

CHAPTER 5. PRESUBMISSION ACTIVITIES, SUBMISSION AND PROCESSING OF
REQUEST FOR CONDITIONAL COMMITMENT FOR DIRECT LOAN FINANCING

SECTION 1. GENERAL

5-1. PROCESSING STAGE AND VARIATION. Once the Borrower has received a Fund Reservation, and notified the Field Office of its acceptance, each Borrower is required to submit a Request for a Conditional Commitment for Direct Loan Financing, using HUD-92013.

- a. Exception for Projects Involving New Construction. If a Borrower wants to by-pass the Conditional Commitment Stage and proceed directly to the Firm Commitment Stage, it must request permission to do so from the Housing Director and must provide evidence in its request that it is capable of doing so.
- b. No Exception for Projects Involving Substantial Rehabilitation. In all cases, Borrowers whose projects involve substantial rehabilitation must submit a Request for a Conditional Commitment and may not proceed directly to the Firm Commitment Stage.

5-2. PRESUBMISSION ACTIVITIES.

- a. Project Design and Architectural Liaison. Prior to submission of the Request for a Conditional Commitment for Direct Loan Financing, the Design Representative designated at the Fund Reservation Stage shall work closely with the Borrower's architect to ensure compliance with HUD design and cost containment requirements. The Design Representative must be concerned with any design characteristics that could affect project economics, and must assure that the project will not be of elaborate design or extravagant materials. Many architects will request and welcome assistance in architectural matters affecting marketability and cost control. Such advice and guidance shall be rendered to the fullest extent possible.
- b. Joint Inspection of the Project. For Requests involving substantial rehabilitation, the Housing Director will schedule a joint inspection of the project at the earliest possible date. This inspection team will include representation from the Architectural and Engineering, Cost and Valuation staffs. A representative of the local building inspector's office should also be present if possible. The Borrower may, at its option, have a representative in attendance.

(5-2) c. Project Work Statement. For Requests involving substantial

rehabilitation, this will be accomplished as soon as practical after the inspection of the project by the Architectural and Engineering staff. Specifics on the following items will be included to properly analyze the project.

- (1) Physical condition of the building(s), including major defects and/or signs of advanced deterioration or obsolescence.
- (2) The extent and nature of work needed to attain the level of rehabilitation considered appropriate for its intended use.
- (3) The narrative portion of the work statement will be specific as to the nature and extent of the work to be done off-site or on-site, with respect to utilities, roads, walks, fencing, etc. The physical repairs of structures must be in a detailed format which can be given consideration when costing out exactly what rehabilitation work is to be accomplished.

d. Inasmuch as Handbook 4381.5 requires that a project administrator or resident manager (in the case of self-management) or a management agent (in the case of contract management) be paid \$25 per dwelling unit in the project in return for the agent's management review of the project and development of the management plan, the Borrower is encouraged to submit draft copies of the management contract and other exhibits pertaining to these parties to the Field Office prior to submission of its Request for a Conditional Commitment (unless these documents were previously submitted and approved at the Fund Reservation Stage) in order that a review of the qualifications of the agent, administrator or manager can be made before any of the work described above is done.

- 5-3. DESCRIPTION OF CONDITIONAL COMMITMENT STAGE PROCESSING OF REQUESTS INVOLVING NEW CONSTRUCTION. All technical decisions concerning acceptable design and MPS compliance, the estimated cost of the project, the as-is value and fully-improved value of the site, the detailed estimates of operating expenses, the supportable cost, the financial and credit acceptability of the general contractor, if identified, the acceptability of proposed contract rents, the loan amount and cash requirements are determined at this time. All applicable processing, data, and documentation forms will be completed in their entirety at this time. The management exhibits, the Affirmative Fair Housing Marketing Plan and other Fair Housing and Equal Opportunity exhibits also will be reviewed.
- 5-4. DESCRIPTION OF CONDITIONAL COMMITMENT STAGE PROCESSING OF REQUESTS INVOLVING SUBSTANTIAL REHABILITATION. In addition to the technical decisions described in paragraph 5-3 above, the

analysis of a project involving substantial rehabilitation will include a determination of the feasibility of the project which will involve a review of the description of proposed rehabilitation to assure that it reflects agreements reached at the joint inspection and is based on the work write-up as well as a review of the economics of demolition weighed against the cost of rehabilitation, and suitability of the rehabilitation to accommodate the needs of the elderly or handicapped.

- 5-5. TARGET DATES. The Borrower shall be required to submit its Request for a Conditional Commitment for Direct Loan Financing within 60 days, or for complex proposals, 90 days after it notifies the Field Office of its acceptance of the Section 202 fund reservation. The Conditional Commitment shall be targeted for issuance within 60 days after receipt of a complete Request.
- 5-6. DESCRIPTION OF REQUIRED EXHIBITS - FOR PROJECTS INVOLVING NEW CONSTRUCTION. The exhibits required to be submitted at the Conditional Commitment Stage are described below. If the Borrower proposes to select a general contractor by competitive bidding rather than negotiation, all exhibits required with respect to the general contractor shall be submitted as soon as possible after the contractor is selected, but in no event later than 30 days prior to the initial closing. See Appendix 13 for a list of the required submissions and number of copies.
- a. Form HUD-92013, Application - Project Mortgage Insurance (Request for Direct Loan Financing, Section 202/8 completed in its entirety. If the Borrower plans to contribute all or a portion of its land draw to meet the minimum capital investment, it should so indicate on this form under Source of Cash to Meet Requirements.

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- (5-6) b. Form FHA-2013-E, Supplemental Application and Processing Form - Housing for the Elderly. Completed in its entity and including any estimates for the operation of transportation services, recreational facilities, etc.
- c. Form FHA-2013 - Supplement to HUD-92013 Application - Project Mortgage Insurance, on the general contractor (if appropriate).
- d. Owner - Architect Agreement - AIA Document B181 with HUD Amendment.
- e. Form HUD-5087 - Outline Specifications.
- f. Preliminary drawings drawn to scale which include:
- (1) Site plan showing:

- (a) Lot lines and dimensions;
- (b) Adjacent buildings (show outline and number of floors);
- (c) Proposed buildings, outline and overall dimensions;
- (d) Parking areas and total number of cars that can be parked;
- (e) Driveways;
- (f) Adjacent streets and utilities and their sizes. If public facilities are not available to the site, the architect shall specify the manner in which sewer and water facilities are to be provided and include the on-site and off-site locations.
- (g) Patios, recreation, and other areas;
- (h) Living unit types, composition, and total;
- (i) Contours when topography or drainage is a design factor;
- (j) North point, and
- (k) Site and gross floor areas.

- (5-6) (2) Basement plans or foundation plans where no basements are provided - minimum 1/8 inch scale;
- (3) A dimensional plan of each typical living unit - 1/4 inch scale;
- (4) Elevations of each typical building - minimum 1/8 inch scales,
- (5) A typical floor plan - minimum 1/8 inch scale;
- (6) For elevator and complex construction types, the following plans will also be included:
 - (a) Lobby floor;
 - (b) Floor showing mechanical, service, storage, and other non-rent facilities;
 - (c) Floors showing commercial areas (limited to 5 percent), and

- (d) Typical wall section for each building type.
- g. Topographical survey
- h. Soil test borings.
- i. Form HUD-51994, Comparative Analysis of Utility Costs. If the prototype utility analyses are not available from the Field Office or if the Borrower desires to vary from the prototype furnished by the Field Office, the Borrower's architect shall prepare an analysis of utility costs in accordance with instructions contained in Chapter 5, Handbook 7417.1, Public Housing Development Phase. The Borrower's architect shall recommend the best combination, complete Form HUD-51994 and submit them together with the required exhibits.
- j. Form HUD-2530, Previous Participation Certificate, on the general contractor (if identified), management agent, Borrower, Sponsor, and consultant, if not previously submitted.
- k. Current resume of construction experience on general contractor which includes a list of the type, size, and location of buildings constructed, geographic area of contractor's construction business involvement, and the length of time the contractor has acted in that capacity.

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- (5-6) 1. Current financial statements on the general contractor (a current financial statement is defined as one which is not more than six months old). An exception would be an audited financial statement, not more than 12 months old, containing an unqualified opinion of an independent Certified Public Accountant or Public Accountant. This exception applies, provided that the audited statement is supplemented with updated interim statements. If the financial statement is not submitted on Form FHA-2417, it must contain original signatures and the certification that appears in Chapter 4, paragraph 4-5d(3)).
- m. Current financial statements on the Borrower and Sponsor. (If the most current financial statement submitted by the Borrower and Sponsor at the Fund Reservation Stage meets the definition of "current financial statement" as stated in paragraph 1 above, new statements are not required.)
- n. Form HUD-935.2, Affirmative Fair Housing Marketing Plan (if the project has 5 or more assisted units).
- o. Proposed Management Plan using Form HUD-52678.

- p. Form HUD-52678-A, Questionnaire for Owner.
- q. Form HUD-52678-B, Questionnaire for Management Agent.
- r. If Borrower proposes to contract with another entity for management and/or maintenance services for the project, a copy of the proposed contract(s), using Form HUD-52680 as a guide.
- s. Resume on the Manager or Management Agent which includes qualifications and experience.
- t. Statement that the proposed management and maintenance services typically provided for the type of housing contemplated will be provided.
- u. The form of lease the Borrower proposes to use which shall be in accordance with Appendix 21 of this Handbook.
- v. Contract Rents per unit, by size and building type.
- w. List of equipment, utilities, and services to be included in the Contract Rents and those utilities and services not

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- (5-6) included. For each utility and service not included, provide an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.
- x. Evidence of tax abatement or exemption, if claimed:
 - (1) Full statement of the facts, a copy of the application and supporting statements presented to the local authorities. The application and supporting statements must describe the project and the proposed method of operation on which the claim for exemption is based.
 - (2) The opinion of the Borrower's attorney setting forth the basis on which exemption or abatement is claimed and stating that except for future changes in the statute or material change in the operation, the project will be entitled to exemption or abatement. The opinion must cite the State statute involved and include as attachments, any other material supporting the claim, i.e., local administrative rulings or court decisions, opinions of local private or public counsel or the State's Attorney General.
 - (3) Evidence of tax abatement or exemption and the Borrower's attorney's opinion must be current within one year of the filing of the Request for a Conditional Commitment.

- (4) Documents supporting tax exemption regarding similar projects in jurisdiction where abatement or exemption was requested or granted.
- y. Evidence of site control - site option agreement(s), contract(s) of sale, or other document(s) which evidences the Borrower's effective control of the site(s). If site control were established at the Fund Reservation Stage and such control is still in effect at the time of submission of the Request for a Conditional Commitment, new evidence of site control need not be submitted. However, if, for example, an option were furnished as evidence of site control at the Fund Reservation Stage and the option has since expired, the Borrower must furnish updated evidence of site control.
 - (1) If the sale evidenced above is not an arms-length transaction, submit similar evidence of the previous arms-length sale price, date, etc.

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- (5-6)
 - (2) In the event other costs are shown on Form HUD-92013, Item B-21, submit a full explanation.
 - (3) If the project involves substantial rehabilitation of property owned or being purchased, which purchase is not an arms-length transaction, submit evidence of the existing indebtedness and the current "as-is" value.
- z. Evidence of Permissive Zoning.
 - (1) Provide a statement from the local zoning board indicating that the proposed project complies with existing zoning, unless such statement were submitted at the Fund Reservation Stage.
 - (2) Any rezoning which may have been necessary as indicated in the application submitted at the Fund Reservation Stage must have been accomplished prior to submission of the Request for a Conditional Commitment.
- aa. Relocation plan, if site occupants are to be displaced.
- bb. For projects for the nonelderly handicapped only where the site was not identified at the Fund Reservation Stage, a map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated.
- cc. A schedule covering the cost of all capital expenditures such as furniture, supplies, equipment, and other items necessary to the basic operation of the project and not covered by the

proceeds of the loan. The schedule should include the Borrower's plan on how it will meet these costs--through donations, cash outlays, etc. The Borrower may propose to use a portion of the project contingency to cover these expenses.

- 5-7. ADDITIONAL EXHIBITS - SUBSTANTIAL REHABILITATION. In addition to exhibits described in paragraphs 5-6a through d and i through cc, the Borrower shall submit the following exhibits (see Appendix 13-1).
- a. Form FHA-2013-R, Application for Project Mortgage Insurance (Rehabilitation), completed with regard to those items describing the as-is condition and operation of the property;

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- (5-7) b. Authorization to inspect the property;
- c. Narrative description of rehabilitation proposed;
 - d. Sketch plans of units as rehabilitated;
 - e. Schematics of any structural changes or changes in floor plan or other significant alterations;
 - f. Survey/site plan sketch, as built, and
 - g. Drawings and specifications of existing facilities, if obtainable.

5-8. RECEIPT OF REQUESTS.

- a. Requests for Conditional Commitments shall be forwarded to the PC&R staff upon receipt in the Field Office.
- b. The PC&R staff shall date-stamp and log-in each Request and distribute it to the various technical disciplines for screening for completeness (see Appendixes 14 and 14-1 for distribution procedures and Appendix 15 for format for review checklist).

5-9. SCREENING FOR COMPLETENESS.

- a. Each program and technical discipline shall review the Request to determine whether all required exhibits pertinent to its review have been submitted and are properly completed.
- b. For projects which will have construction contracts to be awarded by competitive bidding, exhibits required in paragraphs 5-6k and l need not be submitted until after the construction contract has been bid and this should be considered on the screening process.

- c. Comments shall be returned to the PC&R staff within one working day after receipt of the Request for review.
- d. The PC&R staff shall be responsible for assuring the review comments are received in a timely fashion.
- e. The PC&R staff shall compile the comments referenced above for each Request and forward them to the MHR who shall prepare the checklist summary (see Appendix 15).

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5-10. ELIGIBILITY FOR TECHNICAL PROCESSING.

- a. A Request which is found to be complete as a result of the MHR's review of the comments from the technical and program staffs shall be eligible for technical processing. The MHR shall advise the PC&R staff who shall, in turn, notify the technical and program staffs to begin the processing of the application. (All processing to be performed by the technical and program staffs is described in Sections 2 thru 6 of this Chapter except that to be performed by FH&EO, the Area Counsel, and EMAD which is described in paragraphs 5-12, 5-13, and 5-14 of this Section, respectively.)
- b. For a Request which is found not to be complete, the MHR shall prepare a letter for the signature of the Housing Director which lists the deficiencies and invites the Borrower to correct them by a specified date (generally within 15 days). The letter shall state that if the additional information is not received by the specified date, the Request will be returned and may be resubmitted when it is complete.
- c. Additional information submitted in response to the letter outlined in subparagraph b above shall be logged-in by the PC&R staff and forwarded to the MHR for review for acceptability. If the MHR determines that a Request is complete, the procedures outlined in subparagraph a above shall be followed. If the Request is found to be deficient, the MHR shall prepare a letter to the Borrower transmitting the Request, outlining the deficiencies, and inviting a prompt resubmission of the Request when it is complete.

5-11. COORDINATION OF TECHNICAL AND PROGRAM REVIEWS.

- a. The PC&R staff shall be responsible for keeping track of the progress of a Request through processing in the various technical and program disciplines and shall advise the MHR when target dates are not being met.
- b. The MHR shall monitor the overall progress of a Request through

processing to identify problem areas and shall assist the technical and program disciplines in securing additional documentation or information which may be needed in order to resolve any problems and permit completion of processing.

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- 5-12. FAIR HOUSING AND EQUAL OPPORTUNITY REVIEW. The FH&EO staff shall review the Affirmative Marketing Plan to determine if it complies with HUD requirements. For projects for the nonelderly handicapped where a site was not identified at the Fund Reservation stage, the FH&EO staff also shall review the Request to determine the acceptability of the site(s) with respect to areas of minority concentration (if the project is for new construction), compliance with civil rights acts and promotion of housing opportunities. The Housing Director shall be advised of any deficiencies noted during the review so that they may be corrected prior to issuance of the Conditional Commitment.
- 5-13. FIELD COUNSEL REVIEW. If the Borrower's Request includes provisions abatement or exemption of real property taxes, the Field Counsel's concurrence in the validity of the exemption must be obtained before the exemption can be considered in determining the feasibility of the project. The Housing Director, therefore, must receive such concurrence before approving a request for financing on the basis of the project receiving abatement or exemption. The Field Counsel shall review all documents in the Borrower's submission as described in paragraph 5-6x. Outlined below are the procedures to be followed:
- a. Exemptions Based on Special Legislation. In some States, special legislation has been passed granting tax exemption to particular types of housing, e.g., housing located in urban renewal areas or housing for low and moderate income groups or for other social needs. Generally, tax exemption, pursuant to such legislation may be safely assumed. If, after review, the Field Counsel determines that the proposed project meets the special criteria of the legislation, he/she shall advise the Housing Director that the project may be processed on a tax-exempt basis.
 - * b. Exemption Based on General Charitable Statutes. Exemption under a general statute exempting projects for charitable purposes may not be assumed. However, Field Counsel may determine that a proposal is eligible for processing on a tax-exempt basis if either of the following situations prevail:

- (1) The opinion of the Borrower's attorney sets forth the basis on which exemption is claimed and states that, except for future change in

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- (5-13)* the statute or material change in the operation, the project will be entitled to exemption. This is further supported by Field Counsel's knowledge that the taxing jurisdiction has routinely granted exemption to a Section 202 project.
- (2) Statement from the local taxing authority indicates that the exemption has been approved or that it will favorably consider an application for tax exemption for the Section 202 proposal.
- c. Where it has been determined that a proposal is entitled to be processed on a tax exempt basis, Field Counsel will advise the Housing Director whether such exemption is effective during construction or after project completion so that processing may be completed accordingly.
 - d. While a taxing jurisdiction may grant tax exemption, it may impose a payment in lieu of taxes (PILOT) for improvements, facilities or services rendered by the local authority to the project. Where this situation prevails, Field Counsel's advice will address the issue so that processing will take PILOT into consideration.
 - e. Should tax exemption be terminated by the local taxing authority during project operation due to statutory change or altered circumstances, the Borrower may submit a request for rent increase to cover the added tax burden as provided in the Regulatory Agreement.
 - f. MANDATORY FILING REQUIREMENT FOR TAX EXEMPTION. Whether there is existing special State legislation or a general charitable statute governing tax exemption, it shall be mandatory for the Borrower to file with the local taxing authority. Such evidence of filing, together with the response received therewith, must be submitted at the time of Conditional or Firm Commitment application.
- 5-14. ECONOMIC MARKET ANALYSIS DIVISION REVIEW. Participation by the EMAD staff at the Conditional Commitment stage will be limited to a review of a Request submitted in connection with a project for the nonelderly handicapped where the site was not

identified at the Fund Reservation stage.

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- (5-14) a. The EMAD staff shall review the Request to determine whether or not:
- (1) Based on available data, a sustainable demand for assisted occupancy for the number of dwelling units proposed exists,
 - (2) In accordance with Section 880.112(d) Site and Neighborhood Standards, the proposed site meets requirements of promoting a greater choice of housing opportunities and avoids an undue concentration of assisted persons in areas containing a high proportion of low-income persons.
 - (3) The proposed project is in conformance with any local HAP. (See Chapter 4, Section 10 and Appendix 9.)
- b. Upon completion of the analyses set forth in subparagraph a above, the EMAD Staff Shall prepare a memorandum to the HDD/CU which sets forth its findings and states whether or not the Request is acceptable or unacceptable to the EMAD.

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SECTION 2. ARCHITECTURAL AND ENGINEERING ANALYSIS

- 5-15. GENERAL. All projects shall be processed in accordance with outstanding architectural instructions in HUD Handbook 4460.1 REV., Architectural Analysis and Inspections for Project Mortgage Insurance, Section 207, except as modified herein, including compliance with the appropriate HUD Minimum Property Standards (MPS). Where local codes and ordinances are more stringent than requirements under HUD MPS, the local requirements shall prevail.
- 5-16. TYPES () F HOUSING.
- a. Projects shall be designed in accordance with the appropriate MPS and shall include only units which are designed for elderly or handicapped persons. Proposals may include efficiency and one-bedroom units. The mix of unit types should relate to the market. At least 25 percent of the units for the elderly must be efficiencies, unless the determination

was made at the Fund Reservation stage that such units are not readily marketable in the community. Two-bedroom units will not be approved except for the resident manager's unit.

(Note: The above limitation on two-bedroom units does not apply to a project designed wholly for the nonelderly handicapped. Additionally, such proposals may include three and four or more bedroom units to meet the needs of larger nonelderly handicapped families.)

- b. A units shall include a kitchenette, or a kitchen, even if central dining is provided, except as provided below.
- c. Group homes for the mentally retarded or other developmentally disabled or Chronically mentally ill groups are eligible. Such projects shall be designed in accordance with the Minimum Property Standards for One and Two Family Dwellings or Minimum Design Standards for Rehabilitation for Residential Properties, as appropriate. Although a private bathroom need not be provided for each unit, to ensure privacy, bathrooms should serve no more than four persons. Such projects shall be processed in accordance with multifamily Processing instructions for new construction or substantial rehabilitation as described in this Chapter. The number of

- (5-16) residents per site shall be limited to fifteen with no continuous sites. Units may not provide for occupancy by more than two persons. Further guidelines concerning group homes are contained in paragraphs 1-5c through g of this Handbook.
- d. Nothing contained in subparagraph c above shall preclude a Borrower which is serving the mentally retarded or other developmentally disabled or chronically mentally ill groups from providing apartments for independent living if the proposed residents have been determined to have the capability to live independently without endangering other residents. The number of residents per site shall still be limited to twenty with no continuous sites. In such cases, the design shall be in accordance with the applicable HUD MPS for the building type proposed.
- e. Medically-oriented facilities such as nursing homes, hospitals and intermediate care facilities except for intermediate care facilities for the mentally retarded (ICF/MRs), which require prior Headquarters approval, are not eligible. However, a small infirmary for emergency treatment may be included, but there shall be no provisions for overnight care.

- a. The Design Representative shall assure that amenities are provided which are conducive to day-to-day activities of elderly or handicapped tenants and that the design and materials specified are related to the limited physical ability of the occupants. The Design Representative shall also assure that amenities are limited to those specified on the List of Acceptable Amenities and that no amenities are included which were not proposed by the Borrower at the initial application stage. Amenities which are never acceptable include swimming pools, saunas, dishwashers, individual unit trash compactors or balconies. For health and sanitation reasons, a dishwasher and garbage disposal may be included in a group home where one kitchen serves a number of units.
- * b. Design features which must be included (except for group homes) are:
 - (1) A refrigerator, cooking facilities, sink, and storage space for food and utensils in each dwelling unit; and
 - (2) A complete bathroom as defined in the MPS in each unit.

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- (5-17) c. Facilities and features which shall be provided, as appropriate, are:
 - (1) Special spaces such as multipurpose rooms, game rooms, libraries and reading rooms, hobby craft shops, barber and beauty shops, lounges and snack bars, and central kitchen and dining facilities;
 - (2) Grades which eliminate or reduce steps and steep inclines;
 - (3) Barrier-free access and egress for all persons;
 - (4) Nearby parking facilities for residents and visitors. Borrowers should be encouraged to seek waivers where local zoning requirements appear excessive in relation to the intended market;
 - (5) Minimum length of travel between frequently used areas;
 - (6) Suitable outside areas for active and passive recreational activities;
 - (7) Selection and use of materials which stress safety;
 - (8) Proper provisions for all utilities to be included in the contract rents;
 - (9) Controlled access and egress tailored to the needs

established by the structures, the surrounding and the adjacent thoroughfares, and

- (10) Space and facilities for deliveries. Planning shall include design features which will assist the management function.
- d. The facilities enumerated in subparagraph c(1) above shall not be classified as commercial spaces and may be included if the Borrower establishes the need and if rents can be maintained within the Fair Market Rent Limits. Common areas shall be restricted to those needed to serve the residents and should normally not exceed 10 percent of the total project space.
- e. Dining space, when provided, shall be large enough to seat only 1/3 to 1/2 of the tenant body, since it is unlikely that all residents will desire to eat at the same time.

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- (5-17) f. In providing special amenities for the comfort, health and recreation of the elderly or handicapped, the continuing costs of operating the amenities must be considered.
- g. Commercial areas may only be allowed where they are self sufficient and provide service for residents. Such areas may not exceed 5 percent of the total project space.
- 5-18. REVIEW AND ACCEPTANCE OF EXHIBITS. Architectural liaison is required throughout the design stages. Architect's or preliminary drawings and outline specifications will be reviewed and approved by HUD. Architect's, engineers' or designers' certification are not acceptable in the Section 202 Program.
- 5-19. ELIGIBLE EQUIPMENT. All fixed equipment which normally is part of the realty may be included in the mortgage. In addition, stoves and refrigerators in the individual units, heavy equipment in a central kitchen, washers and dryers in a central laundry area, normally are covered under the construction contract. Other major moveable equipment, such as maintenance equipment and furnishings for public areas may be paid for out of the Project Contingency to the extent those funds are available. The Sponsor will be required to submit evidence of the availability of any funds required for equipment and furnishings over and above that provided in the loan. (See also subparagraphs 5-27 and 5-44c.)
- 5-20. COMPARATIVE COST ANALYSIS OF UTILITIES. The Architectural staff is responsible for reviewing Form HUD-51994 and all attendant exhibits, if required, and for determining that the most economical utilities, fuels, related mechanical equipment and methods of purchase have been included in the drawings and specifications. For example, where utility companies indicate that Power Demand

Controllers would result in cost savings, use of the Controllers should be considered.

- 5-21. ARCHITECTURAL ANALYSIS: REHABILITATION PROJECTS. Requests involving the rehabilitation of existing structures shall be reviewed and processed in accordance with the instructions outlined in paragraph 5-4 of this Chapter, Chapter 7 HUD Handbook 4510.1, Rental and Cooperative Housing for Lower-Income Families.

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SECTION 3. COST PROCESSING

- 5-22. GENERAL. In estimating project cost under Section 202, the underwriting instructions and development procedures for new construction and rehabilitation, as set forth in HUD Handbook 4450.1, Cost Estimation for Project Mortgage Insurance shall be followed, except as modified herein. The Cost Analyst shall collaborate with the Design Representative to assure that the plans and specifications include all MPS requirements for housing for the elderly or handicapped and do not include excess amenities or common areas or commercial spaces which are not needed to serve the residents.
- 5-23. COST NOT ATTRIBUTABLE TO DWELLING USE. The Supplemental Estimate for Cost Not Attributable to Dwelling Use shall include the costs for "special spaces and accommodations" and shall not normally exceed 10 percent of total project cost.
- a. These improvements generally consist of additional requirements, services and facilities not usually found to the same extent in typical residential rental projects and provide for the comfort, health and recreation of elderly or handicapped residents.
 - b. "Special spaces and accommodations" include, but are not limited to:
 - (1) multi-purpose rooms;
 - (2) game rooms;
 - (3) libraries;
 - (4) reading rooms;
 - (5) hobby and craft shops;
 - (6) barber and beauty shops;
 - (7) lounges or sitting rooms;
 - (8) snack bars, and
 - (9) central kitchens and dining rooms.
 - c. Income producing areas (except central dining facilities) are classified as "commercial" in "Costs Not Attributable," not "special spaces," and may not exceed 5 percent of total project space without the prior approval of the Assistant Secretary.

- d. As with other "Costs Not Attributable" items, the costs of foundations, plumbing, heating, air conditioning, water, electric, and/or sewage facilities are prorated to the "special spaces and accommodations" as appropriate.

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- (5-23) e. Any equipment not required by the MPS, but required by the local municipalities or state building codes which pertain to the elderly or handicapped, shall be included under this category. For example, if the project under review were a two-story structure with no living units above the first floor intended for occupancy by wheelchair users and no central dining facilities and if local or state building codes require installation of an elevator in all projects for the elderly or handicapped with two or more stories, the cost of these elevators shall be included in the estimate of Cost Not Attributable to Dwelling Use. (The MPS would not require installation of an elevator for the project described above.)
 - f. In group homes, the estimate of Cost Not Attributable to Dwelling Use shall be performed in the same manner as in other Section 202 projects. (See paragraphs 1-5c through h and 5-34 of this Handbook.)
- 5-24. COSTS NOT ORDINARILY ATTRIBUTABLE TO DWELLING USE. For projects designed specially for the handicapped, a new category of consideration has been added to those normally evaluated in determining the amount of Cost Not Attributable to Dwelling Use. This category -- Costs Not Ordinarily Attributable to Dwelling Use -- includes the additional costs incurred for items which are peculiar to projects for the handicapped.
- a. The Cost Analyst shall develop benchmark costs for such items, using normal cost procedures, and shall include the appropriate amount, designated as "Costs Not Ordinarily Attributable" in his/her Supplemental Estimate described in paragraph 5-23 above.
 - b. In a project designed specifically for the deaf, for example, the Borrower may propose to include a closed circuit television system in order to permit the resident manager to contact tenants and communicate with them in case of emergency.
 - c. Items such as wider doors and hallways, grab bars, slip-resistant tubs and/or shower bottom surfaces, etc., which are listed in the MPS for projects for the elderly or physically handicapped, shall not be included as "Costs Not Ordinarily Attributable," as costs for these items have already been considered in the per unit cost limits for Section 202 projects.

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- 5-25. ADEQUACY OF ESTIMATES. It is imperative that the Cost Analyst assure that his/her estimate of "Cost Not Attributable to Dwelling Use" includes all items set forth in paragraphs 5-23 and 5-24 above and in Handbook 4450.1. Section 202 projects are unique in "special spaces and accommodations" and the Section 202 cost limits are not designed, nor are they sufficient to cover the additional costs created by these amenities. The Cost Analyst should contact the Office of Multifamily Housing Development, Headquarters, if he/she has any question regarding the eligibility of items "special spaces or accommodations, "Costs Not Ordinarily Attributable," or regarding the estimation process.
- 5-26. BUILDER'S PROFIT. An allowance for a Builder's Profit shall be included in the cost processing calculation (see paragraph 5-4 of Handbook 4450.1).
- 5-27. SCHEDULE OF CAPITAL EXPENDITURES. The Borrower is required to submit, with its Request for Conditional Commitment, a schedule of all capital expenditures such as furniture, supplies, equipment, and other expenditures necessary to the basic operation of the project, including those not covered by the proceeds of the loan. The Cost Analyst shall review this schedule for the purpose of estimating the reasonableness of such costs. At the conclusion of his/her review, the Cost Analyst will prepare a memorandum to the Chief, Mortgage Credit Staff advising of his/her findings.
- 5-28. LESS THAN 25 PERCENT EFFICIENCIES. Projects for the elderly are required to contain at least 25 percent efficiency units unless the EMAD and valuation staffs determine that such units are not readily marketable in the community. In cases where a determination has been made that the market will support at least 25 percent efficiency units but the Borrower chooses to include less than 25 percent efficiencies, the Borrower will be permitted to do so, but development costs must be calculated as if 25 percent of the units were efficiencies. The incremental increase in development cost for the excess one-bedroom units must be paid by the Borrower as a front money requirement and cannot be included in determining the maximum loan or mortgage amount.
- 5-29. COST ANALYSIS: REHABILITATION.
- a. The Cost Analyst will base his/her analysis on the work statement described in Section 1, paragraph 5-2(c) of this Chapter and any other exhibits pertinent to the subject project. The Analyst will make his/her estimate of land improvement and any supplemental estimates on page two of Form FHA-2325 and his/her estimate of structures on Form FHA-2326-A. These costs will be summarized on Form FHA-2326, and will also be included in the Form HUD-92264.

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- (5-29) b. Benchmark costs from the office data bank will be applied to the rehabilitation requirements. In making adjustments to data bank benchmark costs, care must be taken in projecting the start of construction date. Factors such as the amount of demolition required prior to the actual rehabilitation of the subject structure must be given full consideration. The benchmark costs for structures will be applied to the specific requirements of the work statement, based on a gross square foot cost, square foot cost, or per unit cost, as applicable. The land improvement estimate will be based on a square foot cost or per unit cost as applicable.
- c. Estimate of a New Structure. If the work statement indicates that the required rehabilitation will be too costly, the Analyst should make a second estimate based on complete demolition of the existing structure. The replacement cost of a new structure shall be determined in accordance with outstanding processing instructions. A comparison of the two estimates will be noted in Section "O: Remarks," on Form HUD-92264.
- d. Substantial Rehabilitation projects shall be exempt from the requirement that at least 25 percent of the units be efficiencies (paragraph 5-28) to the extent that such exemption is dictated by the existing facility, i.e., where it would be more expensive to comply with the requirement than to retain the existing unit composition. In such cases, the Analyst shall make a recommendation for exemption to the Director of Housing for approval.

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SECTION 4. VALUATION ANALYSIS

- 5-30. GENERAL-NEW CONSTRUCTION. Valuation processing at this stage will be in accordance with HUD Handbooks 4465.1, Valuation Analysis for Project Mortgage Insurance and 4480.1, Multifamily Underwriting Reports and Forms Catalog, except as modified herein. Fee appraisers may not be used for any portion of the Valuation analysis. Valuation processing shall include the following:
- a. Land appraisal "as-is" and fully-improved (with offsite improvements installed);

- b. Determination of the project replacement cost;
- c. Expense Estimate;
- d. Determination of the cost equivalent to the loan amount allowable by the Section 202 cost limits;
- e. Rent Formula determination;
- f. Allocation of Formula Rents to Revenue Producing Dwelling Units;
- g. Estimate of Allowances, if any;
- h. Determination if gross rents are in compliance with Fair Market Rent Limits;
- i. Re-analysis of LUI determined at Fund Reservation Stage, if required by changes in the Request;
- j. Re-analysis of evidence of permissive zoning, if necessary;
- k. In the case of applications for projects with less than all of the rental dwelling units assisted under Section 8, a determination that sufficient market demand is anticipated for the unsubsidized dwelling units in order to assure the feasibility of the project, and
- l. In addition to the determinations outlined in subparagraphs a thru k above, in projects for the nonelderly handicapped where the site was not identified at the Fund Reservation Stage, Valuation processing also shall include:
 - (1) Determination of the LUI;
 - (2) Determination of the acceptability of the location;

- (5-30) (3) Determination of the marketability of the dwelling units;
- (4) Initiation of the Environmental Clearance; and,
- (5) Analysis of evidence of permissive zoning.
- 5-31. LAND APPRAISAL. Site analysis and appraisal conclusions are recorded on Page 3 of Form HUD-92264. The Project Site Analysis and Appraisal, Section J, should be completed in its entirety at this stage.
- 5-32. REPLACEMENT COST ESTIMATE. To determine HUD's estimates of the Section 202 development cost, the Request will be processed as a

nonprofit project, using a replacement cost formula (See Appendix 16) and Section G of Form HUD-92264, and completed in accordance with Handbook 4480.1, except as modified below:

- a. Interest during construction is based on the interest rate at which the direct loan is expected to be made initially. The interest rate that HUD must pay on Section 202 loan funds borrowed from the Treasury is based on the average interest rate on all interest bearing obligations of the United States forming a part of the public debt. The rate determined at the end of the fiscal year establishes the Treasury's lending rate for the funding of applications for which loans are made during the succeeding year. The interest rate will be published in the Federal Register and distributed in a Notice annually.
- b. Fees. Examination, Inspection, Financing, and GNMA/FNMA fees shall not be included in Section 202 processing.
- c. Mortgage Insurance Premium (MIP). There is no MIP payable since Section 202 is a direct lending program.

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- (5-32) d. Project Contingency. A project contingency allowance shall be established equal to three percent of the loan amount. This contingency may be used to cover the cost of necessary change orders which are approved by the Field Office prior to final closing, increased carrying charges occasioned by unavoidable delays in construction, and increases in otherwise eligible line items. It may not be used to provide additional profit or fees to the architect, attorney, consultant or other principals. Major movable furnishings and equipment (non-realty items), including, but not limited to office furniture and equipment and lounge and lobby furniture, may be paid for from the project contingency. Dishes, cutlery, etc., are not eligible to be covered in the loan and must be paid for out of the Sponsor's own funds or operating revenue. The amount of the contingency allowance shall be entered on line 60, on Form HUD-92264.
- e. Other Carrying Charges. Taxes, Insurance, and Title and Recording expenses will be estimated in accordance with Handbook 4480.1.
 - f. Legal, Organization, and Cost Certification Audit Fee. These items will be estimated in accordance with Handbook 4480.1. When a consultant's fee is included in processing, the allowance for organization shall be reduced accordingly so as not to include the services performed by the consultant. Similarly, the Borrower is required to furnish a fidelity bond covering all persons authorized to sign checks drawn on the Trust Account, if a Section 106(b) loan is made, and on the

Construction Account for the Section 202 loan. The appraiser shall include sufficient funds in the allowance for organization to cover the costs of the fidelity bond(s).

- g. Management Fund. Handbook 4381.5 establishes a Management Fund of \$100 per residential unit which shall be included in the loan amount.
- h. Consultant's Fees. If the consultant's contract and fee have been approved by the Mortgage Credit staff, the appraiser shall include the approved fee in the loan amount provided it does not exceed the applicable amounts shown in the fee schedule which appears in Chapter 1, paragraph 1-10 of this Handbook.

5-33. ANNUAL OPERATING EXPENSE ESTIMATE. Operating expense estimates are made in accordance with instructions contained in Chapter 6 of Handbook 4465.1, except as modified herein.

- (5-33) a. The Borrower's Application, Form HUD-92013, should contain only those expenses estimated to be required to serve living quarters, income producing commercial space and residential accessory space, and those utilities furnished at no additional expense to tenants.
- b. Form FHA-2013-E will be used to show estimated expenses and income relating to meals and other services (see paragraph 5-45b). Except as provided in paragraphs 5-16 and 5-17 of this Chapter, each dwelling unit shall contain, as a minimum, a kitchen sink, a minimum size standard refrigerator, a "cook top", adequate electric capacity and outlets for small appliances, storage space for food and utensils, and complete bathroom facilities.
- c. Congregate Housing. Congregate dining and other facilities and services may be provided by an eligible Borrower. It may propose to supply tenants with food, maid service, or other personal services. However, in determining approvable Contract Rents under Section 8, staffing and other operating costs of such services may not be recognized. Purchase of personal services shall not be required as a condition of occupancy. Borrowers may charge for no more than one meal per day as a condition of occupancy, provided the charge is determined by HUD to be reasonable. It may be necessary for some services to be covered from funds provided by the Borrower from other sources. Where a Borrower proposes to furnish food or other services, the Borrower shall clearly separate such charges from the total charges for shelter and project-supplied utilities which are entered on Form HUD-92013.

5-34. DETERMINATION OF LOAN AMOUNT ALLOWABLE UNDER SECTION 202 COST

LIMITS.

- a. The determination of the cost equivalent to loan amount allowable by the Section 202 cost limits shall be made by completing the format provided in Appendix 17, Loan Amount Permitted by Section 202 Cost Limits Per Family Unit, allowing a return on 100 percent of the cost at the debt service rate at which the direct loan will be amortized.
- b. Group homes for the mentally retarded or other developmentally disabled groups ordinarily will include units comprised only of a bedroom and a shared bathroom. However, in determining cost and rent limits, the bedroom shall be treated as a one-bedroom unit if by allocating a proportionate share of the common areas

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- (5-34) to each bedroom there is space equivalent to a one-bedroom unit. When double occupancy is anticipated, the bedroom shall be sufficiently larger to accommodate two persons, but shall also be treated as a one-bedroom unit. If space equivalent to a one-bedroom unit is not provided, the 0-bedroom cost and rent limits shall be used. These limits shall apply on a per unit basis, not per person. For additional guidelines for group homes and other facilities for the handicapped, see paragraphs 1-5c through g of this Handbook.
- c. In cases where the market will support at least 25 percent efficiency units but the Borrower chooses to include less than 25 percent efficiency units, development costs will be calculated as if 25 percent of the units were efficiencies. The incremental increase in development cost for the excess one-bedroom units will not be included in determining the maximum approvable loan or justifying rents above comparables. The efficiency unit cost and rent limits will be used for 25 percent of the units. (Expenses, however, shall be calculated based on actual unit composition.)
- 5-35. DETERMINATION OF LOAN AMOUNT BASED ON DEBT SERVICE WHEN TERM OF TAX ABATEMENT IS LESS THAN TERM OF LOAN. When the tax abatement or exemption is available only for periods less than the term of the loan, it is required that any portion of the loan attributable to the abatement be fully amortized during the abatement period. In such cases the loan amount based on debt service will be computed as follows:
- a. Determine the loan amount based on debt service assuming no tax abatement.
 - b. Divide the annual dollar amount of the tax abatement by the level annuity debt service rate applicable to the abatement period.

- c. Add together the results of Steps a and b to determine a loan amount which is one upper limit on the maximum loan amount.

5-36. DETERMINATION OF ESTIMATED INCOME.

- a. Estimated income is derived from a rent formula calculation based on the estimated operating costs and the lower of HUD's estimate of the total replacement cost (paragraph 5-32) or the amount of loan allowable under the Section 202 cost limits per family unit (paragraph 5-34, above). However, estimates of

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(5-36) income for commercial and residential accessory space must be determined on the basis of market comparability in accordance with basic valuation instructions for rental housing mortgage insurance programs. It should be noted, if the rents obtainable for commercial and residential accessory space are not adequate to support its cost and the expense of its operation at the debt service rate at which the direct loan will be amortized, such space, except for space which provides essential services for the benefit of the project occupants (such as laundry and required parking facilities) must be eliminated or reduced appropriately so that obtainable income will adequately support its production cost and operating expense.

- b. Determining Dwelling Unit Rentals. Complete a rent formula calculation using the formula provided in Appendix 18, Rent Formula Supplement to Form HUD-92264, to determine the total of the rent based on the lower of the estimated replacement cost from paragraph 5-31 or a cost equivalent to the loan amount allowable by the Section 202 cost limits, criterion 4 of Form FHA-2264-A. Assume 97 percent occupancy if supported by data which demonstrates that other projects for the elderly or handicapped in the same market area have occupancy rates above 97 percent and a reservoir of unsatisfied demand evidenced by waiting lists of prospective tenants. Otherwise, 95 percent occupancy rate shall be used. See also paragraph 5-33 for determination of rentals for group homes. The rent formula calculation is accomplished by the following computations:

- (1) Multiply the lower of replacement cost or the maximum loan based on Section 202 unit limits by the debt service rate (principal and interest per annum);
- (2) Add annual ground lease payments (leasehold projects only). Note that for leasehold projects, the replacement cost calculated in paragraph 5-31 must be the replacement cost of the leasehold estate.
- (3) Divide by .97 to allow for a 5 percent net income reserve;

- (4) Add operating expenses;
- (5) Divide by .95 to allow for a 5 percent vacancy and collection loss (or, if appropriate, divide by .97 to allow for a 3 percent vacancy and collection loss);

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- (5-36) (6) Divide by 12 to convert to a monthly basis;
 - (7) Subtract monthly income, if any, expected to be derived from sources other than dwelling unit rentals, to come up with total allowable monthly Rent from Revenue Producing Dwelling Units.
- c. Determining Dwelling Unit Rentals for Projects with Tax Abatement. If the Area counsel has determined that certain tax abatement is assured (see paragraph 5-13), the appraiser shall determine the amount of the tax abatement and term (in length of time) of each abatement.
- (1) When the duration of the tax abatement is equal to or greater than the term of the loan, no variation in the project processing described in subparagraph b above is required except that the expense estimate will not include that portion of the tax to be abated.
 - (2) In cases where the tax abatement term is less than the term of the loan, the expense estimate shown in Form HUD-92264, Section E, must include the full tax. Where the abatement term is less than the total term of the loan, a revised rent formula is used as shown in Appendix 18-1. The rent formula calculation is accomplished as follows:
 - (a) Line 1(a) - Enter estimated cost of property with 100 percent loan as determined in accordance with Appendix 16 (new construction) or Appendix 20 (rehab);
Line 1(b) - Enter maximum loan based on Section 202 unit limitations as determined in accordance with Appendix 17;
Line 1(c) - Self-explanatory.
 - (b) Line 2(a) - Enter the term of the abatement;
Line 2(b) - Enter annual amount of tax abatement;
Line 2(c) - Enter debt service rate (p and i per annum) at the permanent interest rate for the term of abatement. Since it is not likely that the debt service rate for the term of the abatement will appear in

published schedules, the appraiser should call Mathematics Section, Multifamily Mortgage Branch, OFA, at 755-5240 for the applicable rate;

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- (5-36) Line 2(d) - Divide Line 2(b) by Line 2(c) and enter the result. Since the tax savings provided by the tax abatement must be used by the Borrower to pay a accelerated mortgage amortization during the abatement period, the result of this computation will be the loan amount attributable to the tax abatement which will be completely amortized during the abatement term.
- (c) Line 3 - Self-explanatory.
- (d) Line 4 - To determine the portion of the debt service not attributable to the tax abatement divide Line 3 by the debt service rate (p and i per annum) for the permanent loan.
- (e) Line 5 - Self-explanatory.
- (f) Line 6 - Self-explanatory.
- (g) Line 7 - Self-explanatory.
- (h) Line 8 - To allow for a 5 percent net income reserve, divide the sum of lines 4, 5 and 6 by .95.
- (i) Line 9 - Enter the annual expenses, reserves, and taxes (excluding the amount of tax abated).
- (j) Line 10 - Self-explanatory.
- (k) Line 11 - To provide for a 5 percent vacancy and collection loss, divide Line 10 by .95 (or, if appropriate, divide by .97 to allow for a 3 percent vacancy and collection loss).
- (l) Line 12 - Compute the monthly gross income by dividing Line 11 by the number 12.
- (m) Line 13 - Self-explanatory.

- (n) Line 14 - To determine the total allowable monthly rent from revenue producing units, subtract Line 13(c) from Line 12.

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- 5-37. ALLOCATION OF FORMULA RENTS TO REVENUE PRODUCING DWELLING UNITS. complete the format provided in Appendix 19, to allocate the resulting total monthly rents for dwelling units to the individual revenue-producing dwelling units in the pattern of the maximum contract rents permitted by the applicable Section 8 Fair Market Rent Limits (FMRLs) and then round the resulting dwelling unit amounts to the next higher whole dollar amounts.
- 5-38. UTILITY ALLOWANCES AND OTHER SERVICES.
- a. Estimate of these allowances shall be based on the utility and service expenses typically incurred by tenants of comparable living units. The appraiser shall prepare a Schedule of Allowances patterned after Section I of Form FHA 2264B, Cooperative or Condominium housing project Analysis. Note that the resulting monthly amount for each item reflects the monthly average of the expected annual expense.
 - b. The appraiser shall compare his/her Schedule of Allowances with the estimates contained in the application. Only when the differences are minor may he/she find the Borrower's estimates to be acceptable. Finding the proposed schedule unacceptable need not necessarily result in rejection of the application, unless the required use of the HUD-approved Schedule of Allowances would cause the resultant gross rents to exceed the applicable FMRLs. If the gross rents are still within the FMRLs and the application otherwise is approvable, issuance of a Conditional Commitment for Direct Loan Financing must be conditioned on adoption of the HUD-approved Schedule of Allowances.
 - c. The Schedule of Allowances prepared by the appraiser and a synopsis of his/her findings regarding the acceptability of the Borrower's estimates shall be routed to the Office's Utility Specialist (or the Housing Management Division Maintenance Engineer) for prompt review and comment prior to the completion of Technical Processing. A copy of any Housing Management comments shall be attached to the Findings Memorandum prepared by the Valuation staff.

5-39. DETERMINATION IF GROSS RENTS (CONTRACT RENTS) ARE IN COMPLIANCE WITH FAIR MARKET RENT LIMITS.

- a. If the dwelling unit rentals from the rent formula calculation, plus allowances for utilities, if any, are no higher than the applicable FMRLs, they shall become the Contract Rents approved for Section 8 and Section 202 direct loan purposes.
- b. If the dwelling unit rentals from the rent formula calculations, plus allowances for utilities, if any, are higher than the applicable FMRLs, the applicable FMRLs less the HUD-approved allowances, if any, shall become the Contract Rents approved for Section 8 and Section 202 direct loan purposes and the amount of the direct loan will be limited by the debt service criterion, rather than the cost criterion, to an amount supportable by 95 percent of the net income at the debt service rate at which the direct loan will be amortized.
- c. Compliance with the Fair Market Rent Limits (FMRLs).
 - (1) While the published Fair Market Rents (FMRs) represent gross rents which include all essential utilities and services, the rents payable to the Borrower may be based on the exclusion of some essential utilities and services. It then is necessary to establish a Schedule of Allowances for Utilities and Other Services (Allowances) (see paragraph 5-38 above) for the cost of utilities (except telephone) and charges for other services payable directly by the tenants. Such expenses payable directly by tenants are sometimes called Personal Benefit Expenses (PBE). "Total Housing Expense" as defined in Section 880.201 of the Regulations is "the sum of the contract rent and any utility allowance."
 - (2) The appraiser shall determine whether the total housing expense is within the bounds permitted by the applicable FMRs. These bounds, based on FMRs and project and dwelling unit characteristics and parameters, are called Fair Market Rent Limits (FMRLs) to distinguish them from the base of raw, FMRs.

- (5-39) (a) The total housing expense may not exceed the FMRs except that the total housing expense may in some circumstances be permitted to exceed the FMRs by up to 10 percent (prerogative of the Area Manager) or by up to 20 percent (prerogative of the Assistant Secretary). The following documentation shall be submitted to the Office of Multifamily Housing Development, Attention: Technical Support Division

to support a request for the use of the Assistant Secretary's prerogative: (Note: For projects needing both a loan increase and the Assistant Secretary's prerogative, requests should be submitted in the same memorandum.)

- (1) Area Manager/Field Office Supervisor's written recommendation.
- (2) Form HUD-92013, Application-Project Mortgage Insurance.
- (3) Form FHA-2013E, Supplemental Application and Processing Form.
- (4) Form HUD-92264, Rental Housing-Project Income Analysis and Appraisal.
- (5) Form HUD-92264A, Supplement to Project Analysis.
- (6) Replacement Cost Formula (Appendix 16, Handbook 4571.1 REV).
- (7) Criterion 4, Form HUD-92264A Format, (Appendix 17, Handbook 4571.1 REV).
- (8) Rent Formula (Appendix 18, Handbook 4571.1 REV).
- (9) Allocation of Formula Rent, (Appendix 19, Handbook 4571.1 REV).
- (10) Form HUD-92274, Operating Expense Analysis Worksheet.

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- (5-39) (b) The FMRLs are determined by multiplying the FMRs by the following factors:
- (1) Published FMRs x 1.05 elderly adjustment x 1.00 (No prerogative) = 1.05 x FMRs.
 - (2) Published FMRs x 1.05 elderly adjustment x 1.10 (Field Office Manager's Prerogative) = 1.155 x FMR.
 - (3) Published FMRs x 1.05 elderly adjustment x 1.20 (Assistant Secretary's Prerogative) = 1.26 x FMRs.

The above factors are applicable to elderly/handicapped units to arrive at FMRLs for the 0,1 and 2-bedroom

dwelling units and are applicable to nonelderly/handicapped units with large families to arrive at FMRLs for 0, 1, 2, 3 and 4-bedroom dwelling units.

- (3) For the purposes of determining compliance with FMRLs. Section 202/8 dwelling units shall be classified by structure type in accordance with the definitions listed below. (Note: the following definitions may differ in very important respects from similar definitions currently printed in other HUD Handbooks, forms and instructions.)
- (a) Detached. A dwelling structure containing one living unit, surrounded by permanent open spaces.
 - (b) Semi-Detached/Row. A dwelling structure containing two or more living units separated only by vertical divisions termed party or lot line walls. Semi-Detached/Row dwelling units may not be enclosed on more than two sides by common side (party) or lot line walls and must have permanent open spaces contiguous to no fewer than two sides. Multilevel, Semi-Detached/Row dwelling units must provide private stairway access to all levels within each dwelling unit.
 - (c) Walkup. A multilevel structure containing two or more living units separated horizontally by floor and/or ceiling structural elements, which is not required either by HUD MPS or by local building codes

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- (5-39) to contain an elevator(s). Note: structures containing two or more dwelling units, whether one-story or multistory, which do not comply with the definitions herein of either a Semi-Detached/Row or Elevator structure shall be classified as "walkup" for purposes of determining compliance with FMRLs.
- (d) Elevator. A multilevel structure containing an elevator (or elevators) which either would be required by HUD MPS to be included in a similar structure or which is required by local building codes. Elevators are required by HUD MPS in structures of:
 - 1 Three or more stories in housing for the elderly or handicapped.
 - 2 Two-story housing for the elderly or handicapped where central dining facilities are located on a

- 3 Two or more stories in housing with living units above the first floor intended for occupancy by wheelchair users.
 - (4) Elderly or Handicapped FMRLs. An elderly and/or handicapped dwelling units shall be defined as: A zero or one-bedroom dwelling unit or two-, three- or four-bedroom dwelling units to accommodate the nonelderly handicapped with large families constructed in compliance with HUD MPS and applicable local building codes, and ordinances, specifically designed for the use and occupancy of elderly or handicapped persons.
- * d. If the amount of the direct loan is limited by criteria other than cost, such as Section 202 cost limits, or debt service, Section G of Form HUD-92264 will have to be amended accordingly and the Contract Rents will have to be redetermined, based on the amount of direct loan permitted by the controlling mortgage-limiting criterion.

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- 5-40. VALUATION ANALYSIS: REHABILITATION PROJECTS. Valuation processing shall be completed in accordance with the preceding instructions for proposed construction, except as modified below.
- a. The appraiser shall participate in the joint inspection required by paragraph 5-2 of this Chapter.
 - b. References to total estimated development cost shall be construed to mean the summation estimate, the sum of the "as-is" value and cost of rehabilitation including carrying and financing charges. (See Appendix 20 for replacement cost formula for rehabilitation projects.)
 - c. The findings of market value after rehabilitation shall be omitted.
 - d. For projects where the estimated cost of the rehabilitation is 25% or more of the estimated value of the property after rehabilitation, the total housing expense shall be determined in accordance with the procedures outlined in paragraph 5-37 of this Chapter.
 - e. For projects where the estimated cost of the rehabilitation is less than 25 percent of the estimated value of the property after rehabilitation, the gross rents shall be determined in accordance with the procedures outlined in paragraph 5-37 of this Chapter except that the gross rents may not exceed 75 percent of the FMRLs for projects with rehabilitation costs which are 25 percent of value after rehabilitation are determined by multiplying the FMRs by the following factors:

.75 (no prerogative); .825 (Area Manager's prerogative); or .90 (Assistant Secretary's prerogative). These factors are properly applicable to dwelling units designed for occupancy by the elderly/handicapped only when the FMRs for units designed for the elderly/handicapped have been determined prior to their application by multiplying the published FMRs for 0, 1, and 2-bedroom units (or 3 or 4-bedroom units) by 1.05. Alternatively, the FMRLs for rents for the elderly/handicapped may be determined directly by multiplying the published FMRs for 0, 1, 2-bedroom dwelling units (or 3 or 4-bedroom units) by the following composite factors: .7875 (no prerogative); .86625 (Area manager's prerogative); or .945 (Assistant Secretary's prerogative).

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SECTION 5. MORTGAGE CREDIT ANALYSIS

- 5-41. GENERAL. The determination of the eligibility of the nonprofit Borrower and the analysis of the Borrower's financial statements will have been completed at the Fund Reservation Stage. Therefore, the Mortgage Credit processing in these areas at the Conditional Commitment Stage will consist of completing the credit investigation and updating the financial statement analyses in accordance with the requirements set forth in Handbook 4470.1.
- 5-42. ANALYSIS OF THE GENERAL CONTRACTOR. The MCE shall make an analysis and review of the general contractor, if identified, in accordance with the instructions contained in Handbook 4470.1.
- 5-43. SPONSORING ORGANIZATIONS. In making his/her analyses, the MCE must keep in mind that the Borrower, in many cases, will be dependent upon its sponsoring organization for evidence of financial capacity. Therefore, in analyzing the Borrower's capability, the MCE must evaluate the capability of the sponsoring organization as well.
- 5-44. DETERMINATION OF THE FINANCIAL REQUIREMENTS TO COMPLETE THE PROJECT. The development of the financial requirements to complete the project is essential to the evaluation of the Borrower's financial capacity to provide the required funds. This analysis involves:
- a. The determination of the net amount of cash required over and above the loan proceeds to construct the project, which is established by deducting the maximum amount of the loan from the total HUD-FHA replacement cost of the property or project. This is called "front-end money".
 - b. The determination of the amount of the minimum capital investment, which is defined to be one-half percent of the loan

amount or \$10,000, whichever is lesser.

- c. The determination of amount of capital needed to defray costs of placing the project into immediate operation, which would include the costs of any capital expenditures such as furniture, supplies, equipment and other expenditures necessary to the basic operation of the project which are not covered by proceeds of the loan. A determination shall also be made as to which items may be covered by the Project Contingency and which must be paid for by the Borrower. The Borrower is required to submit a schedule covering these items which will be reviewed by the Cost Staff for the purpose of estimating the reasonableness of such costs. The Cost Staff shall advise the Mortgage Credit Staff of the results of its review.

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5-45. DETERMINATION OF BORROWER'S FINANCIAL CAPACITY TO CLOSE THE TRANSACTION AND OPERATE THE PROJECT. Projects for the elderly or handicapped involve more extensive financial consideration than other multifamily projects.

- a. The MCE must determine that the Borrower has sufficient capacity to:
 - (1) Provide any required "front-end money" as determined in accordance with paragraph 5-44a above,
 - (2) Provide the minimum capital investment, which may be satisfied by the nonprofit Borrower establishing a cash escrow no later than the initial closing or contributing all or a portion of the land draw available to it at initial closing as determined by the MCE in accordance with Handbook 4470.1 (see paragraph 7-14), and
 - (3) Provide the funds needed to meet the costs of all capital expenditures. In addition to the schedule of the costs of all capital expenditures, the Borrower also must submit a plan outlining how it will meet these costs. In most cases the Borrower will indicate that funds will be provided from the Project Contingency. In some cases, the Borrower may indicate that it plans to raise the money to cover these costs through fund-raising drives, contributions from Sponsors, its membership, or benefactors, or that the furniture, equipment, or supplies will be donated. The MCE's responsibility at this point is two-fold. He/She shall review the plan to determine its feasibility, based on evidence in the application regarding the Borrower's past capability of raising funds, etc., and also shall make a determination as to whether or not the Borrower would be able to furnish its own monies in the event it could not raise the funds or secure donations.

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- (5-45) b. The Borrower is required to submit, on Form FHA-2013-E, estimates of operating costs not directly related to the project which have not been included on the application form, such as operating transportation, community dining and recreation facilities, maid service, etc. This Form shall be reviewed by the Valuation Staff (see paragraph 5-33), whose findings will be recorded on the Form and forwarded to the Mortgage Credit Staff. The MCE shall review this Form to determine if the operations are self-sustaining or if the Borrower will be required to invest its own funds to meet the expenses of these operations. If an investment will be required of the Borrower the MCE must determine that the Borrower has the resources to provide the needed capital. As in the case described in subparagraph a above, a determination that the Borrower does not have adequate resources shall not constitute rejection by the Mortgage Credit staff at the Conditional Commitment Stage. The MCE shall include in its memorandum to the Housing Director (see paragraph 5-46 below) a request that a condition be added to the Conditional Commitment which sets forth the requirements and requires the Borrower to submit information on how it plans to meet the requirements with its Request for a Firm Commitment.
- 5-46. RECORDING THE RESULTS OF THE MORTGAGE CREDIT ANALYSES. All determinations made as a result of paragraphs 5-45 a and b above, shall be recorded on Form FHA-2264-A, Supplement to Project Analysis, Section II, which shall be completed in accordance with Handbook 4480.1. If the Mortgage Credit Analysis does not indicate that the Borrower is capable of providing the funds required by subparagraphs 5-45a(1) and (2) above, the project may be rejected by the Mortgage Credit staff. (See also paragraph 5-34 concerning determination of cost limits for group homes and paragraph 5-35 concerning determination of loan amount based on debt service when term of tax abatement is less than term of loan.) In addition, the MCE shall prepare a memorandum stating his/her opinion, based on the available data, as to the ability of the Borrower to provide all of the capitalization, debt service, and continuing operating expenses of the project.

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SECTION 6. MANAGEMENT PROCESSING

- 5-47. GENERAL. The HM staff shall review the Request to determine the

management capability of the Borrower or management agent, the approvability of the management plan, and the approvability of the proposed lease. The HM staff also shall review the operating expenses for adequacy from a management viewpoint. Reviews shall be completed in accordance with Handbook 4381.2, Management Requirements on Processing Insured Multifamily Housing Projects, except as modified herein.

5-48. REVIEW OF MANAGEMENT AGENT'S QUALIFICATIONS AND THE MANAGEMENT CONTRACT. The Borrower may propose to manage the project itself or contract with a management agent. If the Borrower determines to contract with a management agent, (project administrator or resident manager, if self-managed), it must submit the proposed management contract using Form HUD-52678, as an instructional guide, a resume on the management agent, Form HUD-2530 on the management agent and Form HUD-52678-B. The HM staff shall review these documents for compliance with HUD requirements and in order to determine the acceptability of the management agent.

a. Management Agent Qualifications. Using the written reply to the "Questionnaire for Managing Agent," the Management Specialist shall evaluate the capacity of the Management Agent to manage a multifamily project successfully. Particular attention should be given to the Management Agent's capacity to handle the problems inherent in managing low-income housing. In the event the information on the statement is not sufficient to make a reasonable determination, the Management Agent should be required to submit supplemental information. A history of poor management practices in defaulted projects would quite obviously disqualify a Management Agent, but the acceptability of the Management Agent will generally be a judgment based on the experience, motivation, financial capacity, and potential of the Management Agent. If the reply to the questionnaire or the Form HUD-2530 indicates the Management Agent has had pertinent difficulties with projects under the jurisdiction of another Field Office, the Management Specialist shall obtain a written report from that Office relative to the performance of the Management Agent.

b. Certification by the Management Agent. The Management specialist will make certain the management Agent has submitted an unqualified certification that he/she considers the project feasible from a management standpoint and has reviewed the

(5-48) management exhibits in the Request. The certification must be substantially in the form of the sample certification provided by the Field Office.

c. Management Contract. The management contract shall be reviewed by the HM staff using Form HUD-52680 as a guide.

- 5-49 REVIEW OF MANAGEMENT PLAN. The management plan shall be reviewed by the HM staff for sufficiency and compliance with HUD requirements as outlined in Form HUD-52578.
- 5-50. REVIEW OF FORM OF LEASE. The form of lease shall be reviewed by the HM staff for sufficiency and compliance with HUD requirements. The Model Lease for Section 202 Projects is provided in Appendix 21.
- 5-51. REVIEW OF FORM HUD-92013 AND FORM HUD-92264. The operating expense estimates which are prepared by the Borrower and entered in Section E of Form HUD-92013 and prepared by the Valuation staff and entered in Section E of Form HUD-92264 shall be reviewed by the HM staff. The expense estimates shall be checked against known operating expenses for successfully operating similar projects in order to assure that the estimates are adequate from a management viewpoint.
- 5-52. Report to Housing Director. At the conclusion of its reviews, the HM staff shall prepare a memorandum to the Housing Director stating whether or not the proposed management, the form of lease and the operating expense estimates are acceptable.

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SECTION 7. PREPARATION AND ISSUANCE OF
CONDITIONAL COMMITMENT

- 5-53. HOUSING DIRECTOR FUNCTIONS. The Housing Director shall review the underwriting and program determinations and amend or modify conclusions as he/she deems necessary (with appropriate documentation). If he/she determines that a Conditional Commitment should be issued, he/she shall direct the MHR to prepare the Conditional Commitment in accordance with the format which appears in Appendix 22 and schedule a Conditional Commitment Conference,
- 5-54. CONDITIONAL COMMITMENT CONFERENCE. The Borrower shall be invited to a Conditional Commitment Conference to discuss the conclusions reached as a result of processing. Upon agreement being reached between the Borrower and the Field Office, the commitment shall be issued.
- 5-55. AMENDMENTS TO RESERVATIONS OF SECTION 202 AND SECTION 8 FUNDS.
- a. Amendment of Section 202 Reservation.
- (1) Decreases. No decreases to outstanding fund reservations shall occur until completion of cost certification and final closing, except where the outstanding fund reservation exceeds the maximum approvable mortgage by \$100,000 or more. In such cases, the Form 718 should be

decreased to the firm commitment loan amount. This action should only occur prior to the initial loan closing when it is determined that the loan will close based on the firm commitment loan amount. The decrease (deobligation) of a portion of a outstanding fund reservation shall be accomplished following the procedure set forth in paragraph 4-51b(1) and 4-55a. In addition, field offices must transmit the authorizing document (i.e., either the firm commitment letter or the FHA Form-2580, Maximum Insurable Mortgage, in the case of projects that proceed to cost certification and final closing) along with the Form 718 which is transmitted to the RAD. For each such action a copy of the amended Form HUD-718 with the RAD confirmation (signature in Block 10) must be forwarded to Headquarters, Attention: Direct Loan Branch.

- (2) Increases. A memorandum requesting the increase, with supporting justification, shall be prepared by the MHR for the signature of the Area Manager. It shall be submitted to the Office of Multifamily Housing Development

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- (5-55) Attention: Direct Loan Branch, through the Regional Director of Housing. If approved by Headquarters, a Form HUD-185 will be issued assigning the funds to the Regional Office, which will in turn issue a Form HUD-185.1 to the Field Office. Upon receipt of the fund assignment, the MHR shall prepare Form HUD-718, which shall be processed in the same manner described in paragraph 4-51b.

b. Amendment of Section 8 Reservation.

- (1) Decreases. No decreases to the Section 8 reservation shall be made prior to completion of firm commitment processing.
- (2) Increases. Where an amendment increasing the Section 8 reservation is required, the PC&R staff shall prepare a revised Form HUD-52540 (Project Accounting Data) and Form HUD-718 as described in subparagraph 4-51.