

CHAPTER 2. PROJECT PROCESSING

- 2-1. THE STAGES OF PROJECT PROCESSING. The HUD-FHA multifamily coordinator (Program Manager) who is the point of contact with the sponsor, will schedule project processing in one, two, or three stages.
- a. Under single-stage processing, the sponsor provides at the first submission all necessary exhibits conforming to HUD-FHA requirements. The sponsor's firm commitment is then issued. Total elapsed time between the first contact and HUD-FHA's issuance of the commitment is approximately 30 days.
 - b. Under multiple-stage processing, the sponsor may be unable to satisfy all of the HUD-FHA requirements in the first submission. In this instance, the sponsor will go through two or three stages - the first leading to a feasibility letter, the second leading to a conditional commitment, and the third to a firm commitment.
 - c. The total processing procedure is as follows:
 - (1) The initial conference is the first contact between the sponsor and the Field Office on the proposal.
 - (2) Sponsor's preparation of a request for feasibility analysis (FHA Form 2013) outlining his proposal.
 - (3) Preparation for the feasibility conference by both the sponsor and the Field Office.
 - (4) The Feasibility Conference and issuance of a feasibility letter.
 - (5) Preparation and submission through an approved mortgagee, of an application for mortgage insurance (FHA Form 2013) with exhibits, preliminary sketches, brief specifications and payment of the application fee. Processing may be for either conditional or firm commitment depending on sponsor's wishes and/or degree of preparation as determined by the Director of Technical Services or the Chief Underwriter.
 - (6) Processing of the sponsor's submission.

If the processing is for a firm commitment there must be a complete architectural design of the project with full working drawings and specifications submitted to HUD-FHA with payment of the commitment fee. If for a conditional commitment, only schematic drawings are required. HUD-FHA then issues the conditional and/or firm commitment.

- (7) Initial endorsement of the original mortgage, referred to as the initial closing.
- (8) Pre-Construction Conference.
- (9) Construction of the Project.

2-2. INFORMATION REQUIRED FROM THE SPONSOR FOR FEASIBILITY DETERMINATION.

- a. The Sponsor should be prepared to give the multifamily coordinator (Program Manager) all the information not marked with solid triangles on the application (FHA Form 2013 Rev.). This application form is used in all stages as a sponsor's summary and preapplication in the feasibility stage and as the mortgagee's application at the conditional and firm commitment stages.
- b. The Only Required Information is that necessary to identify the site, the access to the site, the number of units, the expected income, a rough estimate of total construction and improvement costs, and a requested loan amount and the details of the management plan. The sponsor should have a clear idea of the demand for the project he proposes, the extent of competition with which he will be confronted, the vacancy rates in similar projects, and the prevailing unit rentals in the area. He should also know the equipment and services included in the rentals of competing projects and whether his site location is acceptable to the type of tenants he wishes to attract. He should know whether zoning for his site permits his proposed project. At this point, it is also desirable that the sponsor have an indication of the total construction and land improvement costs of the proposed project.

- * (2-2) c. Using Data Available in the Field Office, the HUD Director Deputy Director, Housing Development/ Service Office Supervisor will analyze the sponsor's information. From this study it will be

determined whether the project is economically feasible in terms of site acceptability, number of units or spaces, rents, expenses, net income, land value, project budget, cash requirements and mortgage amount. Economic feasibility refers to the capability of the project to produce sufficient income to pay the operating and fixed expenses, meet the mortgage requirements, and leave a reasonable net return to the sponsor.

- d. Assignment of Project Number. An official project number shall be assigned to a case upon determination by the HUD Director/Deputy Director, Housing Development/Service Office Supervisor that submission is sufficiently complete for processing. The project number is to be recorded on Form FHA-2530, Previous Participation Certificate, and other documents before the copies are forwarded to the Director, Office of Multifamily Housing Development, Headquarters.

- e. Real Estate Tax Abatement or Exemption: If in any case the sponsor claims that the project will receive abatement or exemption from real estate taxes, the concurrence of the Office of the Regional Counsel in the validity of the claim must be obtained before the claim may be accepted in determining the feasibility of the proposed project. The Area Manager/Service Office Supervisor, therefore, must receive such concurrence before issuing any SAMA letter. The Area Manager's/Service Office Supervisor's memorandum to the Regional Counsel transmitting the sponsor's claim and supporting document, shall include any information available regarding similar projects in the Jurisdiction where abatement or exemption was requested and whether or not allowed. Copies of the transmittal memorandum are to be sent to the Director, Office of Multifamily Housing Development, Headquarters. Outlined below are the procedures to be followed:
 - (1) Sponsor submission: The sponsor must submit a full statement of the facts, including a copy of the application for the abatement or exemption which has been or will be presented to the local authorities. The statement of facts and application must correctly describe the project and its proposed operation on which the claim is based. Also to be submitted is an opinion letter from the prospective mortgagor's attorney, making reference to the statement of facts

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and application, advising the basis and extent of the claimed exemption or abatement, and that except for a future change in the statute or material change in the facts, the project will be entitled to the exemption or abatement claimed. The letter must cite the state statute involved and must attach any other material supporting the claim, i.e., local administrative rulings or court decisions, opinions of local private or public counsel or the state attorney general.

- (2) 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 or moderate income groups or for other social needs. Generally, tax exemption pursuant to such legislation may be safely assumed. If after review, the Regional Counsel determines that the proposed project meets the special criteria of the legislation, the director will be advised that the project may be processed on a tax exempt basis without guaranty.
- (3) Exemptions based on general charitable and eleemosynary statutes: Exemption under a general statute exempting projects for charitable or eleemosynary purposes is a risky assumption, which dictates an entirely different treatment than claims under (2) above. Even though an exemption may be obtained initially, it is not safe to assume that the exemption will continue throughout the life of the mortgage. Therefore, it is necessary that adequate safeguards be adopted. After review of the proposal and the appropriate statute, the determination of the Office of the Regional Counsel will result in either:
 - (a) Exemption assured: If there is assurance that the tax exemption will be initially granted, the director will be advised that the project may be processed on a tax exempt basis but that the Sponsor will be required to execute a guaranty agreement on form FHA 1708, assuring the payment of taxes in the event the project loses its exemption in the future. The amount of the guarantee to be inserted in Item 1. of the form will be determined by the Director and will be

sufficient to reduce the mortgage to an amount which would permit the mortgage to be carried by the mortgagor on a tax paying basis. Under the agreement, the sponsor will either pay taxes as they become due or make a lump sum prepayment of the mortgage in the above guaranteed amount and have the mortgage recast. In addition to the guarantee requirement, the director must determine that the credit reputation of the guarantor is acceptable and that analysis of a current financial and operating statement indicates clearly its financial ability to perform under the guarantee; and that the sponsor has presented legal assurance satisfactory to the regional attorney that it has the legal capacity to execute the guarantee agreement.

- (b) Exemptions not assured: If it is determined that there is no assurance of tax exemption, the director will be so advised and the project will be processed solely on a tax paying basis. Sponsors will not be permitted to obtain tax exempt processing on the basis of offering to execute the guarantee agreement.

- f. HUD-FHA does not Require design drawings to determine economic feasibility. Therefore, the sponsor may or may not retain an architect at this point. This is his option. If the sponsor has retained an architect, he should accompany the sponsor to the feasibility conference to discuss the program, procedures, and the target dates upon which economic feasibility is predicated.

2-3. THE FEASIBILITY CONFERENCE AND ISSUANCE OF A FEASIBILITY LETTER.

- a. Determination of Feasibility. The final determination of project economic feasibility is made, and agreement between the sponsor and HUD-FHA is reached, at the feasibility conference. If the sponsor's estimated project replacement cost and requested loan amount do not exceed by more than 2%, the maximum cost and mortgage amount which can be supported by the project net income as initially calculated by HUD-FHA the project generally can be considered economically feasible.

- b. During Feasibility Conference, the Multifamily Coordinator or Program Manager will discuss the types of additional information and exhibits which will be required from the sponsor. The necessary material is outlined on the application form (FHA 2013 Rev.) for the various stages of processing. Only the material requested for the particular stage (conditional or firm) is necessary, although any exhibits already available should be furnished.
- c. Feasibility Letter. Following a feasibility conference where agreement has been reached on all of the matters discussed a feasibility letter will be issued to the sponsor. This letter includes not only the rents, dollar limitations on cost, mortgage and land value and the cash requirements, but also the expected processing time and target date for sponsor submissions. Wherever possible, a HUD-FHA Design Representative will be assigned to the project as Well.

2-4. ELIGIBILITY FOR IMMEDIATE FIRM COMMITMENT PROCESSING. HUD-FHA encourages the knowledgeable and responsible sponsor to come in with a complete project submission on which an immediate determination of the acceptability of risk and mortgage amount can be made with assurance that HUD-FHA will make a prompt decision. If the sponsor is experienced in bringing a completed package into a conventional mortgage lender for decision, he can do the same with HUD-FHA and receive equally prompt action. At the same time, HUD-FHA assures all other sponsors, that we stand ready to assist them throughout the total processing and provide held and guidance they need to develop a successful Multifamily housing project.

- a. The following criteria will be applied to determine the eligibility of on-hand applications and future applications.
 - (1) The sponsor is thoroughly knowledgeable and has a record of proven dependability for producing economically sound projects.
 - (2) The sponsor's architect has established a record of successful design that would justify reliance upon his certification as to compliance of the proposal with HUD-FHA Minimum Property Standards and other applicable requirements and, further, that his design concepts and execution could reasonably be relied upon to produce a readily marketable housing project.

- (2-4) (3) The sponsor's land planner and engineering services are similarly reliable, knowledgeable and responsible.
- (4) The site is under the sponsor's control and is appropriately zoned.
- (5) The submission is accompanied by adequate market data showing that schools and other community facilities are or will become available to meet the needs of the project and its occupants. This data should establish an effective demand for the number of units at the rents that will be required.
- (6) The builder must show that he is bondable.
- (7) HUD-FHA must have assurance that the builder has firm commitment of adequate construction and mortgage financing, contingent only upon approval of the project for mortgage insurance.
- (8) The sponsor must have complete plans meeting all HUD-FHA requirements accompanying his submission and ready to proceed.
- b. It is not intended that feasibility processing and the feasibility determination will be omitted. The sponsor will be informed of the feasibility finding and given a very short period to inform the office of his intention to proceed or to modify the proposal. This interval is required in order to fix the time when the application fee is earned and no longer available for refund.

2-5. IDENTIFICATION OF PRIORITY APPLICATION. Responsibility for identifying applications to be resolved in the future, that are eligible for immediate firm commitment processing is assigned to the Multifamily Coordinator/Assistant Director Technical Services. He shall review the applications and inform the Field Office Director of those applications that are eligible for immediate firm commitment processing. When he has the Director's concurrence, he shall mark the cases for immediate firm commitment processing (IFCP) and direct appropriate processing action.

2-6. TRANSFERS TO IFC PROCESSING. Sponsors of projects that were determined initially to be ineligible for immediate firm commitment processing may have the classification changed at any time in the processing sequence by submitting all required architectural exhibits and evidence that the application and

the sponsor meet the special eligibility criteria set forth above. When eligibility for priority IFC processing is demonstrated, the application shall be reclassified and handled on an immediate action basis for the remainder of the processing cycle.

2-7. COMMITMENT PROCESSING. The decision to move the proposal to conditional or all the way to firm commitment is dependent upon the extent of the sponsor's preparation. Assuming the preparation up to now is at the minimum required for determination of feasibility, the sponsor will move to a conditional commitment and then to the firm commitment. It must be emphasized that the sponsor with a complete package may move from feasibility to firm commitment directly. The description of the complete step-by-step process is for illustrative purposes only. Complete processing flexibility is tailored to the sponsor's preparation and degree of sophistication.

a. The Mortgagee will submit to HUD-FHA a conditional commitment application with fee, accompanied by the drawings and exhibits agreed upon at the feasibility conference, within the time agreed upon at the feasibility conference. HUD-FHA project processing to the conditional commitment will require generally less than 30 days following the case submission. After the processing is completed. HUD-FHA will contact the mortgagee to schedule a conditional commitment conference. The conditional commitment will be issued to the mortgagee and its provisions discussed with the sponsor. This document is non-transferrable by the sponsor, i.e., neither the sponsor nor the mortgagor may be changed without FHA approval. The mortgagee will be invited to submit an application for a firm commitment with the final contract drawings and documents.

b. An Important Short Cut in processing is accomplished by the HUD-FHA design representative discussing proposed plans with the sponsor's architect. Although the HUD-FHA design representative will in no instance approve or sign plans, he will answer any questions about compliance with HUD-FHA policies and consult, where necessary, to assure design of a project on which HUD-FHA can insure a mortgage.

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c. The Design Representative will be available for consultation on both preliminary and designing development plans.

2-8. EXHIBITS REQUIRED FOR CONDITIONAL COMMITMENT.

- a. HUD-FHA Requires Schematic Drawings and Brief Specifications to be submitted before the conditional commitment is issued. Schematic drawings shall be drawn to scale and include a site plan showing:

- Lot lines and dimensions
- Adjacent buildings (show outline and number of floors)
- Proposed buildings, outline and over-all dimensions
- Parking area and total number of cars that can be parked
- Driveways
- Adjacent streets and utilities and their size
- Patios, recreation and other areas
- Any off-site work
- Unit dimensions

- b. Conditional Commitment Conference. If the schematic drawings are acceptable and the project otherwise conforms to that which was agreed upon during the feasibility conference, then a conditional conference will be scheduled.

2-9. EXHIBITS REQUIRED FOR FIRM COMMITMENT.

- a. After the Sponsor Receives the Conditional Commitment he must develop the documents. Rapid processing by HUD-FHA depends to a large extent upon the ability of the sponsor's engineer, planner or architect to produce these within a minimum amount of time.
- b. The Construction Documents include working drawings and trade specifications and shall contain all necessary information for bidding and constructing the project. The specifications shall include the latest edition of the "General Conditions of the Construction", AIA Document A201; "Supplementary General Conditions of the Contract for Construction", FHA 2554; and any other supplementary conditions.

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2-10. AMENDMENT TO CONSTRUCTION CONTRACT IN CASES INVOLVING THE REHABILITATION OF OCCUPIED DWELLING UNITS.

- a. Amendment to Construction Contract. In all cases involving rehabilitation where tenants must vacate the living units prior to rehabilitation either the lump sum FHA Form 2442 or cost plus FHA Form 2442-A form of construction contract may be amended by adding the following rider to Article 2, subparagraph A, of either contract:

- "Any claim made by the contractor for the extension of time to complete the work under

the provisions of the AIA General Conditions which is based upon a delay resulting from failure to vacate the building according to a plan for relocation of the occupants shall be deemed to be a delay beyond the contractor's control."

- b. Notification of Mortgagor-Owner. In every case where one or more of the living units are occupied by tenants, at the time of initial closing, the mortgagor-owner will be instructed by the Field Office Director that it is the mortgagor's responsibility to take prudent action to have the unit vacated promptly and in a timely manner to avoid delay of the orderly process of completing the rehabilitation.

2-11. FINAL REVIEW AND FIRM COMMITMENT CONFERENCE. The sponsor will submit to HUD-FHA for review three sets of the construction documents together with firm costs tabulated on FHA Form 2328. Each set of specifications and drawings must include a white cover sheet with project identification and spaces for signatures. Certification must be provided showing that the construction documents conform to the schematic drawings, brief specifications, commitment conditions and applicable codes and ordinances.

- a. When HUD-FHA Review Results in a Positive Decision, a firm commitment conference will be scheduled at which a firm commitment will be issued.
- b. Before Closing, the firm commitment should be reviewed by the sponsor to make certain that there are no discrepancies between its conditions and the construction documents.