

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4639-N-06]

Notice of HUD-Held Multifamily and Healthcare Loan Sale (MHLS 2004-2)

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

ACTION: Notice of sale of mortgage loans

SUMMARY: This notice announces HUD's intention to sell certain unsubsidized multifamily and healthcare mortgage loans, without Federal Housing Administration (FHA) insurance, in a competitive, sealed bid sale (MHLS 2004-2). This notice also describes generally the bidding process for the sale and certain persons who are ineligible to bid.

DATES: The Bidder Information Package (BIP) will be available to qualified bidders on or about August 23, 2004. Bids for the loans must be submitted on the bid date, which is currently scheduled for September 15, 2004. HUD anticipates that awards will be made on or before September 17, 2004. Closings are expected to take place on September 22, 2004.

ADDRESSES: To become a qualified bidder and receive the BIP, prospective bidders must complete, execute and submit a Confidentiality Agreement and a Qualification Statement acceptable to HUD. Both documents will be available on the HUD website at www.hud.gov/offices/hsg/comp/asset/mfam/mhls.cfm. The executed documents must be mailed and faxed to KEMA Advisors, Inc., HUD's transaction specialist for the sale, at 1400 K Street, N.W., Suite 950, Attention: MHLS 2004-2 Sale Coordinator, Fax: (202) 464-3047.

FOR FURTHER INFORMATION CONTACT: Myrna Gordon, Deputy Director, Asset Sales Office, Room 3136, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-2625, extension 3369 or Gregory Bolton,

Senior Attorney, Office of Insured Housing, Multifamily Division, Room 9230; telephone (202) 708-0614, extension 5245. Hearing or speech-impaired individuals may call (202) 708-4594 (TTY). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: HUD announces its intention to sell in MHLS 2004-2 certain unsubsidized mortgage loans (Mortgage Loans) secured by multifamily and healthcare properties located throughout the United States. The Mortgage Loans are comprised of performing and nonperforming mortgage loans. A final listing of the Mortgage Loans will be included in the BIP. The Mortgage Loans will be sold without FHA insurance and with servicing released. HUD will offer qualified bidders an opportunity to bid competitively on the Mortgage Loans.

The Mortgage Loans will be stratified for bidding purposes into several mortgage loan pools. Each pool will contain Mortgage Loans that generally have similar performance, property type, geographic location, lien position and other characteristics. Qualified bidders may submit bids on one or more pools of Mortgage Loans. A mortgagor who is a qualified bidder may submit an individual bid on its own Mortgage Loan.

The Bidding Process

The BIP will describe in detail the procedure for bidding in MHLS 2004-2. The BIP will also include a standardized nonnegotiable loan sale agreement (Loan Sale Agreement) and a loan information CD that contains a spreadsheet with selected attributes for each Mortgage Loan.

As part of its bid, each bidder must submit a deposit equal to the greater of \$100,000 or 10% of the bid price. HUD will evaluate the bids submitted and determine the successful bids in its sole and absolute discretion. If a bidder is successful, the bidder's deposit will be non-refundable and will be applied toward the purchase price. Deposits will be returned to unsuccessful bidders. Closings are scheduled to occur on September 22, 2004.

These are the essential terms of sale. The Loan Sale Agreement, which will be included in the BIP, will contain additional terms and details. To ensure a competitive bidding process, the terms of the bidding process and the Loan Sale Agreement are not subject to negotiation.

Due Diligence Review

The BIP will describe the due diligence process for reviewing loan files in MHLS 2004-2. Qualified bidders will be able to access loan information at a due diligence facility or remotely via a high speed Internet connection. Further information on performing due diligence review of the Mortgage Loans will be provided in the BIP.

Mortgage Loan Sale Policy

HUD reserves the right to add Mortgage Loans to or delete Mortgage Loans from MHLS 2004-2 at any time prior to the Award Date. HUD also reserves the right to reject any and all bids, in whole or in part, without prejudice to HUD's right to include any Mortgage Loans in a later sale. Mortgage Loans will not be withdrawn after the Award Date except as is specifically provided in the Loan Sale Agreement.

This is a sale of unsubsidized mortgage loans. Pursuant to the Multifamily Mortgage Sale Regulations, 24 C.F.R. § 290.30 et seq., the Mortgage Loans will be sold without FHA insurance. Consistent with HUD's policy as set forth in 24 C.F.R. § 290.35, HUD is unaware of any Mortgage Loan that is delinquent and secures a project (1) for which foreclosure appears unavoidable, and (2) in which very-low income tenants reside who are not receiving housing assistance and who would be likely to pay rent in excess of 30 percent of their adjusted monthly income if HUD sold the Mortgage Loan. If HUD determines that any Mortgage Loans meet these criteria, they will be removed from the sale.

Mortgage Loan Sale Procedure

HUD selected a competitive sale as the method to sell the Mortgage Loans primarily to satisfy the Mortgage Sale Regulations. This method of sale optimizes HUD's return on the sale of these Mortgage Loans, affords the greatest opportunity for all qualified bidders to bid on the Mortgage Loans, and provides the quickest and most efficient vehicle for HUD to dispose of the Mortgage Loans.

Bidder Eligibility

In order to bid in the sale, a prospective bidder must complete, execute and submit both a Confidentiality Agreement and a Qualification Statement acceptable to HUD. The following individuals and entities are ineligible to bid on any of the Mortgage Loans included in MHLS 2004-2:

- 1) any employee of HUD, a member of such employee's household, or an entity owned or controlled by any such employee or member of such an employee's household;
- 2) any individual or entity that is debarred, suspended, or excluded from doing business with HUD pursuant to Title 24 of the Code of Federal Regulations, Part 24;
- 3) any contractor, subcontractor and/or consultant or advisor (including any agent, employee, partner, director, principal or affiliate of any of the foregoing) who performed services for or on behalf of HUD in connection with MHLS 2004-2;
- 4) any individual who was a principal, partner, director, agent or employee of any entity or individual described in subparagraph 3 above, at any time during which the entity or individual performed services for or on behalf of HUD in connection with MHLS 2004-2;
- 5) any individual or entity that uses the services, directly or indirectly, of any person or entity ineligible under subparagraphs 1 through 4 above to assist in preparing any of its bids on the Mortgage Loans;

- 6) any individual or entity which employs or uses the services of an employee of HUD (other than in such employee's official capacity) who is involved in MHLS 2004-2;
- 7) any mortgagor (or affiliate of a mortgagor) that failed to submit to HUD on or before audited financial statements for 1998 through 2003 for a project securing a Mortgage Loan; and
- 8) any individual or entity and any Related Party (as such term is defined in the Qualification Statement) of such individual or entity that is a mortgagor in any of HUD's multifamily housing programs and that is in default under such mortgage loan or is in violation of any regulatory or business agreements with HUD, unless such default or violation is cured on or before August 31, 2004.

In addition, any entity or individual that served as a loan servicer or performed other services for or on behalf of HUD at any time during the 2-year period prior to August 31, 2004, with respect to any Mortgage Loan is ineligible to bid on such Mortgage Loan. Also ineligible to bid on any Mortgage Loan are: (a) any affiliate or principal of any entity or individual described in the preceding sentence; (b) any employee or subcontractor of such entity or individual during that 2-year period; or (c) any entity or individual that employs or uses the services of any other entity or individual described in this paragraph in preparing its bid on such Mortgage Loan.

Prospective bidders should carefully review the Qualification Statement to determine whether they are eligible to submit bids on the Mortgage Loans in MHLS 2004-2.

Freedom of Information Act Requests

HUD reserves the right, in its sole and absolute discretion, to disclose information regarding MHLS 2004-2, including, but not limited to, the identity of any bidder and their bid price or bid percentage for any pool of loans or individual loan within a pool of loans, upon the completion of the sale. Even if HUD elects not to publicly disclose any information relating to

MHLS 2004-2, HUD will have the right to disclose any information that HUD is obligated to disclose pursuant to the Freedom of Information Act and all regulations promulgated thereunder.

Scope of Notice

This notice applies to MHLS 2004-2, and does not establish HUD's policy for the sale of other mortgage loans.

Dated: _____

John C. Weicher,
Assistant Secretary for Housing - Federal Housing Commissioner

[FR Doc. _____ Filed _____; ____ am]