

**Chapter 18**

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**Insurance Upon Completion**

**18.1**

**Introduction**

Insurance Upon Completion (IUC) is an option available to Section 232 New Construction, Substantial Rehabilitation and Section 241(a) projects where HUD insures only the permanent loan. This differs from ~~Insured~~Insurance of Advances (IAIOA) projects where HUD insures both the construction and permanent ~~loans, loan(s)~~. There is no initial closing prior to start of construction as there is on IAIOA projects. Instead, there is one closing following construction completion and cost certification. On IUC projects, construction must not start until after the issuance of a Firm Commitment. As with IAIOA projects, ORCF completes a full underwriting review of IUC projects prior to issuance of a Firm Commitment. IUC and IAIOA projects follow the same process and requirements: Firm Application, Firm Commitment, ~~Pre-Construction~~Preconstructions Conference, Construction, Cost Certification, and Initial/Final Closing. Specific information pertaining to IUC within each stage is outlined below.

**18.2**

**Firm Application**

When the firm application is submitted, the Lender must notify ORCF of their intent to use IUC. Lenders may utilize either the Direct-to-Firm or the Two-Stage application process for IUC projects. See Production, Chapter 1 for information on the Direct-to-Firm and Two-Stage application processes.

Construction must not start until issuance of a Firm Commitment and completion of the ~~Pre-Construction~~Preconstructions Conference.

Items that need to be addressed for IUC projects prior to issuance of a Firm Commitment and completion of the ~~Pre-Construction~~PreConstruction Conference include:

A. Prior to issuance of a Firm Commitment, HUD will complete the following reviews:

1. Firm Application Underwriting Review,
2. Appraisal Review,
- ~~3. Part 1 Legal Review,~~

39 ~~4. Title/Survey review, and~~  
40 ~~5.3. Environmental Review.~~  
41

- 42 B. **Working Capital.** Projects must meet Working Capital escrow requirements except for the  
43 extra 2% construction contingency portion of the working capital requirement. No Working  
44 Capital escrow is required for a 241(a). This escrow must be established prior to  
45 closing/Initial/Final Closing, and must be accounted for in the Firm Application submission  
46 (see Production, Chapter 2).  
47
- 48 C. **Initial Operating Deficit Escrow (IOD).** The Lender must prepare an Initial Operating  
49 Deficit analysis as part of the firm application. The IOD is to be funded at  
50 closing/Initial/Final Closing, and can only be used to cover post-closing losses. Prior to  
51 closing/Initial/Final Closing, ORCF may require the IOD to be increased based on actual  
52 performance at the project.  
53
- 54 D. **Minor Movable Escrow.** A Minor Movable escrow is not required. Prior to  
55 closing/Initial/Final Closing all Minor Movables must be in place.  
56
- 57 E. **Bond Premium/Assurance of Completion.** Not required.  
58
- 59 F. **Latent Defects Escrow.** A latent defect escrow of 2.5% of the construction costs is required.  
60 This must be in the form of a bond, escrow, or letter of credit. The cost of the bond or letter  
61 of credit may be included in the Contractor's Fees if reviewed and deemed reasonable by the  
62 third-party architectural and cost analyst.  
63
- 64 G. **Off-Site and Demolition.** Off-site and Demolition escrows are not required for IUC  
65 projects, however, in the firm application the Lender must explain the work to be completed  
66 and the costs associated with that work. The cost of this work is not eligible at cost  
67 certification.  
68
- 69 H. **General Contractor Underwriting Review.** ORCF will look to the Lender and Third-  
70 Party Architectural and Cost reviewer to ensure that the general contractor meets HUD  
71 requirements. If the General Contractor does not meet all of ~~ORCF's~~ ORCFs requirements,  
72 or is unable to certify to everything in the Consolidated Certification – Contractors (Form  
73 HUD-90018-ORCF), the developer and Lender must acknowledge that they are willing to  
74 accept this risk during the course of construction. Experience of the General Contractor  
75 remains a serious consideration for IUC projects. ORCF will review the following:  
76
- 77 1. Previous Participation Certification. See Housing Notice H 2016-15 (or successors  
78 thereto) for additional information on the previous participation certification and  
79 review process.  
80
  - 81 2. Financial Capacity to assure that there is sufficient capacity to cover the latent defects  
82 escrow.  
83
  - 84 3. General Contractor's experience and ability to complete the project.

- 85
- 86 I. **Builder’s Risk.** ORCF does not require Builder’s Risk Insurance. Should the Borrower  
87 choose to include Builder’s Risk Insurance, it must be listed as either a Borrower’s Other Fee  
88 or a Contractor’s Other Fee in the firm application.
- 89
- 90 J. **Interest during Construction.** ORCF will allow for a reasonable amount of  
91 Interest during Construction to be included in the HUD Replacement Cost  
92 calculation on the Form HUD-92264a-ORCF. The approved amount will be  
93 included in the ~~firm commitment~~Firm Commitment. Any increase requires HUD  
94 approval.
- 95
- 96 K. **Mortgage Insurance Premium (MIP).** No MIP is paid during construction. An excel  
97 spreadsheet for calculating MIP is embedded in the Lender Narrative Cost Certification  
98 Supplement (see the Section 232 Program website). This must be reflected in the Lender’s  
99 Maximum Insurable Loan Calculation (Form HUD-92264A-ORCF) (“MILC<sup>2</sup>”~~”~~) and  
100 Lender Narrative Cost Certification Supplement (Form HUD-9444-ORCF).
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## 18.3

## Firm Commitment

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104 ORCF will issue the ~~firm commitment~~ on the Commitment to Insure Upon Completion  
105 following Loan Committee approval. For IUC projects, this ~~firm commitment~~Firm  
106 Commitment will include, but not be limited to:

107

- 108 A. The ~~firm commitment~~Firm Commitment must be valid and outstanding until  
109 ~~closing~~Initial/Final Closing on the permanent mortgage.
- 110
- 111 B. **Expiration Date.** The ~~firm commitment’s~~Firm Commitment’s expiration date should  
112 provide for sufficient time to complete construction, cost certification and drafting and  
113 review of the closing documents. Typically, this is 1.5 times the construction period, but the  
114 Lender should recommend an expiration date based on the complexity of the project.
- 115
- 116 C. **Extensions.** See Production, Chapter 9 for the extension of ~~Construction~~construction period  
117 and Firm Commitment expiration date, if required to permit project completion and  
118 Initial/Final Closing. ORCF may re-evaluate the market and/or other elements of the project  
119 prior to granting extension requests.
- 120
- 121 D. **Amendments.** Should the Firm Commitment require any amendments or changes after  
122 issuance see Production, Chapter 9.2.
- 123
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## 18.4

## Pre-construction PreConstruction Conference

126 For IUC projects:

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128 A. The ~~Pre-construction~~PreConstruction Conference must precede the initial start of  
129 construction. See Production, Chapter 10.3 for ~~Pre-Construction~~PreConstruction Conference  
130 requirements. The ORCF Closer ~~should~~may attend the ~~Pre-construction~~PreConstruction  
131 Conference as they will be involved from this point until Initial/Final Closing.

132

133 B. The following are to be submitted by the Lender and reviewed by the ORCF Underwriter and  
134 the HUD Closing Attorney prior to the ~~Pre-construction~~PreConstruction Conference:

135

136 1. Building Permits.

137

138 2. Construction Contract (Form HUD-92442-ORCF). The following must be made part  
139 of the contract:

140 a. General Conditions, AIA Document A201;

141 b. Supplementary Conditions of the Contract for Construction (Form HUD-  
142 92554-ORCF); ~~and~~

143 c. AIA B108 and HUD Amendment to B108 (From HUD-92408-ORCF);

144 e.d. Davis-Bacon Wage Rates (supplied by the HUD Office of Davis-Bacon and  
145 Labor Standards and Enforcement (OLSE); (DBLS));

146 e. Contractor's and/or Mortgagor's Cost Breakdown (Form HUD-92328-  
147 ORCF).

148

149 3. Contractor's Prevailing Wage Certificate ~~portion~~ of the Contractor's Requisition  
150 ~~Project Mortgages~~ (Form HUD-92448-ORCF).

151

152 4. Certification regarding Architect's E&O Insurance (with Certificate of Insurance  
153 attached) for design and supervisory architects.

154

155 5. Construction Progress Schedule.

156

157

158 6. Agreement and Certification (Form HUD-93305-ORCF). This document must be  
159 executed by the Borrower, Lender and ORCF prior to the ~~Pre-construction~~  
160 ~~conference.~~PreConstruction Conference.

161

162 7. Inspection Fee.

163

164 C. If the project is currently occupied:

165

166 1. A Management Conference with the assigned Account Executive (AE) and Lender  
167 should occur prior to the ~~Pre-construction~~PreConstruction Conference.

168

169 2. From start of construction through Initial/Final Closing, the Borrower and/or  
170 Operator must provide ORCF and Lender with ongoing operating statements as  
171 requested, and must notify the AE of State Surveys that occur at the project.

172  
173 D. If the project is new construction and/or is not currently occupied, a Management Conference  
174 with the assigned AE should occur prior to occupancy.  
175  
176  
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## 18.5

## Construction Monitoring

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179 During Construction, for IUC:

180  
181 A. **Construction monitoring.** Reporting must be done in accordance with Production, Chapter  
182 10.4.

183  
184 B. **Labor and FHEO liaison.** See Production, Chapter 10.13.

185  
186 C. **Contractor's monthly requisitions.** Not applicable to IUC projects.

187  
188 D. **Offsite construction.**

189  
190 1. Monitoring is recorded by the HUD inspector on the HUD Representative's Trip  
191 Report (Form HUD-95379-ORCF).

192  
193 2. Advance of funds monitoring is not applicable to projects insured upon completion.

194  
195 E. **Construction contract changes and Architect's supplemental instructions (see**  
196 **Production, Chapter 10.9 – 10.12 and Chapter 10.5.D).** Construction changes are  
197 processed in the same manner as insurance of advances, except as modified below:

198  
199 1. An escrow is not required for additive change orders, because HUD has no risk  
200 exposure until ~~closing~~Initial/Final Closing. The Borrower must be able to provide  
201 the additional funds required and must not have any outstanding obligation in  
202 connection with construction other than the insured mortgage at the time the  
203 mortgage is presented for insurance.

204  
205 2. Surety approval is not required for the approval of additive change orders regardless  
206 of the percentage of contract increase.

207  
208 F. **Seventy percent (70%) Construction Completion.** When onsite construction is 70%  
209 complete (before ~~closing~~Initial/Final Closing of the credit instruments), the Lender must  
210 prepare a property insurance schedule and requirements. Evidence must be provided that the  
211 facility has all required Fidelity, Property, and Professional Liability Insurance coverages.  
212 The insurance coverages must be current and in conformance with all ORCF requirements. If  
213 the policy is about to expire within one month of ~~closing~~Initial/Final Closing, provide proof  
214 of renewal. See Production, Chapter 14 for details on insurance coverage and requirements.  
215

- 216 G. **Permission to Occupy.** Applies as in Production, Chapter 10.7.A.  
217  
218 H. **Final HUD Representative’s Trip Report.** Applies as in Production, Chapter 10.7.B.  
219  
220 I. **Warranty Inspections.** Nine- and Twelve-month warranty inspections apply as in  
221 Production, Chapter 10.7.C.  
222  
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## 18.6

### Cost Certification

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225 Cost certification is required for all insured Section 232 and 241(a) applications except as noted  
226 in Production, Chapter 11.4. The purpose for certification is to establish the Borrower’s actual  
227 costs, including contractor’s cost, to establish the “Maximum Insurable Mortgage” (MIM) for  
228 ~~e~~osingInitial/Final Closing of the FHA-insured mortgage. A MIM letter will be issued upon  
229 conclusion of the cost certification package review. For more information on the cost  
230 certification process, please see Production, Chapter 11.  
231

232 Specifically, the cost certification is required to be submitted in advance of ~~e~~osing-Initial/Final  
233 Closing. This is to ensure the MIM amount is determined and finalized before  
234 ~~e~~osingInitial/Final Closing documents are prepared. For specific information on:

- 235  
236 A. Entities that must cost certify (see Production, Chapter 11.6),  
237 B. Required Forms and Documentation (see Production, Chapter 11.10),  
238 C. Required Cost Certifications (see Production, Chapter 11.11), and  
239 D. Allowable Costs in Borrower’s Certificate of Actual Cost (~~see~~HUD-2205A-ORCF) See  
240 Production, Chapter 11.13);  
241  
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## 18.7

### Initial/Final Closing

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244 Once construction has been completed and certification of costs has been presented to and  
245 approved by ORCF, ~~the Borrower must proceed to closing.~~ ORCF will issue a MIM Letter;  
246 ~~upon completion of the cost certification review,~~ providing the final mortgage determination.  
247 Once the letter is issued, immediate preparation for ~~e~~osingInitial/Final Closing should begin.  
248 Closing documents are to be submitted within 30 days of the date of the MIM Letter.  
249

- 250 A. Requirements for Closing for IUC projects are set out in the IUC Closing Checklist (see the  
251 Section 232 Program website) and the MIM letter. Required documents include, but are not  
252 limited to, the following:

- 253  
254 1. **Proof of Completion.** For the purpose of closing the mortgage transaction,  
255 completion means that the project has been completed in accordance with the  
256 drawings and specifications, except for approved items of delayed completions

257 covered by an acceptable Escrow Agreement, and the entire project has been accepted  
258 for occupancy by local authorities, by the Lender, and by ORCF.

- 259
- 260 2. **Labor Standards and Enforcement Clearance.** The Office of Davis-Bacon and  
261 Labor Standards ~~and Enforcement (OLSE/DBLS)~~ must confirm that all Davis-Bacon  
262 violations have been cleared. If there are outstanding violations, the OLSE/DBLS  
263 Specialist will inform the Lender and ORCF Closer that deposits to the U.S Treasury  
264 must be established as a condition of closing to ensure payment of wages. HUD's  
265 OLSE/DBLS must provide approval to proceed to Initial/Final Closing (see  
266 Production, Chapter 4, Appendix 4.1 HUD Labor Standards and Enforcement  
267 Protocol).
- 268
- 269 3. **Public Approvals.** If issues have arisen regarding the zoning of a project, the HUD  
270 Closing Attorney may require submission of additional evidence to verify compliance  
271 with local zoning laws and/or building codes.
- 272
- 273 4. **Construction Contract: (Form HUD-92442-ORCF).** The following must be part of  
274 the Contract:
- 275 a. General Conditions, AIA Documents A201,  
276 b. Supplementary Conditions of the Contract for Construction,  
277 c. Davis-Bacon-Wage Rates (supplied by HUD Labor Relations);  
278 d. AIA B108 and the HUD Amendment to the B108,  
279 e. Contractor's Requisition (Form HUD-92448-ORCF) Schedule of Values,  
280 e.f. Cost Certification criteria from Construction Contract (Form HUD-92442-  
281 ORCF), Article 4, where an identity of interest exists, or a "cost plus" form of  
282 contract is used.
- 283
- 284 5. **As-Built Drawings and Specifications.** A complete "As-Built" set of drawings and  
285 specifications, incorporating change order to date, and one electronic "Master Set"  
286 ~~on~~ CD."
- 287
- 288 6. **Agreement and Certification, (Form HUD-93305-ORCF).** This document must be  
289 executed by the Borrower, Lender, and ORCF prior to the ~~Pre-~~  
290 constructionPreConstruction Conference.
- 291
- 292 7. **Title Policy.** Title Policy or title evidence must be dated the day of  
293 ~~closing~~Initial/Final Closing and show:
- 294 a. Insured property free of all encumbrances except those found acceptable by  
295 HUD;
- 296 b. Proof that no unpaid obligations exist except as previously approved by  
297 ORCF.
- 298
- 299 8. **As-Built Survey.** Current ALTA/ACSM surveys are required for all closings. The  
300 final As-Built survey, or its most recent update, must be dated with 120 days of the  
301 closingInitial/Final Closing. The term "dated" means the surveyor's certification  
302 must show that the survey was made "on the ground" within 120 days prior to

303 ~~closing-Initial/Final Closing~~. The survey must show the exact location of all building,  
304 water, sewer, gas and electric mains, and all easements for such existing utilities. The  
305 survey must be prepared, signed, and sealed by a licensed surveyor and must include  
306 a certification in the format set out in Survey Instructions and Borrower's  
307 Certification (Form HUD-91111-ORCF).  
308  
309

310 9. **Contractor's Prevailing Wage Certificate.** The Contractor's Prevailing Wage  
311 Certificate portion of the Contractor's Requisition ~~Project Mortgages~~ (Form HUD-  
312 92448-ORCF) must be submitted at the time the mortgage is presented to ORCF for  
313 insurance.  
314

315 10. **Operating Deficit.** If an operating deficit was required in the Firm Commitment, the  
316 Borrower must provide funds to meet the deficit at ~~closing-Initial/Final Closing~~. The  
317 Firm Commitment requirements concerning funding are not waived, in whole or in  
318 part, unless specifically approved by ORCF. Amendments or modifications between  
319 the start of construction and ~~closing-Initial/Final Closing~~ will not be waived without  
320 prior written approval of ORCF. Assurance of funds to meet an operating deficit is  
321 required as noted above, in Section 18.2.C. The following completed forms may be  
322 required to assure funds are available to carry the project to a sustaining occupancy  
323 after ~~closing-Initial/Final Closing~~:

- 324 a. Escrow Agreement ~~Additional Contribution by Sponsors~~ Noncritical Deferred  
325 Repairs (Form HUD-92476-AORCF),
- 326 b. Escrow Agreement for Operating Deficits (Form HUD-~~92476.192476B-~~  
327 ORCF),
- 328 ~~c. Bond Guaranteeing Sponsors' Performance (Form FHA-2477), and~~
- 329 c. Escrow Agreement for Debt Service Reserves (From HUD-92476C-ORCF),  
330 and
- 331 d. IOD Analysis based on current lease-up performance.

332  
333 11. **Builder's Warranty against latent defects.** At ~~closing-Initial/Final Closing~~, the  
334 general contractor must address latent defects by:

- 335 a. Entering into the latent ~~defects~~ defect's agreement with HUD (Form HUD-  
336 92414-ORCF (~~REV 03/13~~), and either:
- 337 b. Funding a cash escrow deposit equal to 2.5% of the construction contract, or
- 338 c. Providing an irrevocable, unconditional letter of credit issued to Lender by a  
339 banking institution, or entering into the Latent Defects Escrow (Form HUD-  
340 92414-ORCF), which requires a latent defects escrow of 2.5% of the total  
341 amount of the Construction Contract, in the form of a surety bond, cash  
342 escrow or letter of credit.

343  
344 12. **Final Draw.** Unlike Insured Advances projects, IUC projects will only have one  
345 draw. In the IUC Closing Package, the Borrower will provide the ~~Requisition For~~  
346 Disbursement Application for Insurance of ~~Funds Advance of Mortgage Proceeds~~  
347 (Form HUD-92403-~~CA~~ORCF). This form shall be consistent with the approved

348 Maximum Insurable Mortgage amount listed in the MIM Letter and the Closing  
349 Statement received electronically.

350  
351 13. **Amortization.** Amortization starts the first day of the second month following the  
352 date of Initial/Final Closing.

353  
354 14. **After Initial/Final Closing.** Following ~~final closing~~Initial/Final Closing, the Closer  
355 will ensure all post-closing documents are received. The Closer will notify the  
356 assigned AE that the project has completed Initial/Final Closing.  
357

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