
CHAPTER 3: THE CAPITAL IMPROVEMENT LOAN PROGRAM

SECTION 1. BASIC PROGRAM REQUIREMENTS

3-1. OVERVIEW OF THE CAPITAL IMPROVEMENT LOAN PROGRAM

This Chapter provides owners and HUD Field Offices with the guidance needed to implement the Capital Improvement Loan Program (CILP).

- a. The program is intended to achieve or maintain physical soundness in eligible HUD-assisted projects, and to assist in maintaining the low- and moderate-income character of those projects.
- b. CILP is not an entitlement program. Notifications of Funding Availability (NOFAs) will be issued in the Federal Register. The Field Office works with owners to develop their applications, and makes a recommendation to Headquarters. Headquarters reviews the Field Office submissions and makes a final determination following priorities for funding contained in the NOFA.

3-2. ELIGIBLE ACTIVITIES

- a. Eligible Activities that may be funded under the CILP program include:
 - (1) any major repair or replacement of building components that have failed or are likely to fail or deteriorate seriously within 24 months (e.g., roof structures, ceiling, wall or floor structures, foundations, plumbing, heating, cooling, electrical systems and major equipment such as elevators, including any major repair or replacement of any short-lived building component or equipment before the expiration of its useful life);
 - (2) limited supplements or enhancements to mechanical equipment needed for the health and safety of the residents where they do not exist (e.g. air conditioning/heating equipment, building sprinkler systems or water softeners);

- (3) retrofitting for handicapped accessibility as

required by Section 504;

- (4) cost effective energy efficiency improvements (See Handbook 4350.1 , Chapter 12); and
- (5) lead-based paint abatement once the owner has tested in accordance with HUD guidelines; certified to testing; and based on the testing results, established a cost estimate for abatement.

b. Prohibited Activities that may not be funded under the CILP program include:

- (1) regular maintenance of any item eligible for repair or replacement; and
- (2) repairs required due to deferred maintenance.

3-3. AMOUNT AND TERMS OF ASSISTANCE

a. Amount of Assistance

The maximum amount of CILP assistance that may be granted is the amount needed for allowable expenses, less the owner contribution. Allowable expenses include the amounts the Secretary determines are necessary to:

- (1) cover capital improvements at the project with respect to capital items that have failed, or are likely to fail or deteriorate seriously within 24 months;
- (2) upgrade capital items to meet HUD's cost-effective energy standards approved by HUD;
- (3) comply with the Department's standards for accessibility for individuals with handicaps; and
- (4) abate lead-based paint from the complex where lead has been found to exceed the maximum allowable level in HUD housing (see 24 CFR 35).

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b. Repayment Terms

- (1) CILP assistance is provided in the form of an amortizing loan. Interest starts to accrue and the loan amortization period begins when the loan

proceeds have been spent.

- (2) The length of the loan term will be determined based on various factors, including the useful life of the improvement, the amount financed, and the impact on tenant rents. For insured projects, the term generally will be for the remaining period of the original mortgage, and the term must not exceed that period.
- (3) For non-insured projects, the loan term will generally be for the remaining period during which the owner is under an obligation to provide housing for low-income families, and the term must not exceed that period.
- (4) The standard interest rate charged by HUD will normally not be less than three percent or more than six percent.

The interest rate used will generally be six percent, unless the Secretary publishes a new rate in the Federal Register.

The Field Office may recommend that the Secretary charge a lower interest rate for a particular project if this is shown to be necessary to maintain reasonable rental rates. In determining the interest rate on the loan the Secretary will consider factors such as the length of the loan term and the effect of the required debt service on tenant rents.

If the Secretary elects to charge a lower rate for a particular project, the approval notification will indicate this and state what the approved interest rate will be.

This reduced interest rate will never be less than one percent.

c. Limitations on Assistance

- (1) An owner may receive CILP more than once during the term of the mortgage. CILP may be used to repair or replace items that have already received HUD-related assistance (e.g. through a previous OAP loan, Housing Development Grant or Community

Development Block Grant) provided the capital improvement has reached the end of its useful life.

- (2) A capital improvement may not be financed partly by OAP and partly by CILP. However, an owner may apply for a CILP loan to cover capital improvements and simultaneously apply for an OAP loan to cover deferred liabilities. (Only one application is required in such a case, but it must include all necessary documents for both programs.)
- (3) Activities funded under the CILP program normally should be scheduled for completion within a year. However, the contract may be extended due to unforeseen circumstances, such as bad weather. If additional assistance is required in succeeding years, the owner must apply for a new CILP loan.

3-4. CONDITIONS OF ASSISTANCE

a. For Profit (PD properties) and Limited Dividend Owner Contributions

- (1) The owner is expected to contribute a minimum of 25 percent of the total estimated cost of the capital improvements involved, in new capital contributions.
- (2) The "total estimated cost" of capital improvements includes the cost of the estimate of work, materials and labor. The Field Office must approve this estimate as reasonable.
- (3) Funds that may be considered as new capital contributions include:

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- o surplus cash;
- o owner funds (e.g surplus cash) spent to repair capital items during the 24 months before the application if the repair was unsuccessful and the item must be replaced; and
- o non-federal sources of funding, such as grants or loans from state or local governments.

Other possible sources of funding from State or

local governments should be pursued aggressively in order to attain or exceed the required owner contribution. Loans that are to be repaid from project income do not qualify as owner contribution.

(4) Funds that should not be considered as new capital contributions include:

- o cash taken from project income; and
- o cash from the Reserve Fund for Replacements, Residual Receipts fund and other similar funds (e.g. a painting reserve).

(5) Owner distributions are not limited because of CILP assistance.

b. Nonprofit Owner Contributions

No specified minimum contribution is required. Nonprofit owners should contribute as much as they can to the effort in whatever combination of cash and services are available to them.

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SECTION 2. OWNER APPLICATION PROCEDURES FOR
CAPITAL IMPROVEMENT LOAN PROGRAM

3-5. OVERVIEW OF THE APPLICATION PROCESS

a. Owner and Field Office Responsibilities: Owners and Field Office staff must work together to prepare an application for CILP to be submitted to HUD Headquarters. In general, the owner is responsible for gathering the required information and documentation, and determining what the project's needs are. The Field Office staff are responsible for analyzing the information the owner provides, and for documenting the legitimacy of the needs the owner outlines. This may involve the consultation of other disciplines outside the Loan Management Branch to ensure a proper evaluation of the Flexible Subsidy application. The Field Office staff and the owner then work together to develop a workable plan to meet the agreed-upon needs of the project.

b. Key Steps: Steps owners are generally responsible for include:

(1) Analyzing the project's capital improvement needs;

- (2) Determining how best to address those needs;
- (3) Estimating costs and time frames required to address those needs;
- (4) Determining what funding sources are available, including state and local grants and the owner contribution;
- (5) Soliciting resident input;
- (6) Gathering required disclosures and other documentation;
- (7) Drawing up a draft MIO or Work Write-Up to submit to the Field Office; and
- (8) Working with Field Office staff to refine and finalize the MIO Plan or Work Write-Up.

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3-6. ANALYZING PROJECT CONDITIONS

- a. The owner should examine the project's physical condition and determine:
 - (1) which capital improvements are necessary including all capital items that have failed, or are likely to fail or deteriorate seriously within 24 months;
 - (2) cost-effective energy strategies that should be implemented; and
 - (3) steps that should be taken to assure handicapped accessibility, as required under Section 504.
- b. The owner should obtain a minimum of three bids for any work item expected to exceed \$5,000. If owners do not obtain three bids, they should explain why. When obtaining bids, owners should specify the estimated date of performance to eliminate cost overruns due to a time lapse between bidding and the start of the work.
- c. The owner should then estimate the costs and the time frame required to implement each improvement and complete:
 - (1) Form [HUD-9835](#) MIO Plan Part II Section A: Action Items, and

- (2) MIO Plan Part II Section C: Sources and Uses of Funds, Form HUD-9835-B.

These forms should provide enough detail about the proposed scope of work to allow the Field Office to assess the validity of the request (see Appendix 8).

In assessing project costs, owners should keep in mind that they are not required to comply with Davis-Bacon wage rates unless CDBG funds are involved, then Loan Management Staff should reference the CDBG program instructions.

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3-7. MIO PLAN AND/OR WORK WRITE-UP

a. MIO Plan: The owner must complete a MIO Plan only if:

- (1) the project is in default under the mortgage;
- (2) the owner has violated the fiscal requirements or property maintenance requirements of the Regulatory Agreement (for other than willful or fraudulent reasons);
- (3) the project has received an unsatisfactory or marginally satisfactory management review within the past 24 months (unless the owner has corrected the problems in a manner satisfactory to HUD); or
- (4) there is a situation that HUD Headquarters has determined requires a MIO Plan.

Chapter 5 describes the content of the MIO Plan in detail.

b. Work Write-Up

- (1) All applicants must submit a Work Write-Up.
- (2) A Work Write-Up must include:
 - o a brief narrative section describing the actions to be taken;
 - o a cost estimate;
 - o a minimum of three formal bids for work expected to exceed \$10,000. For work

expected to cost between \$5,000 and \$9,999, three bids should be obtained, but need not be submitted with the application;

- o a list of any proposed transactions with identity of interest companies for more than \$100; and
- o Form HUD 9835, MIO Plan Part II, Section A, Action Items which has been completed to show descriptions of Action Items, Target Dates and Total Funds; and

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- o Form HUD 9835-B, Lines A, A-1, A-2, A-3, A-4, B, B-1 and B-5.

Note: Even those owners who are not required to complete a MIO Plan may find it easiest to follow the MIO Plan in order to assure that their application packages are complete, particularly since large sections of the MIO Plan are required from all owners.

3-8. SUBMISSION PROCEDURES

- a. Once owners have gathered all of the information discussed in this section, they should submit it to the HUD Field Office for review. The Field Office will use the information presented to them to determine whether the funding request is reasonable. They may ask the owner to gather additional information, or may want to discuss the owner's interpretation of the project's needs.
- b. Once the owner and the Field Office staff have agreed on the project's needs and the MIO Plan or Work Write-Up is finalized, the Field Office is responsible for submitting the proposal to Headquarters, and for notifying the owner of Headquarters' final determination. Owners should submit their draft MIO Plans or Work Write-Ups to the Field Office in advance of the deadline for submission to Headquarters to assure that there is time for review and negotiation.
- c. Subject to requirements published in the NOFA, the following items will generally be required with the owner's submission:
 - (1) Either a Management Improvement and Operating Plan

Form [HUD-9835](#), HUD 9835-A and HUD-9835-B (see Chapter 5), and/or an Owner's Work Write-Up, cost estimate, and forms [HUD-9835](#) and 9835-B;

- (2) LIHTC and Other Subsidy Layering Certification (see Appendix 4);
- (3) Lobbying Certification and Disclosure Forms (Byrd Amendment -- see Appendix 3);
- (4) Audited Annual Financial Statement for the most recent fiscal year;

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- (5) Notice to residents (see Appendix 1), resident comments, and owner recommendations;
- (6) Certification of Identity-of-Interest (see Appendix 5);
- (7) List of all companies that supply goods and services to the project that have an identity-of-interest with the owner or management agent;
- (8) Previous Participation Certification Form HUD-2530 (see Appendix 6); and
- (9) Other requirements as stated in the NOFA.

3-9. NEGOTIATIONS WITH THE FIELD OFFICE

The owner's role in the application process does not end with submitting a preliminary MIO Plan or Work Write-Up. Once Field Office staff receive a preliminary MIO Plan or Work Write-Up, they begin the review procedure described in Section 3. During this process, Field Office staff will reassess the situation the owner has presented. If they come to different conclusions, or note different issues that need to be addressed, they will negotiate with the owner to modify the MIO Plan or Work Write-up. Ultimately, the Field Office will make the final decision about what is required at the project.

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SECTION 3. FIELD OFFICE REVIEW PROCEDURES
FOR THE CAPITAL IMPROVEMENT LOAN PROGRAM

3-10. OVERVIEW OF THE REVIEW PROCESS

a. Field Office Obligations

Field Office staff must review the owner's application for assistance and conduct its own analysis of the project's condition. This includes a physical inspection and a management review.

b. Field Office Determinations

The Field Office must determine that:

- (1) providing CILP is the most cost-effective way for the federal government to provide assistance to the project;
- (2) the assistance is necessary, when considered with other resources available to the project;
- (3) the assistance will restore or maintain the financial or physical soundness of the project;
- (4) the project is or can reasonably be made structurally sound, and all code violations and physical deficiencies will be corrected as a result of providing CILP to the project;
- (5) the assistance will help to preserve the low- and moderate- income character of the project;
- (6) the project is operated competently and in accordance with any MIO Plan approved by HUD for the project; and
- (7) the reserve for replacement is funded in accordance with HUD requirements, and this amount is still insufficient to meet the capital needs of the project.
- (8) contractors who have submitted formal bids are not on the current Limited Denial of Participation (LDP) list.

c. Key Steps

The Field Office must:

- (1) Obtain comments from local government;
- (2) Complete the required environmental review;
- (3) Complete required Management Reviews of Multifamily Projects Report, Form HUD-9834 (see Appendix 9), and Physical Inspection Report, Form HUD-9822 (See Appendix 10);
- (4) Review and refine the Work Write-up and/or MIO Plan and owner's analysis of the project's deficiencies;
- (5) Review available relief tools;
- (6) Select relief tools and negotiate specific contents of the MIO Plan or Work Write-Up with the owner;
- (7) Review resident comments on the proposed MIO Plan or Work Write-Up; and
- (8) Formalize the MIO Plan or Work Write-Up.

d. Required Forms

The following forms will help the reviewer gather the information necessary to demonstrate the project's eligibility for CILP and determine whether it can support a Capital Improvement Loan. These forms must be submitted to Headquarters with any application for CILP assistance.

- (1) the Management Reviews of Multifamily Projects Report, Form HUD-9834;
- (2) the Physical Inspection Report, Form HUD-9822;
- (3) the Project Analysis Worksheet, Form HUD-9815 (see Appendix 10);
- (4) the Justification for Use of Flexible Subsidy, Form HUD-9815-A (See Appendix 17); and
- (5) the Field Office Worksheets (see Appendix 14).

- a. The Field Office must establish and maintain the two-part Flexible Subsidy Control Log, Form HUD-9823-C, and Form HUD-9823-D, shown in Appendix 15. This log may be maintained in hard copy as provided in Appendix 15 or if the Field Office has established an automated version, the automated version may be used. The Control Log will:
 - (1) lists all the administrative actions which the Field Office must complete on individual projects; and
 - (2) provides space for recording individual project reservations.
- b. All changes in contract terms or amounts must be recorded on the Flexible Subsidy Control Log.

3-12. LOCAL GOVERNMENT ASSURANCES

a. Purpose

CILP is not contingent upon approval from local government. However, consultation with the local government may provide the Field Office with valuable comments concerning the project.

b. Notification Requirements

Immediately upon receipt of an application, Loan Management staff should consult with the appropriate officials of the unit of local government in which the project is located and seek the following assurances:

- (1) the community in which the project is located is providing, or will provide, essential services to the project in keeping with the community's general level of these services;
- (2) the real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and
- (3) providing CILP assistance to the project will be consistent with local plans and priorities.

A sample letter to local governments seeking such assurances is provided in Appendix 13.

If a local government responds negatively to the Field Office's request for assurances, the Field Office should take this into account when reviewing the application.

3-13. DETERMINING NEED

a. Review of Project Reserves

Field Offices should assess whether a project's reserves could support the cost of the proposed capital improvements without CILP assistance. CILP assistance will be provided only if:

- o the project's replacement reserve (including any surplus cash, residual receipts or other funds from the project or escrow outside the project account that could be used to fund the reserve) is insufficient to finance both the capital improvements for which assistance is being requested and other capital improvements that are reasonably expected to be required within the next 24 months; and
- o the owner has funded the reserve in accordance with HUD requirements.

b. Use of Reserve Funds

Reserve funds should be made available for capital improvements if the criteria for using them are met. However, these funds may only be tapped to cover needed capital improvements if the reserve exceeds \$1,000 per unit. If the reserve funds are in excess of \$1,000 per unit on the date the CILP loan is made, only 50 percent of the amount in excess of \$1,000 per unit may be used for capital improvements.

In this context, "replacement reserve" does not include residual receipts. Residual receipts may be used to fund capital improvements with the approval or at the direction of the Field Office in accordance with HUD directives.

3-14. ABILITY TO SUPPORT CILP LOAN

If the project's replacement reserves are not sufficient to cover the costs of the proposed capital improvements, Field Office staff must assess the project's ability to support the costs of the proposed improvements if they are proposed to be funded through the CILP program. To do this, the reviewer should verify the project's current income and expenses, and assess the probable impact that the improvements will have on tenant rent and the project's future income and expenses.

a. Estimated Current Operating Expenses

- (1) The reviewer should use past years, financial data to estimate the project's current operating expenses. Operating expenses are defined as those expenses deemed to be typical, reasonable, and necessary to operate the project, assuming prudent management.

Typical, reasonable and necessary costs would include, but are not limited to, taxes, utilities, maintenance and repairs, management, insurance and reserves. They do not include deferred maintenance, non-cash expenditures such as depreciation, a return on equity to the owner, or major capital expenses that are not included on the current period's financial statement but are listed on the Statement of Cash Flows and depreciated over time.

- (2) These costs are simply those normally included in determining the project's rent structure. Therefore, it is likely that the annualized expense estimate will be approximately the same as that included in the last approved rent increase.

b. Estimated Future operating Expenses

- (1) The proposed improvements may have several different effects on the project's operating expenses. The cost of repaying the loan will raise the debt service for the project. At the same time, the improvements may help lower other costs. For example, any cost-effective energy conservation measures implemented as part of the capital improvements should help reduce the project's operating costs.

- (2) In some cases, the Field Office can help the owner find additional ways to reduce the project's operating expenses. For example, many states have legislation which exempts Section 202 projects from real estate taxes for the full term of the HUD mortgage. In such a case, the Field Office should advise owners of the tax exemption provisions, and require the owner to apply for an exemption. However, for those Section 202 projects that are not in states that allow exemptions, and those projects that have not yet received them, these taxes will have to be considered as expenses.
- (3) The reviewer should take all factors that may affect the project's costs into consideration, and should develop an estimate of the project's future operating expenses.

c. Current Income

The reviewer should use past years, financial data and data in any recently HUD approved rent increase to estimate the project's current income. This information will serve as a baseline for calculating the effect that a CILP loan will have on the project's rents.

d. Rent Structure

- (1) Since the CILP loan will almost always result in some increase in rents, the Field Office should follow the rent increase procedures described in HUD Handbook 4350.1, Chapter 7, Section 2.

- (2) Rent increases resulting from a CILP loan at a project subject to a Plan of Action under 24 CFR 248 are governed by the rent agreements entered into as part of that Plan of Action.
- (3) Rents should be limited to the amount necessary to cover the project's operating costs, including taxes and reserves, the debt service requirements (existing debt service plus additional debt service created by the CILP loan) and a reasonable equity return to the owner, if applicable.
- (4) The projected rental rates must not include

consideration of the owner's equity contributions made in connection with the CILP loan. For example, if an owner's allowable distribution of 6 percent on equity of \$250,000 (before a Capital Improvement Loan) is used in determining the rental rates, the equity basis for determining rents after a Capital Improvement Loan will remain \$250,000 regardless of additional equity contributions. The rents will remain under this restriction after approval of the Capital Improvement Loan.

e. Estimated Future Income

In estimating the project's future income, the Field Office should use the rental rates that will be required to support the CILP loan. If a rent increase is in process, this also may be factored into the estimated income. The reviewer should use the occupancy factor from Form HUD-92264 prepared during underwriting processing in calculating the project's expected income.

3-15. ASSESS VIABILITY

The Capital Improvement Loan is an amortizing loan that must be repaid on schedule. Before a CILP loan will be awarded, there must be a reasonable expectation on the part of ownership, management and HUD that the loan will be repaid in the regular course of business. The reviewer should compare the project's expected income level to its expected operating expenses to determine whether the project can reasonably support the CILP loan that is being requested.

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The project and its existing residents must be able to absorb any rent increases required to meet the debt service requirements of the CILP Loan.

Projects that are fully subsidized by Section 8, Rent Supplement or RAP should have very little difficulty in this regard. A problem is more likely to arise in those projects that are not receiving deep subsidy benefits. Such projects are likely to be 202s, 236s and BMIRs. A proposal for a Capital Improvement Loan should not be recommended for approval if the loan would adversely affect the occupancy level of the project.

3-16. REVIEW OPTIONS

If it appears likely that the existing residents could not pay the higher rents required to support the loan, the Field Office must assess the viability of several alternatives.

- a. Increase the Owner Contribution. First, Field Office staff should ask the owner to increase the owner's contribution from 25 percent if the owner has additional funds. If the owner indicates a willingness to increase this contribution, Field Office staff should re-analyze the rent structure needed to support the loan and the impact the revised rents would have on occupancy.
- b. Reduce the Interest Rate or Increase the Loan Term. Next, Field Office staff should analyze the rent structures that would be required for a loan with:
 - (1) an interest rate of one percent; and/or
 - (2) an increase in the term of the loan (but not to exceed the remaining term of the mortgage).

If the occupancy problem could be alleviated with such modificational Field Office staff should forward the application package to HUD Headquarters, emphasizing one or both of these recommendations.

- c. Delay Action Until Additional Assistance is Available. If neither of these alternatives solves the problem, the Field Office should advise the owner that the loan application will be held in abeyance until additional forms of financial relief can be made available.

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Field Office staff should advise the owner that the application can be forwarded to Headquarters but that it might not be approved unless further financial relief is obtained. For example, the project owner may request OAP or Loan Management Set-Aside Section 8. In this case, the Field Office staff should forward the application package to Headquarters with a memorandum emphasizing this need, and provide their analyses and recommendations.

3-17. ASSESS COSTS

Field Office Staff should review the owner's proposed capital improvements and cost estimate from the MIO Plan

or the Work Write-Up to determine whether the proposed costs are reasonable. Formal or informal review by the Field Office Cost Analyst is encouraged, as long as this review does not delay processing the loan application. If the costs do not seem reasonable, the Field Office should negotiate with the owner until agreement is reached on a reasonable set of costs.

3-18. REVIEW AVAILABLE TOOLS

- a. CILP is designed to be used in conjunction with other sources of income. As part of crafting a relief plan for the project, Loan Management staff should conduct a detailed review of the relief tools that may be used to assist the project. For example, the Field Office can encourage owners to seek out assistance from states and municipalities that offer below market loans or grants for energy conservation equipment.
- b. Loan Management staff must then select the most appropriate set of tools to provide the needed capital improvements at a minimum cost to the Department. Section I of the Project Analysis Worksheet Form HUD-9815 provides an opportunity for the reviewer to summarize the various tools available to the project, and to determine how much CILP Assistance will actually be required.
- c. The Loan Management Branch Chief should review the Project Analysis Worksheet to assure that the facts and reasoning followed support the reviewer's conclusions and recommended relief tools.

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3-19. JUSTIFY CILP ASSISTANCE

After completing the Worksheet, the reviewer must summarize the reasons the project requires CILP Assistance on Form HUD-9815-A. This form explains why other types of tools are not sufficient to meet the project's needs. It provides a place for the Field Office to justify any exceptions it has made regarding the owner's contribution or in rent increases. It also provides a place to convey any concerns expressed by residents or the local government.

3-20. EMERGENCY REPAIRS AFTER APPLICATION AND BEFORE CONTRACT EXECUTION

Repairs and replacements included as Action Items on the

MIO Plan or in the Work Write-Up and made by the owner on an emergency basis before contract execution may be funded with CILP only if the owner has received advance approval from the Field Office to proceed with the emergency repair.

Loan Management staff should remind owners of this requirement when they apply for CILP Assistance. Field Offices must document their approval of the emergency repair in the project file.

3-21. REVIEW FOR PREVIOUS CILP ASSISTANCE

Project owners may request and receive CILP Assistance more than once during the term of the mortgage. However, a repair or replacement item is normally eligible for CILP Assistance only if it has not previously received HUD-related assistance (e.g. previous CILP Assistance, Housing Development or CDBG grants) unless it has reached the end of its useful life.

Owners are asked to submit a list of previous federal funding to help Field Office staff determine what previous assistance the project has received and what it was used for, and not allow items to be funded again under the CILP program unless it has reached the end of useful life.

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3-22. REVIEWS FOR OTHER FEDERAL REQUIREMENTS TRIGGERED BY FLEXIBLE SUBSIDY ASSISTANCE

The Field Office should review the submission carefully to assure that the following requirements (described in Chapter 1) are adequately addressed.

- o Low Income Housing Tax Credit Restrictions;
- o Other Subsidy Layering Restrictions;
- o Environmental Review;
- o Section 504, Handicapped Accessibility;
- o Energy Conservation requirements;
- o Lead-Based Paint Abatement Requirements as established in Chapter 19, Handbook 4350.1;
- o Lobbying Restrictions (Byrd Amendment);
- o Identity-of-Interest;
- o URA; and
- o Previous Participation.

3-23. NEGOTIATIONS WITH THE OWNER

a. The process of developing the MIO Plan is an

interactive one, and requires ongoing cooperation between the owner and the Field Office staff. After reviewing the owner's draft MIO Plan or Work Write-Up, the Field Office should set up a meeting with the owner to discuss concerns and seek clarifications. Field Office staff should review their assessment of the project's needs and abilities with the owner.

- b. Using the information and analyses in the Project Analysis Worksheet as a guide, Loan Management staff and the owner should discuss areas of the preliminary MIO Plan or Work Write-up to be revised. Loan Management staff should seek agreement on specific action items and target completion dates. Several discussions may be required before agreement is reached and the owner is able to submit a revised MIO Plan or Work Write-Up.
- c. When negotiating the contents of the MIO Plan or Work Write-Up, Loan Management staff should encourage the owner to:
 - (1) procure supplies and labor from small minority and female-owned firms;
 - (2) involve project residents in planning and carrying out the MIO Plan or Work Write-Up.

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3-24. FIELD OFFICE RECOMMENDATION

- a. A series of Field Office Worksheets (see Appendix 14) has been developed to help Field Office staff assess CILP projects. They include:
 - o a Field Office Certification;
 - o a Project Evaluation;
 - o a Project Summary;
 - o a Least Cost Worksheet (for non-Plan of Action Projects); and
 - o a Checklist for Evaluation of the Flexible Subsidy Application.

When required by the Notice, these worksheets should all be completed and submitted to Headquarters with every CILP application.

- b. Once the Field Office has completed its analysis of the project, the Loan Management staff must make a recommendation as to whether to fund the project under

the CILP program. The NOFA will provide information about whether or not the project will qualify for assistance in any given year. If it does, and if the analysis indicates that the project can support the requested CILP loan, it should generally be recommended for funding.

- c. If the Field Office decides to recommend that the project receive CILP, the final MIO Plan or Work Write-Up should be submitted to Headquarters for funding consideration, along with all other required documentation.
- d. The Field Office assessment and recommendation should be written up and submitted with the application package.

3-25. SUBMISSION REQUIREMENTS

a. General Submission Information

- (1) The owner must provide a range of information to the Field Office, and the Field Office is responsible for assuring that a completed package is submitted to Headquarters. Appendix 18 provides a checklist of all items that must be included in the submission.

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- (2) All CILP applications the Field Office recommends for funding except for those submitted as part of a Plan of Action must be submitted to the Headquarters Program Support Branch, Operations Division, Office of Multifamily Housing Management. Submission information will be contained in NOFAs published in the Federal Register.
- (3) CILP applications submitted as a part of a Plan of Action should be submitted to the Affordable Housing Branch.

b. Owner Submission Items

- (1) Flexible Subsidy Application Form HUD-9826 and Letter;
- (2) MIO Plan and/or Work Write-Up, Cost Estimate, Form [HUD-9835](#) Part II Section A, Action Items, and Form HUD-9835-B Sources and Uses of Funds;

- (3) LIHTC and Other Subsidy Layering Documentation;
- (4) Lobbying Certification or Disclosure (Byrd Amendment);
- (5) Audited Annual Financial Statement for the most recent fiscal year;
- (6) Notice to residents, resident comments, and owner recommendations;
- (7) Certification of Identity-of-Interest;
- (8) List of all companies that supply goods and services to the project that have an identity-of-interest with the owner or management agent;
- (9) Previous Participation Certification - Form HUD-2530; and
- (10) Other requirements as stated in the NOFA.

c. Field Office Submission Items

- (1) Current Form HUD-9822, Physical Inspection Report;

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- (2) Current Form HUD-9834, Management Review Report;
- (3) Form HUD-9815, Project Analysis Worksheet;
- (4) Justification of Flexible Subsidy Funding Form HUD 9815-A;
- (5) Copy of most recent audited financial statements;
- (6) Certifications submitted by HFA, if applicable; and
- (7) Field Office Worksheets.

3-26. SPECIAL PROCEDURES FOR HFA FINANCED PROJECTS

- a. State Agencies must conform, in full, to the Field Office CILP processing requirements. Applications submitted through a State Agency must include all of the certifications and documentation required from Field Offices. Mortgage delinquencies and delinquent

accounts payable may not be included in the MIO Plan for any State Agency-owned project.

- b. Field Offices must review the State Agency application for completeness. In addition, the Field Office must schedule a physical inspection of the project promptly to ensure that the scope of the work is accurate and cost estimates included in the MIO Plan are reasonable. Field Offices should submit only projects recommended for funding to Headquarters for further processing. The Field Office must also monitor the State Agency's administration of the CILP program as a part of the State Agency review.
- c. For uninsured projects the Field Office CILP same procedures and processing requirements will apply, except that in lieu of an inspection by the Field Office, the HFA will provide a copy of its own inspection report along with a certification stating that all items that will be funded are eligible under the CILP guidelines.

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- d. Many HFA-financed projects have built up substantial reserve accounts over the years, which have names such as Development Cost Escrow, that differ from those used in projects financed with HUD-insured mortgages. The application must include the following certification signed by the HFA's Chief Executive Officer:

"This is to certify that the undersigned has reviewed the status of all project escrow accounts and has determined that the amount of funds available from such accounts is insufficient to finance the capital improvements for which the assistance is being requested and other capital improvements that are reasonably expected to be required within the next 24 months."

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