
CHAPTER 2: THE OPERATING ASSISTANCE PROGRAM

SECTION 1. BASIC PROGRAM REQUIREMENTS

2-1. OVERVIEW OF THE OPERATING ASSISTANCE PROGRAM

a. This Chapter provides owners and HUD Field Offices with the necessary guidance to implement the Operating Assistance Program (OAP). The program is intended to:

- (1) restore or maintain the financial and physical soundness of privately owned, HUD-assisted housing projects;
- (2) improve the on-site management of these projects; and
- (3) maintain the low- and moderate-income nature of these projects.

b. The OAP provides funds to:

- (1) correct physical deficiencies that have accrued as a result of prior years' operating deficits,,
- (2) correct financial deficiencies that have accrued as a result of prior years' operating deficits; and
- (3) fund the operating deficit that the Field Office estimates the project will incur during the assistance year.

c. The OAP is designed to supplement and be used in conjunction with other tools such as bond refunders, partial payment of claim, work-out agreements, rental increases, Section 8 assistance and in rare instances, mortgage modifications. Owners and Field Offices should actively pursue remedies and seek additional funds from such sources to achieve the program's objectives at the lowest possible cost.

d. Projects will be considered for funding based upon a Field Office assessment of project needs and owner abilities. OAP may be granted if it appears that it will stabilize project operations and the owner agrees

to implement the project improvements and management procedures HUD recommends.

- e. The OAP 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 the application and makes recommendations to Headquarters. Headquarters reviews the Field Office submissions and makes a final determination following project eligibility requirements, selection criteria and priorities contained in the NOFA. (See Chapter 1 for additional information on the NOFA process.)

2-2. ELIGIBLE ACTIVITIES

a. Repairs and Replacements

- (1) OAP funds may be used to correct physical deficiencies that existed when the owner applied for OAP if they were caused by deferring regularly scheduled maintenance and repairs.
- (2) Project deficiencies that require capital improvements are eligible for funding if they are needed to:
 - o meet local building codes or HUD's Minimum Property Standards (see 24 CFR 200, Subpart S); or
 - o maintain the project in a decent, safe, and sanitary condition; or
 - o energy efficient measures due to deferred maintenance.

Other capital improvements not eligible for OAP may be eligible for funding under the Capital Improvement Loan Program (see Chapter 3).

- (3) OAP may NOT be used to:

- o 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) if they have yet to reach the end of their economic life.

- o provide major new improvements (e.g., adding a swimming pool, a laundry room, or new buildings).
 - o make repairs needed due to the owner's failure to follow through on commitments in a TPA or Workout Agreement.
- (4) The Operating Budget developed as part of the MIO Plan should provide sufficient funds to cover routine maintenance and any additional repair needs arising during the assistance year.
- (5) When considering the expense involved in replacing or repairing items, the requirement that appliances be replaced with energy efficient appliances when replacement occurs should be considered.

b. Replacement Reserve Deficiencies

- (1) Reserve accounts normally should be replenished only once during the life of the project, even if the owner requests a second OAP loan.
- (2) Normally, the maximum amount of OAP that may be approved for replenishing reserves is the difference between:
- o the balance in a project's Replacement Reserve Account at the beginning of the OAP period, and
 - o the amount that would have been in the account at the beginning of the OAP if all monthly deposits required by the project's regulatory agreement had been made, and if withdrawals from the reserve had not been made for "non-replacement related items".

The term "non-replacement related items" is defined more extensively defined in Chapter 4, Handbook 4350.1 , entitled Reserve for Replacement.

c. Operating Deficits

- (1) During the year in which a project receives OAP, the funds may be used to reduce mortgage delinquencies and operating accounts payable that

existed when the assistance was granted.

- (2) Normally, the maximum amount of OAP that may be used to fund operating deficits is the difference between:
 - o the expenses which the Field Office estimates are necessary to operate the project efficiently; and
 - o the revenues that the project can generate without requiring increases in the number of LMSA units provided to the project to assist low income tenants.

2-3. TERMS OF ASSISTANCE

a. Repayment Terms

- (1) OAP loans are provided as contingent/deferred loans, with no maturity date. Repayment is triggered by key events as outlined in the Flexible Subsidy Residual Receipts Note (see Appendix 7). In general, OAP loans normally should be repaid in full when any of the following events occur:
 - o when a TPA is approved by HUD;
 - o the term of the mortgage expires;
 - o the mortgage insurance terminates (for insured projects); or
 - o the mortgage is prepaid.
- (2) HUD may require that owners use Residual Receipts to make payments on the loan at the end of each fiscal year.

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- (3) Owners may use non-project funds to make payments on the loan.
- (4) The interest rate will be one percent per annum, which shall not be compounded, subject to the terms contained in the Flexible Subsidy Residual Receipts Note.

b. Limitations on Assistance

- (1) An owner may receive OAP more than once during the term of the mortgage. However, OAP may not be used to repair or replace items that have already received HUD-related assistance or to fund depleted reserves that have already been funded (such as through a previous OAP loan, Housing Development Grant or Community Development Block Grant) unless the repairs have reached the end of their economic life.
- (2) A capital improvement may not be financed partly by OAP and partly by funds from the Capital Improvement Loan Program (CILP) (Bee Chapter 3 . However, an owner may apply for an OAP loan to cover deferred liabilities and simultaneously apply for a CILP loan to cover capital improvements. (only one application is required in such a case, but it must include all necessary documents for both programs.)
- (3) Activities funded under the OAP 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 Operating Assistance is required in succeeding years, the owner may apply for a new OAP loan.

2-4. 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 amount needed to render the project financially sound. This non-recoverable cash contribution must be made up of "new cash."

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- (2) Funds that may be considered as "new cash" contributions include:
 - 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.

(3) Funds that should not be considered as "new cash" contributions include:

- o cash taken from project income;
- o previous cash advances (unless used for qualified items within the past 24 months);
- o management fees;
- o cash from the Reserve Fund for Replacements, Residual Receipts fund and other similar funds (e.g. a painting reserve); and
- o an owner's offer to forgo payment of distributions which may be earned in the future.

(4) PD profit motivated and limited dividend owners also must agree that any surplus cash and distributions generated by project cash flow will be placed in the Project Residual Receipts Account. At HUD's discretion, these funds shall be used first to discharge the Residual Receipts Note. Owners may not take distributions for as long as the Residual Receipts Note remains outstanding.

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b. Nonprofit Owner Contributions

- (1) The nonprofit owner or sponsor must make a contribution toward the total amount needed to render the project financially sound. If HUD determines that neither the owner nor the sponsor has the financial capacity to make a cash contribution, HUD may permit the nonprofit owner to contribute to the project in the form of services (e.g., volunteer labor or materials donation).
- (2) 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.

c. Owner Distributions

- (1) During any fiscal year in which a project receives OAP funds and during the following fiscal year, owners are not entitled to take any distributions.
- (2) Funds that would otherwise be considered surplus cash will instead be deposited in the residual receipts account.
- (3) In subsequent years the owner may accrue distributions, but may not take any distributions until the OAP loan is repaid in full. Once the OAP loan is paid in full, owners may pay accrued distributions from surplus cash.

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SECTION 2. OWNER APPLICATION PROCEDURES FOR OPERATING ASSISTANCE

2-5. OVERVIEW OF THE APPLICATION PROCESS

a. Owner and Field Office Responsibilities:

Owners and Field Office staff must work together to prepare an application for Operating Assistance to be submitted to HUD Headquarters. In general, the owner is responsible for gathering the required information and documentation and determining project needs. The Field Office staff are responsible for analyzing the information the owner provides and for documenting the legitimacy of the needs the owner outlines. 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:

- (1) Analyzing project management, financial and physical deficiencies;
- (2) Documenting emergency health and safety items;
- (3) Determining how to address the deficiencies;
- (4) Estimating costs and time frames required to address the deficiencies;
- (5) Determining what funding sources are available,

including state and local grants and the owner contribution;

- (6) Soliciting resident input;
- (7) Gathering required disclosures and other documentation;
- (8) Drawing up a draft MIO and submitting it to the Field Office; and
- (9) Working with Field Office staff to refine and finalize the Management Improvement and Operating (MIO) Plan (see Appendix 8).

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2-6. ANALYZING PROJECT CONDITIONS

a. Management Deficiencies

- (1) The owner should examine the project's operation and list all of its management deficiencies. This list can be developed independently or must be based on Field Office Management Reviews of Multifamily Housing Projects Form [HUD-9834](#) (see Appendix 9).
- (2) Once this list is assembled, the owner should develop management objectives with concrete goals to correct each deficiency. The owner must then use Form HUD-9835-A, MIO Section B - Management Objectives, to record these objectives and to break them down by quarter.
- (3) Owners are also required to provide a narrative to address each management deficiency that can serve as operating instructions for on-site staff. These instructions will remain in effect after the Operating Assistance year unless amended by the Field Office.

b. Financial Deficiencies

- (1) The owners should assemble information about the past two years of the project's financial performance. The owner should use these documents to assess whether high costs or low revenues can be attributed to management problems and improved. If so, the owner should develop plans for improving these functions, and should estimate

what the savings or added income for the property will be. The owner can then project the next year's operating income and expenses, given expected management improvements.

- (2) The owner must determine what the expected operating deficit is likely to be during the year in which the OA loan is given. The owners should also project the operating deficits for future years, and assure that OA will make the project viable.

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- (3) The owner must also determine the effect of the new loan on long-term operating costs, and on rents for low-income households. Operating Assistance is designed to keep projects affordable to low- and moderate-income households. It is crucial that the potential for negative effects on lower-income households be foreseen and minimized.

c. Physical Deficiencies

- (1) The owner must examine the project's physical condition and list all of its deficiencies. This list can be developed independently, or can be based on Field Office Physical Inspection Report Form HUD-9822 (see Appendix 10) and the Project Analysis Worksheet Form HUD-9815 (see Appendix 11).

Eventually, both the Field Office and the owner lists should be in general agreement on the project's physical deficiencies. All physical deficiencies must be addressed and any deficiency not agreed to by the Field Office is ineligible for funding.

- (2) Owners must list the cost-effective energy strategies that should be implemented and the steps that will be taken to assure accessibility to people with handicaps, as required by Section 504.
- (3) Once a list of physical deficiencies is drawn up, the owner should estimate the costs for improvements and repairs, and estimate the time frame required to implement each improvement.
- (4) The list of deficiencies to be repaired and the

projected costs should be recorded on Form HUD-9835, MIO Section A: Action Items. This form should provide enough detail about the proposed scope of work to allow the Field Office to evaluate the plan.

2-7. SUBMISSION PROCEDURES

- a. A MIO Plan is required with each application for OAP. Chapter 4 provides detailed information about developing MIO Plans.

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- b. 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 staff will use this information 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.
- c. Once the owner and the Field Office staff have agreed on the project's needs and the MIO 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 to the Field Office in advance of the Headquarters submission deadline to assure that there is time for review and negotiation.
- d. Subject to requirements published in the NOFA, submission items the owner must generally provide include:
 - (1) Application for Flexible Subsidy Assistance, Form HUD-9826 (see Appendix 12) and application letter;
 - (2) MIO Plan, Forms HUD-9835, HUD-9835-A, and HUD-9835-B (see Chapter 5 and Appendix 8);
 - (3) LIHTC and Other Subsidy Layering Documentation (see Appendix 4);
 - (4) Lobbying Certification and Disclosure Forms (Byrd Amendment -- see Appendix 3);
 - (5) Audited Annual Financial Statement for the most recent fiscal year (unless the Field Office informs the owner that this submission requirement

has already been met);

- (6) Notice to residents (see Appendix 1), resident comments, and owner recommendations;
- (7) Certification of Identity-of-Interest (see Appendix 5);
- (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;

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- (9) Previous Participation Certification - Form HUD-2530 (see Appendix 6); and
 - (10) Other requirements as stated in the NOFA.

2-8. NEGOTIATIONS WITH THE FIELD OFFICE

The owner's role in the application process does not end with submitting a draft MIO Plan. Once it receives a draft MIO, the Field Office begins 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.

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SECTION 3. FIELD OFFICE REVIEW PROCEDURES FOR OPERATING ASSISTANCE.

2-9. OVERVIEW OF THE REVIEW PROCESS

a. Field Office Obligations

Field Office Loan Management Staff must review the owner's application for assistance and conduct its own analysis of the project's condition. This involves a detailed on-site review, including a physical inspection and a management review, as well as diagnosing and documenting the project's problems and

their causes. Loan Management Staff should seek the assistance of appropriate disciplines within the Field office (e.g. Field Counsel, Housing Development, CPD, etc.) in order to assure a proper assessment of the Flexible Subsidy application.

b. Field Office Determinations

Field Offices must determine that:

- (1) providing OA 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 OA to the project;
- (5) the assistance will help to preserve the low- and moderate- income character of the project;
- (6) the project will be operated competently and in accordance with any HUD-approved MIO Plan 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.

c. Key Steps

Field Office staff must:

- (1) Obtain comments from local government (see Appendix 13);
- (2) Complete the required Management Review Report and Physical Inspection Report;
- (3) Complete the required environmental review;

- (4) Review and refine the MIO Plan and the 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 with the owner;
- (7) Review resident comments on the proposed MIO Plan (if required, see Section 1-10); and
- (8) Formalize the MIO Plan.

d. Required Forms

The following forms will help the reviewer gather the information necessary to demonstrate the project's eligibility for OAP. These forms must be submitted to Headquarters with any application for OAP assistance:

- (1) the comprehensive on-site Management Review Report, Form [HUD-9834](#);
- (2) the Physical Inspection Report, Form HUD-9822;
- (3) the Project Analysis Worksheet, Form HUD-9815;
- (4) the Justification for Use of Flexible Subsidy, Form HUD-9815-A; and
- (5) the Field Office Worksheets (see Appendix 14).

2-10. FLEXIBLE SUBSIDY PROCESSING CONTROL LOG

- a. The Field Office must establish and maintain the two-part Flexible Subsidy Control Log, Form HUD-9823-C, and Form HUD-9823-D (see Appendix 15) either in hard copy or in an automated format, if the Field Office has established such a format. The Control Log:
 - (1) lists all the administrative actions that 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.

2-11. LOCAL GOVERNMENT ASSURANCES

a. Purpose

Operating Assistance is not contingent upon approval from the 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 Operating Assistance to the project will be consistent with local plans and priorities.

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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.

2-12. PHYSICAL AND MANAGEMENT REVIEWS

- a. The Field Office must conduct physical and management reviews before an owner's request for OA can be forwarded to Headquarters. These reviews may have been completed before the owner's application was submitted but must be current when the application package is submitted to Headquarters, and must comply with time frames set forth in the NOFA.

b. The Physical Inspection Report (Form HUD-9822) focuses on the following physical aspects of the project:

- o Exterior Conditions;
- o Interior Conditions;
- o Energy Efficiency; and
- o Miscellaneous Physical Conditions (Signs, Play Areas, Exterminating, etc.).

c. The Management Review Report ([HUD-9834](#)) addresses the quality of the project's management including:

- o maintenance and security mechanisms;
- o financial management;
- o leasing and occupancy;
- o tenant/management relations; and
- o general management practices.

2-13. PROJECT ANALYSIS WORKSHEET

The Field Office staff must use the Project Analysis Worksheet (Form HUD-9815) in assessing the project's need for OA. Sections A through F of the Worksheet guide the reviewer through the process of assembling the relevant information, and help flag potential problems that may need to be addressed. The Worksheet utilizes much of the information assembled in the management and physical reviews, and calls for some additional assessment. Sections A through F cover:

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- o general project information;
- o general project management;
- o tenant and neighborhood characteristics;
- o occupancy information;
- o physical condition; and
- o financial condition.

a. Replacement Reserve Account Analysis

The Replacement Reserve Account analysis is outlined in Part F of the Worksheet. Any deficiency in the Reserve Account must be addressed in the MIO Plan. The maximum reserve deficiency that can be funded with OA is the difference between the balance in the account and the balance that would have been in the account if all monthly payments had been made and if no withdrawals from the reserve had been made for non-replacement related items (e.g. utility and mortgage payments).

b. Analysis of Root Problems and Best Solutions

- (1) Section G of the Worksheet asks the reviewer to step back and think critically about the root causes of the problems at the project. This is a small section of the form, but perhaps the most critical step in the process. Unless the reviewer is able to accurately assess the underlying issues at the project, OA funds are likely to be used to address surface problems and will not stabilize the project over the long term.
- (2) Once the root problems are identified, it is also essential that the reviewer think critically about the potential remedies available. A quick, easy, or inexpensive solution may address the problem in the short term, but leave the project unstable in the long term. If the owner has chosen remedies that address the symptoms but not the root causes of the project's problems, the MIO Plan should be revised accordingly.

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c. Assess Costs

- (1) Once the reviewer and the owner have agreed on the root problems and best solutions, the reviewer must assess the costs involved in implementing the solutions. The owner will provide an estimate of the costs in the MIO Plan, but the reviewer must reassess these costs to be sure they are reasonable.
- (2) Section H of the worksheet guides the reviewer through a summary of the costs involved in implementing the plan. It also provides an opportunity to recognize the increased revenues that can be anticipated if management is able to make improvements such as increasing rent collections or decreasing unit turnover.
- (3) In assessing project costs, owners should keep in mind that they are not required to comply with Davis-Bacon wage rates when using OA or CILP funds. If CDBG funds are involved, the instructions for the CDBG program should be referenced for guidance.

d. Review Available Relief Tools

- (1) Operating Assistance 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. Loan Management staff must then select the most appropriate set of tools to resolve the project's problems at a minimum cost to the Department.
- (2) Section I of the Worksheet provides an opportunity for the reviewer to summarize the various tools available to the project, and to determine how much OA will actually be required.
- (3) When selecting among available relief tools, the Field Office should keep in mind that the ultimate goal of any major relief program is to stabilize the project's operations, to restore or maintain the facility in acceptable physical and financial condition and to reinstate the mortgage.

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- (4) Before approving any relief program, the Field Office must consider the long term outlook for the project. For example, prior to approving a reduction in debt service payments for a nine-month period, the Field Office should consider whether -- and when -- the project will be able to resume full debt service payments, make payments towards the delinquency and pay the mortgage in full. Such a reduction in payments may be a preliminary step towards, but never a substitute for, a long term relief program.
- (5) Factors to consider include:
 - o The existing personnel at the site. An owner who is cooperative, effective management, and well-trained on-site staff are essential to stabilizing a troubled project. Field Office staff should not hesitate to pursue changes in any of these actors, if such a change is considered necessary. No infusion of cash, however large, can alleviate the need for concerned, cooperative ownership and skilled, effective management. The Field Office must pursue management changes if the current arrangement is unsatisfactory.

- o The time frame in which the relief is needed. Some needs, such as regular, ongoing operating expenses, are most appropriately addressed by tools that have a direct impact on a project's cash flow -- tools such as rent increases, Section 8 and suspended payments. Other needs, such as correcting serious physical deficiencies in the interior of dwelling units, require a sizeable, immediate infusion of cash which can be generated only by such tools as owner contributions, retroactive modifications and Flexible Subsidy.

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- o The relief tools' long term impact on the project. Bond refunders, partial payment of claim, work-out agreements, rental increases, Section 8 assistance and in rare instances, mortgage modifications may generate cash to meet immediate repair needs, but it will not contribute to the ultimate goals of the program if the project is unable to meet the increased debt service payments that may result from the repair program.

e. Justify Operating Assistance

Finally the reviewer must summarize the reasons the project requires OA on Form HUD-9815-A (see Appendix 17). This section 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 major concerns expressed by residents or the local government.

2-14. EMERGENCY REPAIRS AFTER APPLICATION BUT BEFORE CONTRACT EXECUTION

Repairs and replacements included as Action Items in the MIO Plan and made by the owner on an emergency basis before contract execution may be funded with OA only if the owner 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 OA. Field Offices must document their approval of the emergency repair in the

project file.

2-15. REVIEWS FOR PREVIOUS OPERATING ASSISTANCE

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

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- b. Field Office staff must determine what previous assistance the project has received and what it was used for, and not allow items to be funded again under the OA loan. Owners are asked to submit a list of Previous Federal Funding to facilitate this process.

2-16. 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 and Other Subsidy
- o Layering Restrictions;
- o Environmental Review;
- o Lobbying Restrictions;
- o Identity of Interest;
- o URA; and
- o Previous Participation.

2-17. 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 preliminary MIO Plan, 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 draft MIO Plan to be revised. Loan Management staff should seek agreement on specific action items, management

objectives and target completion dates. Several discussions may be required before agreement is reached and the owner is able to submit a revised MIO Plan.

- c. When negotiating the contents of the MIO Plan, 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, especially the repair work.

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2-18. FIELD OFFICE RECOMMENDATION

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

These worksheets should all be completed and submitted with the application to Headquarters.
- b. Once the Field Office has completed its analysis of the project, the Loan Management staff must make a recommendation as to whether to recommend funding for the project. 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 cannot be stabilized without OA, it should generally be recommended for funding.
- c. If the Field Office decides to recommend that the project be considered for OA, the final MIO Plan should be submitted to Headquarters for funding consideration, along with all other required documentation.
- d. The Field Office assessment and recommendation must be written up and submitted with the application package.

2-19. 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 items that may need to be included in the submission. See the NOFA for a list of submission items, since the requirements may change.

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- (2) All OA applications the Field Office recommends for funding 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.

b. Owner Submission Items

Subject to requirements published in the NOFA, the following items will generally be required with the owner's submission:

- (1) Application for Flexible Subsidy Assistance Form HUD-9826 and Application Letter;
- (2) MIO Plan, Forms HUD-9835, HUD-9835-A, and HUD-9835-B;
- (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 (unless the Field Office informs the owner that this submission requirement has already been met);
- (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 with cost estimates;
- (2) Current Form [HUD-9834](#), Management Review Report;

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- (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.

2-20. SPECIAL PROCEDURES FOR HFA FINANCED PROJECTS

- a. State Agencies Must Conform, in full, to the Field Office 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 monitor the State Agency's administration of the OAP as a part of the State Agency review.
- c. For uninsured projects the same procedures and 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 OAP guidelines.

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."