CHAPTER 2. GENERAL TERMS OF SECTION 312 REHABILITATION LOANS

2-1. INTRODUCTION. This Chapter deals with the requirements concerning the term of Section 312 Loans, interest rates, other fees and charges, loan amounts, minimum monthly payments, maximum dwelling units per loan, subordination and using Section 312 Loans with Rental Rehabilitation Program funds.

2-2. MAXIMUM LOAN TERM. The term of a Section 312 Rehabilitation Loan cannot exceed twenty (20) years, or three-fourths of the remaining useful life of the property, whichever is less. Within this maximum, LPA's should use their discretion in setting the term of the loan, and should consider the fact that longer loan terms result in lower monthly payments for the borrower, but shorter terms lower the borrower's total interest payments. (Shorter terms are sometimes preferable for borrowers who want to have debts for as short a term as possible.) For the purposes of this Handbook, the term of the loan -- the amortization period -- begins on the Amortization Effective Date (AED) and ends on the date the last payment is due, as established by the LPA. (See Paragraph 1-4-c of this Handbook for a definition of AED, and Paragraph 2-6 of this Handbook for information on the required minimum payment, which may affect the maximum permissible loan term.)

2-3. INTEREST RATE. The interest rate on Section 312 Rehabilitation Loans is dependent on the borrower's income and whether the borrower is an owner-occupant or will be after rehabilitation. Interest rates are either three percent (3%) or are based on the yield of U.S. government securities of a comparable term.

A. Owner-Occupants with Income Not Exceeding 80% of Area Median Income

(1) General provisions. For an owner-occupant of a one-to-four unit property whose family income does not exceed eighty percent (80%) of the median income for the area, adjusted for family size, the interest rate is three percent (3%). (See Paragraph 1-4-gg of this Handbook for a definition of median income for the area and Paragraphs 4-6-b and c of this Handbook for additional information on what income must be included as family income.)

(2) Cooperatives. Cooperatives meeting the requirements of Paragraph 4-4-e of this Handbook are eligible to obtain Section 312 Loans at a three percent (3%) interest rate, but only if both of the following restrictions are included in the cooperative articles and/or by-laws for the duration of the

Section 312 Loan: (1) all the units must be occupied by members of the cooperative (except for leases of not more than three years approved by the cooperative Board of Directors for members who are expected to return to occupancy), and (2) eighty percent (80%) of the residents of the cooperative must have a family income (calculated in accordance with Paragraphs 4-6-b and c of this Handbook) below eighty percent (80%) of the median income for the area at the time they begin their occupancy. These restrictions must be included in the organizational documents of the cooperative, before the loan is settled.

(3) Extraordinary Medical Expenses. If the prospective borrower or his or her family has extraordinary medical expenses which reliable medial opinion indicates are likely to continue for more than one year, LPA's may reduce his or her family income by an amount equal to these medical expenses for the purposes of qualifying for a three percent (3%) loan under this section. (However, if a family's income is reduced in accordance with this Paragraph, these medical expenses must also be deducted when calculating stable monthly income for underwriting purposes. See Paragraph 7-5-a-(2)-(f) for additional information.)

b. All Other Borrowers

(1) Applicability. "All other borrowers" includes partnerships and corporations; borrowers who are owners but not occupants of one-to-four unit properties; borrowers with incomes exceeding eighty percent (80%) of the median income for the area; cooperatives other than those included in Paragraph 2-3-a-(2) of this Handbook; and all borrowers who are owners of non-residential, mixed-use, single-room occupancy, or congregate housing properties.

(2) Yield of Government Securities of Comparable Maturity. The rehabilitation loan interest rate for all borrowers described in Paragraph 2-3-b-(1) above is based on the yield of government securities for the term most comparable to the Section 312 Loan term, rounded to the nearest one-eighth of one percent (1/8 of 1%). This rate can be obtained from a publication entitled "Federal Reserve Statistical Release -- Selected Interest Rates," published by the Federal Reserve Board (Number H.15 (519)). It is published weekly and lists the yield of U.S. Treasury Securities adjusted to constant maturities. (See Exhibit 2-1 for a sample Statistical Release.) To obtain weekly copies of the Statistical Release, call the Federal Reserve Board at 202/452-3000 and ask to be placed on its mailing list or call the regional Federal Reserve Board in your area.

The Statistical Release lists interest rates for Federal, State and local government and corporate bonds. To determine interest rates for the Section 312 program, scan the list of instruments in the left column and find the instrument entitled "U.S. Government Securities -- Treasury Constant Maturities." Identify the maturity most comparable to the term of the Section 312 Loan in the application under consideration. Move across that row, and use the interest rate in the column for the last week appearing on the release, rounded to the nearest one-eighth of a percent.

It is important to note that the applicable rate is the latest one that appears on the Statistical Release issued at the time the loan is officially approved by the Approving Officer, ie., by HUD for all loans other than for single-family properties made in localities with local loan approval authority. In cases where a HUD official is the Approving Officer, the LPA should make its loan approval recommendation to HUD based upon the Treasury rate on the Statistical Release released during the week the application is submitted to HUD. In such cases, the HUD Field Office bears the responsibility for adjusting the interest rate to the approval date.

(3) Identifying Comparable Maturities. For Section 312 Loans in which the term corresponds exactly to a constant maturity for U.S. Treasury Securities, the interest rate on the Section 312 Loan would be the rate of the U.S. Treasury Security of that maturity. If the term does not correspond exactly to a constant maturity for U.S. Treasury Securities, the loan interest rate would be the same as that for the U.S. Treasury Security that most closely approximates the loan term. If the loan term is exactly midway between two constant values, the loan interest rate would correspond to the interest rate value for U.S. Treasury Securities that is the lower of the two possible maturities.

(4) Sixty-Day Limit. All Section 312 Loans must be settled within sixty (60) days from the time they are obligated by the Regional Accounting Division (RAD) unless the following exception is granted: the Director of Community Planning and Development in the HUD Field Office may grant up to a sixty (60) day extension for circumstances beyond the control of the LPA and the borrower, but the interest rate (if not 3%) must be adjusted in accordance with the requirements of Paragraph 2-3-b of this Handbook and the loan must be re-underwritten with the new interest rate in accordance with the requirements of Chapter 7. If the requirements of this Paragraph are not met, no drawdown of funds will be accepted by the Cash

Management System, and the HUD Field Office will be instructed to cancel the loan.

c. Truth-in-Lending Requirements. See Paragraph 9-2-d for the requirements concerning the Federal Truth-in-Lending Act.

2-4. OTHER FEES AND CHARGES

a. Application Fee. All borrowers are required to pay an application fee to HUD for each approved Section 312 Loan application to help offset HUD's administrative expenses under the program. This fee is $200 for loans on single-family properties and $300 for any other kind of loan. Borrowers have the option of paying this fee in full at loan settlement with their own funds, or having the fee added to the loan and amortized over the term of the loan. In any event, construction cannot start until the application fee is received by the Master Servicer. The fee is not refundable if the loan is cancelled after settlement takes place, except for loans to owner-occupants of single-family properties, for whom the application fee is refundable if the borrower cancels the loan in accordance with the Truth-in-Lending Act as detailed in Paragraph 9-2-d of this Handbook. See Paragraph 9-2-f of this Handbook, which deals with Loan Settlement, for additional information concerning the collection of this application fee and its transmittal to the Master Service. Additional information can also be obtained from the Cash Management Notice.

b. Risk Premium. All Section 312 Loan borrowers must pay a one percent per annum risk premium on the outstanding principal balance of the loan to help offset losses from defaults on Section 312 Loans. This premium must be paid by borrowers as part of their monthly payments from the Amortization Effective Date (AED) through the life of the loan. For the purposes of underwriting pursuant to Chapter 7, the total monthly payments for principal, interest and risk premium on the Section 312 Loan must be calculated by determining the payment for principal and interest on a loan with an interest rate that is the contract interest rate on the Section 312 Loan plus one percent (1%).

2-5. MAXIMUM LOAN AMOUNTS

a. Residential. The maximum loan amount for Section 312 Rehabilitation Loan on a single-family or multifamily property cannot exceed the lesser of:

(1) $33,500 per dwelling unit; or

(2) $25,000 per dwelling unit in a congregate housing property (See Chapter 1 for a definition of congregate housing property); or

(3) $15,000 per dwelling unit in a single-room occupancy property (See Chapter 1 for a definition of single-room

occupancy property); or

(4) the total cost of rehabilitation and refinancing eligible under the requirements of this Handbook; or

(5) an amount which, when added to the outstanding indebtedness related to the property, creates a total indebtedness which does not exceed the loan-to-value ratio standards detailed in Chapter 7 of this Handbook.

b. Non-Residential. The maximum loan amount for a Section 312 Rehabilitation Loan on a non-residential property cannot exceed the lesser of:

(1) $100,000; or

(2) the total cost of rehabilitation eligible under the requirements of this Handbook; or

(3) an amount which, when added to the outstanding indebtedness related to the property, creates a total indebtedness which does not exceed the loan-to-value ratio standards detailed in Chapter 7 of this Handbook.

c. Mixed-Use. The maximum Section 312 Rehabilitation Loan amount on a mixed-use property is the sum of the loan amounts, up to their respective maximums, that may be made separately for the residential and non-residential parts of the property.

d. Loans Exceeding $200,000. For all residential and mixed-use loans, there is no dollar limit per loan, other than the maximums detailed in this Paragraph 2-5. However, Section 312 Loans exceeding $200,000 may not be made unless reviewed and approved by the HUD Field Office Director of Community Planning and Development and the Director of the HUD Headquarters Office of Urban Rehabilitation. See Paragraph 7-4 of this Handbook for additional information on the role of the LPA, HUD Field Office, and HUD Headquarters in reviewing and approving these loans.

2-6. MINIMUM MONTHLY PAYMENT. In order to help ensure that the costs of processing and servicing loans do not exceed the benefits, a Section 312 Loan cannot be approved unless the monthly payment for principal and

interest and risk premium on the Section 312 Loan is at least $20 per month.

2-7. MAXIMUM DWELLING UNITS PER LOAN. Residential and mixed-use properties financed with Section 312 Rehabilitation Loan funds cannot have more than ninety-nine residential dwelling units after the rehabilitation is complete.

2-8. LIEN PRIORITY. HUD's security interest in Section 312 Loans should be in as senior a position as possible. However, if the loan meets the acceptable risk underwriting standards in Chapter 7, the security interest for a Section 312 Loan may be junior to all other loans secured by the property with the following exception: CDBG-funded loans secured by the property must be junior to a Section 312 Loan.

2-9. PROHIBITION AGAINST USING SECTION 312 FUNDS WITH RENTAL REHABILITATION PROGRAM FUNDS. A Section 312 Rehabilitation Loan must not be made on a project which is also assisted under the Rental Rehabilitation Program.