

Prospective Buyer FAQs

FORECLOSURE SALES GENERALLY

1. What is a Multifamily Property?

Multifamily properties consist primarily of rental housing properties with five or more dwelling units such as apartments or town houses, but can also be nursing homes, hospitals, elderly housing, mobile home parks, retirement service centers, and occasionally vacant land.

2. Why does HUD have Multifamily property for sale?

HUD's Federal Housing Administration (FHA) has programs which insure mortgages or provide direct loans on multifamily properties. When a mortgagor defaults on a loan insured by FHA, the mortgagee can assign the mortgage to HUD and receive the benefits of the FHA mortgage insurance. The mortgage then becomes a HUD-held mortgage and if the mortgage cannot be reinstated, HUD Multifamily Property Disposition forecloses on the property.

3. What is a HUD Multifamily Foreclosure Sale?

Under the Multifamily Mortgage Foreclosure Act of 1981 (MMFA) (12 USC 3701 et seq.), HUD has the authority to conduct nonjudicial foreclosure sales of properties subject to certain defaulted mortgages, irrespective of state foreclosure laws. Through these nonjudicial sales under the MMFA ("Foreclosure Sales"), HUD transfers properties from the defaulting owner to a new purchaser. HUD's interests in these properties generally arises in one of two ways: (1) when HUD acted as a direct lender to the owner (i.e., Section 202 Direct Loan Program or Capital Advance Program), or (2) when HUD acted as an insurer through the Federal Housing Administration (FHA) to a lender of a loan and the lender assigns the loan to HUD. HUD may also use the Foreclosure Sales rules (or a variation thereof) for properties that are HUD-owned.

4. Does HUD always use the MMFA?

Not for Judicial foreclosures, note sales, certain programs, or single-family foreclosures.

5. What types of properties does Property Disposition sell using the MMFA?

PD sells many types of properties using the MMFA. HUD's interest generally arises in one of two ways: (1) HUD acted as a direct lender (i.e., Section 202 Direct Loan Program or Capital Advance Program) or (2) the lender of an FHA-insured loan assigned a loan to HUD. HUD is a direct lender of projects for which Congress has authorized direct funding, for example, the Section 202 Direct Loan Program and the Capital Advance Program. When built, these HUD-financed projects relied upon money directly from HUD to offer multifamily dwellings for seniors and group home-

style houses. FHA-insured mortgages provide financing for market-rate and affordable multifamily apartment buildings and cooperatives, healthcare facilities, and hospitals. Multifamily properties come in various sizes and may be located in any jurisdiction of the United States, including its territories. HUD also sells 1-to-4 units residential properties through the Single-Family Real Estate Owned Division. See <https://www.hudhomestore.com/Home/Index.aspx>

6. Where can I find a listing of HUD properties for sale?

The latest inventory of properties currently available for sale can be found on HUD's property disposition website https://www.hud.gov/program_offices/housing/mfh/pd. This listing is continuously updated as properties are prepared for Foreclosure Sales. Listings are intended to provide interested parties with preliminary information only. HUD's listing of a property is not a solicitation of offers and does not constitute an offer to sell. Information therein is provided for the purpose of inviting further inquiry and is obtained from sources believed to be reliable. A hard copy of the listings can be printed from the property disposition website. HUD notifies interested parties when it offers a new property for auction via email blasts. To subscribe to receive these email blasts, [click here: https://www.hud.gov/subscribe/signup?listname=Multifamily%20Property%20Disposition&list=MFPD-L](https://www.hud.gov/subscribe/signup?listname=Multifamily%20Property%20Disposition&list=MFPD-L)

7. Where can I find more details on properties for sale?

HUD will provide as much information as it can to interested parties through the website listing. Often, HUD has very limited information to provide. The online listing for each individual property to be sold by HUD will include the name, phone number, and e-mail address of the HUD Realty Specialist assigned to assist in the foreclosure. The assigned Realty Specialist cannot answer questions related to the property other than what is in the bid kit but may be able to clarify the language or the requirements in the bid kit. HUD will not facilitate communication between the current owner of the property and an interested bidder.

8. How does HUD market and sell real estate?

HUD primarily markets properties through the property disposition website but may advertise properties in local or national publications. At the very least and in accordance with the Multifamily Mortgage Foreclosure Act, HUD will cause notice of each Foreclosure Sale in a local newspaper covering the jurisdiction of the property for sale. Properties are not sold through listings with local real estate agents and/or brokers. All properties are sold on an "as is" basis. HUD makes no guarantee, warranty, or representation, express or implied, as to the location, quality, kind, character, size, description, or fitness for any use or purpose, now or hereafter regarding any of the properties listed.

9. Does HUD have a minimum purchase price? How are list prices established?

HUD typically does not have a minimum purchase price. The Bidding Instructions will disclose if HUD has set a minimum purchase price.

10. Does HUD provide seller financing to purchase properties at sale?

No. HUD generally does not provide seller financing for properties sold via Foreclosure Sales. However, purchasers are not prohibited from later applying for FHA-insured financing with the

11. What are some general terms and conditions for these sales?

Properties are sold competitively, all cash, no financing or mortgage insurance provided. All sales require an earnest money deposit. Some properties are sold with repair or demolition requirements within a set period of time.

12. Do I have to be present for the sale?

Yes. A bidder who intends to place an oral bid must be present at the sale. A Proxy may be present in place of a bidder.

No. If a bidder intends to only submit a bid in writing, there is no requirement to attend the auction.

13. What's the difference between a property that is subsidized and a property that is unsubsidized property?

Subsidized.

A property that is subsidized has a form of Project Based Section 8 subsidy attached to the property to assist low-income residents who reside at the property. The subsidy may cover 100% of the units at a property, or a portion of the units at a property. A subsidized property with such a contract will require additional servicing and reporting requirements to HUD, on a regular basis for the life of the contract. The Approved High Bidder will need to show the appropriate capacity, staffing and experience, before being approved to close on a subsidized property.

Unsubsidized.

If a property has no subsidy, then the property will have no rent restrictions, no affordability aspect, nor additional servicing or reporting requirements set forth by HUD for the owner must follow. This mean 100% of the units may be leased at market rate rents without restriction or set aside.

14. What does it mean if the property for sale has a Use Agreement?

If a property has a Use Agreement attached to the bid kit, the Agreement will specify use restrictions and/or conditions that the owner must adhere to for the life of the Use

Agreement. Common restrictions or conditions typically include (1) maintaining the property as an affordable property for low-income residents, (2) be maintained for the elderly or disabled population, (3) certain repairs be made, or (4) certain physical condition standards must be maintained. If the restrictions or conditions are not adhered to, the owner could risk losing the property to HUD. If a Use Agreement is applicable to the property you are interested in purchasing, the terms and conditions will be disclosed in the Bid Kit posted on the web site. Any Use Agreement restriction or condition is non-negotiable. **Please note:** Similar restrictions can be inserted into the Deed in lieu of a Use Agreement.

15. What is a Special Warranty Deed?

In certain circumstances HUD will use a Special Warranty Deed (SWD) instead of a Foreclosure Sale Use Agreement. An SWD (or state's equivalent) is typically used when the property is sold non-competitively to a Unit of Local Government or a Nonprofit organization for a nominal amount. The Secretary will typically be in the chain of title, increasing HUD's exposure to liability.

16. Are there additional responsibilities with a property subject to a Subsidy contract?

Additional requirements will include, but not limited to, maintaining physical conditions pursuant to 24 CFR Part 5, annual financial reporting, certifying residents for subsidy eligibility, obtaining a DUNS number, credentials for secure systems including EIV, access to the appropriate IT requirements and software for subsidy vouchering, following the HUD requirements for owner's and management agent's found in HUD's Multifamily Housing Handbooks.

17. What criteria does HUD consider when determining eligibility of potential buyers?

Our website contains a checklist titled Bidder Criteria that covers criteria HUD will review for all proposed principals involved in the ownership and management of the property. HUD's review includes areas such as financial capacity, experience, and history with similar properties in the industry. For more information regarding HUD requirements, please review these FAQ's, the Bidder Criteria checklist, and read through the Bid Kit.

18. I'm interested in bidding on a property in your listing of multifamily properties for sale - now what?

Obtain the free information and Bid Kit for each property for sale from https://www.hud.gov/program_offices/housing/mfh/pd. The Bid Kit posted under a property for sale will give an interested bidder all the information needed to guide them through the process. If you have any questions after reading the information that you receive, contact the Realty Specialist assigned, whose name and contact information will be located in the Bid Kit.

19. Could HUD cancel a scheduled sale?

Yes. HUD reserves the unconditional right to cancel a sale and reject any, and all, Bids at any time prior to the Closing. HUD is not liable for expenses incurred by the bidder and related parties.

BEFORE THE FORECLOSURE SALE

1. Will the property be available for viewing before the Foreclosure Sale?

HUD decides on whether to show a property before Foreclosure Sale on a case by case basis. When HUD elects to have a viewing for interested parties prior to a sale, the viewing will usually take place in the weeks prior to the Foreclosure Sale. HUD will notify interested parties of the date and time of any open house in the Property Summary located in the Bid Kit.

2. Will HUD provide the latest financial information for any property?

The Property Summary provides the information that HUD has on the Property. It is provided to all interested bidders. HUD will not provide additional financial information unless it can be provided to all bidders.

3. Where can I find more details on a sale?

The information that HUD provides is available to all interested parties through the [Property Disposition website](#). Any additional information must be obtained by a prospective bidder's independent research and due diligence. The assigned Realty Specialist cannot provide additional information that is not provided to all interested parties.

4. How will I know if the Property is subject to specific Use Restrictions or is subject to other conditions?

If there is a Use Agreement and/or Deed restrictions, the Bid Kit will contain the restrictions HUD is placing on the property as a condition of sale for a Property. HUD sets the terms for the Use Restrictions and once set for a Foreclosure Sale, are not negotiable. If there are no Use Restrictions, the Bid Kit will clearly indicate that the purchaser is to determine future use of the Property. Please read the Bid Kit carefully because, although there may be no use restrictions, there may be conditions to operate the property, such as adhering the physical condition standards.

5. Which forms of payment are accepted at a Foreclosure Sale?

Certified funds or cashier's check are the only forms of payment acceptable at the foreclosure sale. At the time of closing and after, in certain circumstances HUD may be able to accept wire transfers depending on the amount. Wire transfer will on a case-

by-case basis and is not a guaranteed method of payment. If you have questions regarding this, please contact the assigned Realty Specialist.

6. What can I do to prepare for the Foreclosure Sale?

1. *Bidder Criteria Checklist:* Use the checklist located on the Property Disposition homepage.
2. *Bid Kit:* Download or print the posted Bid Kit and read the entire kit carefully before contacting HUD. Ensure you understand the conditions and requirements prior to participating in a sale. The Bid Kit lists steps you can take to reduce the application processing times. Such as:
 - **Previous Participation Certification (2530) Requirement:** A High Bidder will need to register in our [Business Partners Registration System](#) in order to fulfil the Previous Participation Certification (2530) submission requirement. Once the registration application has been approved and a User ID is issued, the High Bidder will then go ahead and submit a Previous Participation Certification (2530) electronically through our [Active Partners Performance System \(APPS\)](#). This entire process can take approximately four (4) weeks from beginning to end. If the High Bidder has not previously registered in Business Partners System and would like to expedite the process leading up to a Closing date, we recommend registering ahead of time. Although the High Bidder may submit a [paper version of the 2530](#) for the purpose of meeting the five (5) day submission period for documents after the sale date, the High Bidder will still need to be registered in Business Partners by the closing date. If the applicant has questions or needs technical assistance, please visit the [HUD APPS home page](#) where you will find more information and the contact information for the Multifamily Housing Systems Help Desk or visit the [Help Desk page](#) directly.
 - **High Bidder Application:** Prepare documents listed in the Bid Kit, required to be submitted with the High Bidder's application within five (5) days of the Foreclosure Sale, date ahead of time.
3. *Due Diligence:* Interested parties should carefully review the information in the Bid Kit and any additional information HUD makes available prior to the Foreclosure Sale. Keep an eye on your email (if you are subscribed to Property Disposition notifications) or the website for any updates to the listing. As a general policy, HUD will not release the most current financial information for the Property, other than what is described in the Bid Kit. Bidders should undertake their own investigation to evaluate the Property, independently assessing the benefits and risks associated with its purchase. Bidders should be confident in their Bid amount and be prepared to follow through in purchasing the Property. HUD will not negotiate to reduce any Bid amount after the Foreclosure Sale.
4. *Ask Questions:* If you have questions after reading the entire Bid Kit, please contact the Realty Specialist assigned to the sale whose name and contact information will be in the Bid Kit cover page and Property Summary. The Realty Specialist cannot provide additional information other than what is in the Bid Kit.

DURING THE FORECLOSURE AUCTION

1. How are HUD's Multifamily Foreclosure Auctions conducted?

HUD engages a Foreclosure Commissioner to conduct each Foreclosure Sale. The Foreclosure Sale is generally held at the county courthouse where the property for sale is located. Foreclosure Sales are live auctions where HUD sells the property to the qualified bidder submitting the highest dollar bid. Locations and times of each Foreclosure Sale are clearly stated on the bidding instructions.

2. How do I submit a bid?

Most bids are submitted orally in person at the Foreclosure Sale. Written bids are accepted but must be submitted to the Foreclosure Commissioner, along with the Earnest Money Deposit, up until two (2) days before the Foreclosure Sale. At the Foreclosure Sale, the Foreclosure Commissioner will read the highest properly submitted written bid to start the bidding. To increase a written bid amount, a representative from the bidder submitting the written bid must be present. No telephonic or electronic bids or bid increases are allowed.

3. Am I required to have an Earnest Money Deposit?

A bidder is only eligible to bid if it has submitted the required Earnest Money Deposit. Earnest Money Deposits must be in the form of a cashier's check and in the amount listed in the Property-at-a-Glance. Bidders who are unsuccessful will have their Earnest Money Deposits returned to them at the conclusion of the Foreclosure Sale.

4. Are the current owners of the property eligible to bid at the Foreclosure Sale?

No. Under 24 CFR 27.20(f), any principals, successors, affiliates, or assignees of the defaulting mortgagor are ineligible to bid.

5. Is the current lender of the defaulting mortgage eligible to bid in the Foreclosure Sale?

Pursuant to 24 CFR §27.20, the FHA-lender or any Principal, successor, affiliate, or assignee thereof on the multifamily mortgage being foreclosed is not eligible to Bid or otherwise acquire the Property.

6. How does HUD evaluate my offer at the foreclosure auction?

At a Foreclosure Sale, HUD awards the right to purchase the property to the highest bidder that meets all the requirements of the sale. Additionally, HUD considers various criteria when evaluating offers from bidders, which include, but are not limited to: appraised value; purchase offer amount; receipt of earnest money deposit; sales proceeds; and the submission by the prospective purchaser of all complete, fully executed documents required by HUD. HUD reserves the right to accept or reject any offer and/or to cancel the sale at any time during the Foreclosure Sale process.

AFTER THE FORECLOSURE SALE

1. If I'm the high bidder, is my bid automatically approved?

No. HUD does not fully accept the High Bid until the High Bidder has submitted all post-Foreclosure Sale documents listed in the bid kit. HUD reviews the post-Foreclosure Sale documents, and HUD, in its sole discretion, determines the eligibility of the High Bidder. Upon HUD's determination that the High Bidder is qualified, the High Bidder will be confirmed as the Approved High Bidder. HUD will notify the High Bidder of its determination in writing. A High Bid may be rejected due to the High Bidder's ineligibility, lack of qualifications, or failure to comply with the Invitation. After the review is complete, HUD will promptly notify the High Bidder of this determination in writing and generally within thirty (30) days after the Foreclosure Sale.

2. Do foreclosed owners have a Right of Redemption? Can the defaulting owner take steps to redeem the property after the Foreclosure Sale?

When a property is conveyed after at closing, the defaulting owner does not have a statutory right to redeem the property by satisfying the loan. Regardless of State law, once title to the property transfers to the Approved High Bidder, a previous owner cannot exercise any right of redemption.

3. I was the high bidder but not approved to move forward, what happens to my Earnest Money Deposit:

- If HUD fully accepts the High Bid, the Approved High Bidder's Earnest Money Deposit will be credited toward the Purchase Price.
- If HUD rejects the High Bid because the amount does not meet minimum amount (the minimum dollar amount found in the Bid Kit), HUD will refund Earnest Money Deposit.
- If HUD determines the High Bidder is not qualified to purchase the Property and the High Bidder has complied with the requirements of this Invitation, HUD will refund the Earnest Money Deposit.
- If HUD finds that the High Bidder made misrepresentations or material omissions in its submission, or failed to comply with the Invitation, other than meeting the minimum bid amount, HUD will keep the Earnest Money Deposit.

4. Will HUD only accept an all-cash offer?

Yes, this is non-negotiable. At Closing, the Approved High Bidder will pay all Cash Due. HUD will not proceed with the Closing without acceptable receipt of all Cash Due. Cash Due shall be paid only in the form of certified funds or cashier's check made payable to: **THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**

5. What happens between the Foreclosure Sale and Closing? How long does it take?

Shortly after the Foreclosure Sale, HUD will work with the High Bidder to ensure that all approvals are completed to do business with HUD. Approval is primarily accomplished through HUD's Previous Participation Requirements. HUD must approve the High Bidder and intended property manager (if applicable) before the sale can close. Once HUD approves the High Bidder, HUD will set a Closing date that allows HUD and the now Approved High Bidder to prepare for Closing. HUD typically sets the Closing date for within thirty (30) days after approving the High Bidder (and, if applicable, property manager). The process for requesting an extension by the purchaser are addressed in the Bid Kit and under Question #10 below, in this section.

6. When will the purchaser take possession of the property?

Immediately upon Closing. Closing typically occurs within 30-45 days after the Foreclosure Sale, unless unforeseen delays occur, or the purchaser requests an extension.

7. I've been approved as the High Bidder. Can I tour the property now?

No. If a tour of the property is scheduled, there will only be one opportunity scheduled before the foreclosure sale for all interested parties. Any tour scheduled will be posted on our website, usually as an update to the original posting. Check the web site often and make sure you are subscribed to our email distribution list to receive all sale updates/notifications.

8. I bid on the property in the name of one entity but would like to purchase the property through a different entity. Can I make the switch?

Yes, with HUD's consent. HUD will require an Assignment of the Bidder Acknowledgment that was signed at the Foreclosure Sale. If such a change comes after the required post-sale documentation has been submitted, the new entity will need to update the documentation and receive Previous Participation Certification (2530) approval prior to moving forward. This will delay the closing if a review has to be repeated. If you are aware of such a change, contact the Realty Specialist at your earliest convenience.

9. I wasn't the High Bidder. What's next?

The Foreclosure Commissioner will return all earnest money deposits at the Foreclosure Sale. In the event a High Bidder does not qualify to purchase a Property, HUD retains the information for the Second High Bidder. HUD may contact the Second High Bidder to gauge its interest in purchasing the Property.

10. I need more time to get my financing together. Will HUD delay the Closing?

The Approved High Bidder generally has the option to request an extension and pay the appropriate fee to extend the Closing for thirty (30) days. The process for requesting a thirty (30) day extension is listed in the bid kit. If the Approved High Bidder does not need all the extension time to close, the extension fee amount will be prorated, with the fee amount associated with the unused portion of the extension period credited toward the cash due at Closing. If the Approved High Bidder is unable to close by the end of the thirty (30) day extension, HUD reserves the right to deny an additional extension request. If the transaction does not close by the end of the extension period, the contract terminates, and HUD retains the earnest money deposit and extension fee. Please contact the assigned Realty Specialist for the current fee schedule.

11. I want to finance the property. Can HUD delay the Closing until a loan gets approval?

No. For the purchase of a property at Foreclosure Sale, HUD will not delay the closing to allow the High Bidder to obtain approval for a loan (FHA-backed or conventional). However, this does not preclude a purchaser from seeking an FHA-backed or conventional loan after the closing.

12. I want to apply for subsidy for the property, can a subsidy contract be obtained through HUD?

No. HUD does not issue new Project Based Section 8 Housing Assistance subsidy contracts to existing properties that have been foreclosed upon at this time.

13. Will HUD provide seller financing?

No. HUD does not provide seller financing associated with a foreclosure sale. All cash is required for a Foreclosure Sale. However, a purchaser may be eligible to apply for an FHA-backed or conventional loan through a qualified lender after they have closed on a foreclosure sale.

14. What will happen if HUD cancels the sale after the auction?

HUD reserves the unconditional right to cancel a sale and reject any, and all, Bids at any time prior to Closing. Although the cancellation of a sale is rare, an occurrence may arise when such a cancellation is necessary due to unforeseen circumstances. HUD is not liable for any expenses incurred by any bidder or related party due to the cancellation of a sale.

15. What expenses are prorated?

Property Related: The Approved High Bidder is responsible for paying all taxes, assessments, liens, and utility bills including, but not limited to, water, sewer, gas, electric, and any other encumbrances not extinguished by the Foreclosure Sale. These amounts will not be prorated from the High Bid amount. Any rent received by HUD by tenants currently living in the Property will neither be prorated nor credited toward the High Bid.

Extension Fees: If Extension Fees were paid and the Closing occurs prior to the expiration of an Extension Period, the prorated amount of the Extension Fees for the unused portion of the Extension Period will be credited toward the Cash Due at Closing. This is the only amount HUD will prorate.

16. Am I required to maintain the physical condition of a property per HUD' standards?
What are HUD's physical standards for a property?

That depends. The Bid Kit will explicitly state whether the Owner is required to maintain the physical conditions of the property pursuant to HUD's standard, found under 24 CFR Part 5, or simply adhere to State and Local code, regulations and ordinances. Any property required to maintain the property pursuant to HUD's 24 CFR Part 5 will be subject to annual inspections discussed in detail on the [REAC website](#).