



April 19, 2019

## Downpayment Assistance and FHA Insured Mortgages – The Next Iteration

On April 18, 2019, the Department of Housing and Urban Development issued [FHA Mortgagee Letter 19-06](#) in an attempt to clarify the requirements for governmental entity down payment assistance in conjunction with FHA insured single family home mortgages. Although it technically addresses only documentation requirements pursuant to HUD's December 12, 2012 Interpretive Rule, practically the Mortgagee Letter adds (or emphasizes) several requirements, particularly:

1. The governmental entity must be acting in its “governmental capacity” as part of a “governmental entity homeownership program.”
2. The single family home must be located in the “jurisdiction” of the governmental entity.
3. The provision of funds for the down payment assistance must not be contingent upon any future transfer of the mortgage to a specific entity (presumably a reference to the sale of an MBS).

Governmental entities carrying out down payment assistance programs in connection with FHA insured mortgages should review their documentation to make sure it includes provisions responsive to the enhanced requirements. In addition, FHA is now requiring that the legal opinion provided by the attorneys for the governmental entity be dated within two years of the closing of the mortgage transaction.

These “clarified” documentation requirements apply to mortgage case numbers assigned on or after April 18, 2019.

### Additional Information

Kutak Rock's Housing Finance Group is available to help you with any questions.

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