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CHAPTER 6. PROJECT UNDERWRITING AND COMMITMENT FOR LENDERS

- 6-1. LENDER RESPONSIBILITIES. You must perform the HUD-required underwriting functions as well as make your own final decision as a prudent lender. You are responsible for considering every facet of a coinsured project's development, underwriting, and management. You must also ensure the quality of each project, including: location; design; rentability; development team; and construction.
- A. Before issuing a firm commitment for a project mortgage application to be coinsured, you must:
- 1) Make sure that processing not delegated by HUD is completed. (See paragraphs 6-8 through 6-13.)
  - 2) Reach the conclusions required by each technical discipline. (See Chapters 7 through 11.)
  - 3) Determine whether the mortgage risk is acceptable and that the project meets all the requirements of this handbook and the coinsurance regulations.
  - 4) Document the project file fully to show that items 1 through 3 were done.
- B. The chief underwriter must make the underwriting decisions on each project and may not delegate this function. The project must also be approved through whatever loan approval process you set up under paragraph 2-5 B.
- 6-2. UNDERWRITING. Although your written operating and underwriting procedures do not have to conform to a single, rigid underwriting system, you must:
- A. Establish procedures and instructions that generally parallel HUD's. (Contact the HUD field office with jurisdiction to receive necessary HUD handbooks for each discipline.)
  - B. Ensure accountability and responsibility within your organization for all program administration, project processing, and underwriting.
  - C. Use techniques that produce sound mortgage insurance underwriting.
  - D. Base underwriting decisions on documented conclusions and judgements reached in each discipline.
  - E. Use the required or equivalent forms referred to in paragraph 6-3.

- (6-2) F. Keep permanent files of documents and supporting data for all administrative, processing and underwriting conclusions.
- 6-3. REQUIRED HUD FORMS FOR LENDER REVIEW OF APPLICATIONS. See Appendix 1.
- 6-4. PROJECT APPROVAL
- A. Recommendation by chief underwriter. After determining that a project is acceptable for coinsurance, the chief underwriter must include signed statements in the project file that:
- 1) The project meets sound underwriting criteria in all technical disciplines.
  - 2) The project conforms to all statutory, regulatory and handbook requirements.
  - 3) Describe the significant factors, positive and negative, considered in the recommendation to coinsure.
  - 4) Explain any changes or adjustments to the underwriting recommendation made by the chief underwriter and the reasons for them, including any documentation supporting such changes.
- B. Approval. The project must then go through your loan approval process pursuant to paragraph 2-5 B. Document in the project's permanent file all coinsurance decisions reached.
- 6-5. ISSUING A COMMITMENT. After application approval, you may issue a commitment with the terms and conditions under which you will make and coinsure the mortgage loan.
- A. The official signing the commitment on behalf of the lender must be properly designated. (See paragraph 2-2 A.8.)
- B. For at least your first three cases, follow the HUD review requirements applicable to the first three projects. (See paragraph 2-7.)
- C. Formats of conditional and firm commitments (for insurance of advances and insurance upon completion) are in Appendices 24a, 24b and 24c. You may reproduce them on your letterhead.
- D. After issuing a firm commitment, submit copies of Forms HUD-92264 and HUD-92264-A to the HUD field office with jurisdiction.
- 6-6. COMMITMENT TERMS AND EXTENSIONS. All extensions must be requested in writing by the mortgagor and granted in writing by you.
- A. Conditional commitment. If you issue a conditional commitment, the initial term cannot exceed 120 days. You must ensure that rents, costs and expenses are current if you wish to grant

extensions.

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- (6-6) B. Firm commitment to insure construction advances. The initial term cannot exceed 60 days. If necessary, you may extend the firm commitment for another 60 days. You must ensure that rents, costs and expenses are current if you wish to grant further extensions.
- C. Firm commitment to coinsure on completion. The initial term cannot exceed 60 days, during which the mortgagor must begin construction or rehabilitation. If work is begun as required, the commitment will be effective for the construction period scheduled in the construction contract plus 4 months to reach endorsement. Use a change order form to extend the construction contract completion date (see paragraph 13-6.)
- D. Reopening an expired commitment. You may reopen an expired commitment (or a reject, if the problems causing rejection can be corrected) if the mortgagor submits a new application within 90 days of the expiration with updated exhibits and a fee not to exceed \$.50 per \$1,000 of the firm commitment mortgage amount.
- 6-7. PROJECT REJECTION. You may reject a project without going through all technical reviews if one or more of them clearly show the project is ineligible. When further processing is not warranted, notify the sponsor of the reasons for rejection.
- A. You may keep fees in such cases commensurate to the processing stage performed (See paragraph 4-5).
- B. Return unearned fees within 30 days.
- 6-8. ENVIRONMENTAL REVIEW. HUD will coinsure a mortgage only if this process is completed. By law, HUD may not delegate environmental review to a lender. However, you should gather the basic information HUD requires to make a Finding of No Significant Impact (FONSI). HUD will send you the finding, with any required mitigation. (See paragraph A.3, below.)
- A. After receiving an application but at least 30 days before issuing a commitment (35 days if the project is subject to the intergovernmental review procedures in paragraph 6-11), you must clearly identify the project site and send the HUD field office with jurisdiction enough information to conduct the review (attn: Housing Development Division). (See Appendices 19a and 19b for the HUD-4128, environmental assessment, and HUD-4128.1, compliance for rehabilitation projects, used by HUD in this process.)
- 1) Screen the application first to see that there is some likelihood of approval.

- 2) To speed up the review, you may send a narrative or other supporting documents answering the questions on Form HUD-4128 or HUD-4128.1 to the HUD field office as early as possible in the coinsurance process.

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- (6-8)
- 3) The office will inform you in writing of their approval with any required mitigation, or that:
    - a) Further environmental analysis is necessary and more time is required;
    - b) A full Environmental Impact Statement must be prepared;  
or
    - c) The project must be rejected.

B. Environmental review procedures for new construction and substantial rehabilitation are similar. However, a HUD-4128, environmental assessment, is not required for a rehabilitation project when HUD completes the HUD-4128.1 and determines that the project does not:

- 1) Increase the number of dwelling units per acre by more than 20 percent; or
- 2) Result in a change in land use from non-residential to residential; or
- 3) Involve rehabilitation costs above 75 percent of the post-rehabilitation replacement cost of the project; or
- 4) Involve demolition of one or more buildings containing the primary use served by the project.

Details on environmental requirements are in Handbooks 4010.1, 1390.2, 1390.4 and 24 CFR Part 50.

6-9. PROCEDURES FOR PREVIOUS PARTICIPATION REVIEW. Principals participating in a planned or existing multifamily project must first disclose all past participation in HUD-FHA programs (except home mortgage) and the nature of their proposed interest. (See Handbook 4065.1, Previous Participation Handbook, for further details.)

NOTE: HUD's review and approval of this disclosure is specific to the previous participation itself and in no way implies approval of any other aspect of the project, nor does it replace or amend any other administrative or underwriting procedures (e.g., the acceptability of the principals as to credit worthiness).

A. Who must file a Previous Participation Certification, Form HUD-2530

- 1) Each principal, as defined in paragraph (3) below, must file a HUD-2530 (the certificate) with the lender when the initial application is submitted or as soon as the principal is associated with the project, if that is a later date.

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(Procedures for previous participation review - con't.)

- (6-9) 2) If they Previously filed a certificate in any field office, they may identify that certificate on the front of the new form, attach a copy, and list only additional projects and information on the new form.
- 3) Who is a "Principal"
  - a) Sponsors and owners of the project
  - b) General contractors
  - c) Project managers and management agents
  - d) Packagers, consultants and other persons or organizations hired to: furnish advisory services in project financing, construction or operation; select and negotiate contracts with contractors, architects, attorney or managing agents; secure financing; or meet HUD requirements
  - e) Architects and attorneys who have any interest in the project other than an arms-length fee arrangement for services
- 3) Who is not a "principal." Form HUD-2530 is not required for:
  - a) Stockholders with less than 10 percent interest in a corporation
  - b) Limited partners with less than 25 percent interest in the partnership
  - c) Attorneys and architects with only an arms-length fee arrangement for services
  - d) Minor corporate officers
  - e) Sub-contractors

B. Preparing Form HUD-2530 - Instructions to Principals

- 1) Show name and location of proposed project, number of units and proposed mortgage amount.

- 2) Identify all HUD-FHA and other HUD projects in which you have participated by name, location, and HUD project number. Disclose your participation in each project. If you were an owner, show the percent of ownership.

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(Procedures for previous participation review - con't.)

- (6-9)
- a) If an organization will be a principal, show previous projects in which the corporate officers, directors and stockholders or partners participated, as well as those in which the organization participated. (For filing, see paragraph 5, below.)
  - b) When more than one person signs the form, use the column headed "Name of Principal" to identify the certifying principal who participated in the listed project.
- 3) Show on the certificate whether any previous project is or has ever been in default or had mortgage relief. Since such a history may seriously affect the determination of feasibility for the proposed project, attach an explanation. If your participation has ended and you do not know whether there has been a default or mortgage relief, enter "Unknown, Terminated (Date)."
- 4) You must sign and date the certificate and type or print your name under the signature, with the type of participation you will have; if you will be an owner, show percentage of ownership. Include your Social Security number or, if an organization is the principal, use your Employer Identification Number and see next paragraph for more instructions.
- 5) For an organization as principal, file as follows:
- a) Profit-motivated corporation
    - 1. Each principal officer, director, and stockholder with 10 percent or more interest in the corporation must sign the certificate on behalf of the corporation.
    - 2. If the corporation is wholly or partially owned by another corporation, the parent organization, its officers, directors, and stockholders having 10 percent or more interest must also file a certificate.
    - 3. Where a corporation is publicly held or unusually

large and it would be unreasonable to require filing by all officers, directors and stockholders, the lender may modify this requirement with prior HUD consent.

- b) Nonprofit corporation. The head of the organization (or of the local unit if it is a national organization) and the officers who will represent it must sign the certificate on behalf of the corporation.

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(Procedures for previous participation review - con't.)

- (6-9) c) Partnership. Certificate must show partnership name and be signed by each general partner and any limited partner with 25 percent or more interest.
- d) Trust or similar entity. Each trustee must sign the certificate on behalf of the entity.

C. Additional or substitute principals

- 1) File certificates using the instructions in paragraph 6-9 B for additional or substitute principals as they become known (if they are not known at initial application).
- 2) Include also a statement of names and types of interest of all of the principals whose participation in the project was approved previously. However, the previously approved principals should not sign the new certificate unless the lender wants a current HUD review of their participation.

D. Action by the lender. Caution principals that they must list every HUD-FHA project in which they have participated as a principal and include default and mortgage relief history of each unless they have a master list on file with HUD. HUD will return Without approval a certificate that fails to provide complete disclosure and may prosecute the principal for violation of Section 1010 of Title 18, United States Code or take other action (e.g., suspension, debarment).

- 1) Review the HUD-2530 to see that:
  - a) All copies are clear and legible.
  - b) HUD project number appears for each previous project listed. Indicate on form if not available.
  - c) Certifying principal's type of participation and percent of ownership, where applicable, appear for each listed project.
  - d) Certificate is signed by every principal who will

participate in the proposed project. If the certificate is for substitute or additional principals, the statement required in C.2, above, must be attached.

- e) Principal's name and participation in the proposed project are typed or printed under each signature and the Social Security or Employer's Identification Number appears.
- f) A copy of any referenced certificate is attached.

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(Procedures for previous participation review - con't.)

- (6-9) 2) If you know that proposed principals are suspended or debarred by HUD or have violated applicable civil rights laws, advise them in writing that the project will not be approved with respect to their participation.
- 3) Keep a copy of each Form HUD-2530 in your project file. Send the original and a cover letter to the HUD field office with jurisdiction explaining that it is a coinsurance project, requesting immediate clearance, and stating when you expect to issue a firm commitment.
- 4) If you receive no word from HUD before issuing a commitment, you must put a condition in the commitment that clearance must be received before initial endorsement (insurance of advances) or construction start (insurance upon completion).

E. Disapproval for previous participation

- 1) If HUD rejects one or more of the principals, their withdrawal may resolve the matter, presuming the lender determines that the remaining principals can successfully proceed with the project.
- 2) If a project is disapproved under these procedures, the lender should notify in writing only the principals who signed the certificate. HUD will disclose the reasons for disapproval only to the principal(s) whose participation was found unacceptable.
- 3) New principals may be substituted when a project is disapproved because of the participation of one or more principals, but each substitute must file a certificate. (See paragraph C.2, above.)
- 4) A principal may request reconsideration by the Multifamily Participation Review Committee. The Committee will not hear oral arguments. Send requests with a statement and supporting exhibits fully explaining the grounds for approval to:

Executive Secretary  
Multifamily Participation Review Committee  
Housing & Urban Development - Room 5150  
451 7th Street, S.W.  
Washington, D.C. 20410

F. Numbering by HUD field office. Field offices will assign a project number to each project when the Form HUD-2530 is submitted to Headquarters for clearance. Projects will be numbered as follows:

1) The first number is the three-digit code of the field office with jurisdiction.

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(6-9) 2) The second set of numbers is the project number. Project numbers for 221(d) coinsurance begin in each office with the five-digit number 36601 and proceed in sequence to 36799.

a) Each office must maintain a log to assure that 221(d) coinsured loans are numbered sequentially without duplication. For example, the first case requesting Form HUD-2530 clearance in the Hartford office would be 017-36601.

b) Where an office is dealing with more than one coinsurance lender, the loans will be numbered sequentially, notwithstanding that the lender may be different from case to case.

6-10. AFFIRMATIVE FAIR HOUSING MARKETING (AFHM) PLAN. The lender must submit the mortgagor's proposed AFHM Plan (and the name of the person on the mortgagor's staff to contact if there are questions) to the HUD field office (attn: Director, Fair Housing and Equal Opportunity) when the mortgagor's first application for commitment is received (i.e., conditional or firm). (See Appendix 4 of Handbook 8025.1 REV-1, Implementation of Affirmative Fair Housing Marketing Requirements Handbook, for AFHM Plan, Form HUD-935.2.)

A. The field office will notify you of AFHM Plan approval within 30 days (or tell you what deficiencies need correction). You may not issue a commitment without HUD approval of the AFHM Plan.

B. You must advise the mortgagor of its responsibilities under the plan, including reporting requirements. Details of plan implementation are in Handbook 8025.1 REV-1.

6-11. INTERGOVERNMENTAL REVIEW REQUIREMENTS. The requirements of Executive Order 12372 apply to Section 221(d) projects. HUD must complete the process in 24 CFR Part 52, Intergovernmental Review, for projects with:

- more than 200 units in an urban area, or
- more than 50 units in a non-urban area.

In general, urban areas are incorporated areas with a population of 2,500 or more. If you have any question whether an area is urban or non-urban, contact the HUD field office with jurisdiction.

- A. Lender action. You must submit a copy of any application above either threshold to the HUD field office, which will tell the State entity with jurisdiction to begin the State Review Process (SRP). HUD will notify you of the date the 35-calendar-day review process begins. You may not issue a commitment before this period ends, except as provided in paragraph B.1, below.

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- (6-11) B. When the SRP results in favorable comments or a recommendation for approval:
- 1) If the SRP provides favorable comments or an approval recommendation before the 35-day review period ends, HUD will notify you, and you may issue the commitment.
  - 2) If the SRP provides favorable comments or an approval recommendation and, for other reasons, you elect not to issue a commitment, you must notify HUD, and the "non-accommodation" procedures in paragraph D, below, apply.
- C. When the SRP results in negative comments or a recommendation for disapproval:
- 1) If the field office agrees with the SRP, it will tell you what changes are necessary before the commitment may be issued or that no commitment may be issued.
  - 2) If the field office disagrees, paragraph D, below, applies, and the office will tell you to hold the commitment until the 15-day "non-accommodation" period ends.
- D. "Non-accommodation" of SRP comments. The field office must notify the State and provide a 15-day period before the lender may approve (issue a commitment) or disapprove (reject) a project if:
- 1) The field office does not accept an SRP recommendation, or
  - 2) The lender notifies HUD that it elects not to issue a commitment.

HUD will notify the lender at the same time, stating when the 15-day period ends and that a commitment may be issued or the

project rejected after the 15-day period ends.

NOTE: All notifications between the lender and field office must be in writing.

6-12. HOUSING NEED/MARKET OPINION. Although you are responsible for a market analysis for each project, the HUD field office must determine whether a project will saturate a housing market or adversely affect occupancy in other projects, including insured and coinsured projects. (In this case, HUD may also suspend other insurance and coinsurance activities in the area upon proper notification.)

A. At least 30 days before issuing a commitment, you must submit the face of Form HUD-92013 to the field office with jurisdiction. You may also submit any other available market data or studies that may help them in their review.

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(6-12) B. You may issue the commitment after 30 days has elapsed unless HUD notifies you otherwise in writing.

C. The field office may also issue you an informational market opinion covering:

- supply and demand in the overall rental market
- competing projects in the pipeline
- existing rental projects

6-13. REQUEST FOR PREVAILING WAGE DETERMINATION. Coinsurance lenders are not authorized to request prevailing wage determinations from the Department of Labor. Request them from the HUD field office with jurisdiction 45 days before the estimated construction start date (unless there is an areawide determination in effect) so they will be available by construction start. (See paragraph 12-2 and Handbook 1344.1, Federal Labor Standards Compliance in Housing and Community Development Programs.)

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