




Jonathan A. Hanks
Sr. Vice President & COO

MEMORANDUM

To: Utah Housing Corporation Participating Lenders
From: Jonathan A. Hanks, SVP/COO 
Date: Thursday, March 31, 2016
Re: Utah Housing Down Payment Assistance (DPA) Loans

The purpose of this memo is to articulate Utah Housing's position that its DPA loans made in conjunction with FHA first mortgages are fully compliant with HUD/FHA regulations.

Utah Housing recently received several inquiries regarding its DPA program in light of HUD's Office of the Inspector General (OIG) review (published last September) of loanDepot's use of housing finance agency DPA programs in conjunction with FHA-insured loans. The OIG's findings relate to its interpretation of the requirements in HUD Handbook 4155.1 regarding down payment assistance and indicate a continued divergence in opinion and interpretation with HUD.

A memo to Edward Golding, Principal Deputy Assistant Secretary for Housing and Head of the FHA from Helen Kanovsky, General Counsel for HUD, dated August 11, 2015 (attached) states, ". . . the use of funds derived from the sale of mortgages with higher than market interest rates does not constitute premium pricing as defined by FHA, nor does it violate any other requirement placed on DPA provided by governmental entities . . . FHA's determination not to place restrictions or prohibitions on how a governmental entity raises funds to support its DPA programs through either the Interpretive Rule (*Docket No. FR-5679-N-01, published on December 5, 2012*) or the Mortgagee Letter (*2013-14, published on May 9, 2013*) is in keeping with FHA's previous guidance. Further, as the Interpretive Rule and the Mortgagee Letter are later enacted, they supersede any previous guidance that arguably may conflict. FHA does not place restrictions or prohibitions on how a governmental entity elects to raise funds to support its DPA program and governmental entities may directly provide funds for a borrower's Minimum Cash Investment."

Most importantly, whether a DPA second is obtained by the borrower or not, interest rates on each of UHC's first mortgage programs are the same. Utah Housing will continue to monitor the situation yet maintains its DPA loans conform in every way with guidance received from HUD/FHA.

Please contact Deon Spilker, VP Mortgage Banking at 801-902-8256 if you have further questions regarding this memo.