUS

Many communities used Section 108 funds to make loans to businesses undertaking economic development projects. Some of these businesses are experiencing reductions in revenue due to the economic impact of coronavirus and are now requesting relief, e.g., forbearance on their payment obligations under their loans. Since repayments of the business loans are the intended source for repayment of the Section 108 loans, the ability of a community to grant relief to a business borrower may depend on the relief HUD can provide the community on the Section 108 loan. The following questions and answers describe actions that can be taken by HUD and communities to assist business borrowers experiencing economic distress as a result of coronavirus.

Principal Payment Relief

Q1. Can HUD provide relief from payment obligations under Section 108 guaranteed loans?

A1. Yes, HUD will work with a borrower to restructure principal repayment terms by deferring the next scheduled principal payment on a promissory note that HUD has guaranteed under Section 108. (The next scheduled principal payment on all Section 108 notes is August 1, 2020.) This deferral can be passed through to the business borrower. However, since HUD is not the lender under the Section 108 program, it cannot forgive loans or defer interest payments.

Section 108 borrowers with **interim financing** (i.e., borrowers have issued promissory notes which have not converted to permanent, fixed-rate financing through inclusion in a HUD public offering) can request to amend their notes to defer principal repayments due August 1, 2020. Borrowers interested in deferring the August 1, 2020 payment should contact Stephen Slade at Stephen.D.Slade@hud.gov for assistance.

Section 108 borrowers with **permanent financing** (i.e., borrowers that have issued promissory notes which were included in a HUD public offering) may also receive August 1, 2020 principal payment relief. However, the steps necessary to accomplish the deferral are somewhat more complicated than for interim financing. Borrowers interested in deferring the August 1, 2020 payment on a permanent loan should contact Scott Laliberte at Scott.K.Laliberte@hud.gov for assistance.

Payments with CDBG Funds

Q2. Can communities assist business borrowers by making payments on their Section 108 loans with CDBG funds?

A2. Yes, Section 108 borrowers may use CDBG funds (i.e., grant funds or program income) to pay debt service that would have otherwise been paid from business loan repayments. The use of grant funds for Section 108 debt service, at the discretion of the grantee, can operate either as forbearance or forgiveness of a portion of the business loan (up to the amount of principal due on August 1, 2020). **NOTE:** the grantee cannot forgive a business loan in full without HUD's consent if that business loan has been pledged as security for the Section 108 loan.

If business borrowers resume repayment, HUD may allow communities to use those repayments (which are otherwise required to be escrowed for future payments on Section 108 loans) as

CDBG program income for use to carry out CDBG activities if HUD determines the Section 108 loan is adequately secured. If you have questions regarding the treatment of the program income from repayments on business loans, please contact Scott Laliberte at Scott.K.Laliberte@hud.gov for assistance.

Citizen Participation Requirements

Q3. Will unplanned payment on a Section 108 loan with CDBG funds to assist business borrowers trigger citizen participation requirements?

A3. The unplanned payment by communities of Section 108 debt service with CDBG funds by itself would not require any additional citizen participation since the activity for which the Section 108 funds were used has already been the subject of citizen participation. However, if the unplanned use requires existing activities to be cancelled or modified, the changes may constitute a substantial amendment that would trigger the citizen participation requirements for such amendments.