

CHAPTER 2. CREDIT INVESTIGATION

2-1. CREDIT INVESTIGATION - PURPOSE AND SCOPE

A.Purpose. To evaluate the character, ability, and capital of the sponsor, mortgagor, if formed, and general contractor.

1.Extent of the credit investigation may vary with the complexity of each project, but the MCE must:

a.Obtain adequate information for sound conclusions;

b.Reconcile significant contradictions; and

c.Not investigate unimportant or nonessential details that have no material bearing on the final determination of acceptability.

2.The investigation starts at the:

a.SAMA/Feasibility stage for nonprofit sponsors/mortgagors and housing consultants.

b.Commitment stage for other sponsors/ mortgagors and general contractors.

B.Information required for analysis of the sponsorship or general contractor's credit risk at a minimum includes:

1.Data in the Application - Multifamily Projects, Form HUD-92013, such as, but not limited to:

a.Type of mortgagor entity.

b.Interest rate, costs of issuance (if the project will be financed with bonds), financing fees and discounts to be charged; and

c.Principal participants.

d.Sources of funds for the mortgagor entity.

2.Exhibits supplied with the Form HUD-92013.

2-110/94

agreement or documentation proving ownership) and the date of the last arms-length transaction and price.

b. Form HUD-2530, Previous Participation Certification, for all parties identified on Page 1 of the Instructions for Completing the Previous Participation Certificate, Form HUD-2530.

* c. Form HUD-92013 Supp, listing a sampling of the bank and trade references, with disclosure of prior legal action, outstanding delinquent Federal debt, and SSN or EIN, whichever is applicable, for:

(1) all sponsors.

(2) the mortgagor entity, if formed before submission of the application.

(3) each principal of the mortgagor.

(4) operating officers of a corporate mortgagor, i.e., typically includes President, Vice-President, Secretary, and Treasurer. (See Note following subparagraph f below for possible exceptions.)

(5) the general contractor.

d. Form HUD-92004-F, Request for Verification of Deposit, completed in its entirety, for each bank reference included on Form HUD-92013 Supp and any additional bank account identified on the individual/firm's financial statement. (See Note following subparagraph f below.)*

e. Grant or Loan Commitment letter (if applicable).

f. A listing from all sponsors, the mortgagor, all principals of the mortgagor entity and the general contractor of all business concerns in which these entities serve as a:

10/942-2

4470.1 REV-2 CHG 1

(2-1) (1) general partner;

(2) limited partner with a 25 percent or more interest; or

(3) stockholder with a 10 percent or more interest.

* (4) do not include any HUD or Farmers Home Administration insured projects.

NOTE for subparagraphs c, d and f above:
Officers of a profit-motivated corporation that have no ownership interest in the corporation and are not being relied upon for financial capacity and officers of a nonprofit corporation are not required to provide bank account balances on their Form HUD-92013 Supp, provided verifications of deposit or submit a listing of other business ventures in which they serve as a principal.

g. Credit reports, current within 30 days of the application acceptance date, on the following:

(1) All sponsors.

(2) The mortgagor entity, if formed before submission of the application. *

(3) Principals of the mortgagor including:

(a) all general partners;

(b) limited partners with a 25 percent or more interest;

(c) stockholders with a 10 percent or more interest; and

(d) operating officers of the corporation.

NOTE: If a principal is a business entity (i.e. corporations, partnership) with an operating history, a credit report will be required only on the business firm not the owners of the firm.

2-310/94

4470.1 REV-2 CHG 1

(2-1)* (4) Business concerns listed in subparagraph f above. Require credit reports on:

(a) all businesses involving a pending judgment(s), legal action or suit or bankruptcy claim.

(b)a 10 percent statistical sampling
selected by
the mortgagee up to a maximum of 10 of any
remaining ventures.

(c)an additional 10 percent statistical
sampling, up to a maximum of 10, if the
mortgagee determines that credit reports
obtained on the initial sampling
contain several adverse findings. *

(5)The general contractor.

(6)The housing consultant, if not previously
approved
for the subject project.

*NOTE: In Section 223(f) processing, credit reports and
sponsor financial statements are supplied only with the
firm commitment application.

NOTE: For Section 223(a)(7) projects, credit reports
are required only on the mortgagor entity and, if
applicable, the general
contractor and housing consultant. *

h.Certifications from the sponsor, the mortgagor entity,
each principal and the general contractor which
authorize the release of banking and credit
information. A certification similar to the following
is required:

"To Whom It May Concern:

Please be advised that the undersigned, as (mortgagor/a
principal sponsor/general contractor), hereby consents
to the release of any banking and credit information in
connection with the loan application for the
construction of __(project name)_____ to the

10/942-4

4470.1 REV-2 CHG 1

(2-1)U. S. Department of Housing and Urban Development, any
Delegated Processor or any Technical Discipline
Contractor contracted by HUD to process this
application.

By: _____ Date _____ "

i.Current financial statements with supporting schedules

for all sponsors, the mortgagor entity, if formed, or each principal of the mortgagor and the general contractor. (Refer to paragraph 3-1 for exceptions.)

* j. For any business entity involved as a sponsor, principal of the mortgagor or general contracting firm, financial statements with supporting schedules for the last 3 years before the application was submitted to HUD and interim financial statements, if more than 3 months (6 months, if audited) have lapsed since the date of the latest year's financial statements.

k. Current resume of each sponsor, principal of the mortgagor, general contractor and housing consultant to include real estate and construction experience. *

l. A statement whether an identity of interest exists or will exist between the mortgagor and general contractor and/or architect.

* m. If the sponsor, mortgagor, principal of the mortgagor, and general contractor, has any delinquent Federal debt, the information outlined in paragraph 2-2.D. The Office of Management and Budget Circular A-129, "Managing Federal Credit Programs," which prescribes policies and procedures for managing Federal credit programs and for collecting loans and other receivables, applies only to the applicant of a HUD insured mortgage or a Section 202/811 capital advance. However, it has been administratively decided to apply the requirements of this Circular to the sponsor, principals of the mortgagor and the general contractor.*

2-510/94

4470.1 REV-2 CHG 1

(2-1)* n. A written statement from each principal who is a sponsor indicating the parameters of their financial commitment to and contractual relationship with the mortgagor. Refer to paragraph 3-9.A.

o. Photocopies of the documents used to verify the sponsor's, mortgagor's or any program participant's SSN/EIN.

NOTE: To avoid processing delays that will result in outdated credit reports or financial statements,

applications are not to be accepted for processing by mortgage credit staff if any of the above exhibits are missing or incomplete. Once HUD accepts an application for processing, if updated credit reports are needed, the MCE must order the required reports. This additional burden and expense cannot be imposed on the mortgagee.

2-2.PRESCREENING BY THE MORTGAGEE. The mortgagee is required to prescreen proposed applications for completeness and verify the information presented in an application against information contained in the applicant's credit report(s) and financial statements.

A.24 CFR 200 Subpart U and 207.17 require the disclosure and verification of the applicant's SSN/EIN. Mortgagees must verify the SSN/EINs provided by the sponsor, mortgagor and other program participants.

*

1.The following documents may be accepted as verification:

a.A valid Social Security card issued by the Social Security Administration.

b.A driver's license that uses the SSN as the license number.

c.A valid Employer Identification Number issued by the Internal Revenue Service.

d.An identification card issued by a Federal, State, or local government agency.

10/942-6

4470.1 REV-2 CHG 1

(2-2) e. An identification card issued by the individual's employer, trade union, or medical health insurance company.

f.A computerized earnings statement, payroll stub, or bank statement which shows the individual's name and address.

g.A Federal or State income tax return with a preprinted address label.

h.An IRS Form W-2 or Form 1099 showing a name and address.

i.A benefit award letter from a government agency, employer, or life insurance company.

2.The following are examples of unacceptable documentation:

a.Documents produced for or completed by the bearer, such as wallet identification cards or plastic or metal facsimiles of Social Security cards purchased from stores or mail order firms.

b.Documents having little or no official status, such as club membership cards or library cards.

c.Documents on which the name, address, age, physical description, or SSN/EIN of the bearer has been altered.

d.Documents using invalid SSNs taken from sample Social Security Cards put in new wallets or pocketbooks.

3.Photocopies of the documents used to verify the sponsor, mortgagor or any program participant's SSN/EIN must be submitted with the application.

* B. After the sponsor, mortgagor, each principal of the mortgagor and the general contractor have completed Part I of Form HUD-92004-F, Request for Verification of Deposit, for each bank reference included on Form HUD-92013 Supp and their financial statements, the mortgagee shall submit the Form to the depository to complete Part II. Refer to the Note in paragraph 2-1.B.2.f for exceptions.*

2-710/94

4470.1 REV-2 CHG 1

(2-2) C. Mortgagees must closely review credit reports and financial statements:

1.Make reasonable inquiries to determine if the applicant or any principal is in default on any Federal debt, i.e., direct loans, HUD insured loans, student loans, Small Business Administration loans, or judgment liens against property for a debt owed the Federal government.

2.Determine if discrepancies exist between the information included on the financial statement and in the credit report.

3.Determine if there is any adverse information, i.e., slow payments, judgements, etc., contained on the credit report.

D.When delinquent Federal debt exists, the mortgagee shall include as part of the required application exhibits:

1.A detailed written explanation from any applicant or

principal with a prior Federal default or claim or whose credit report and financial statements contain conflicting or adverse information.

2.A letter from the affected agency, on agency letterhead and signed by an officer, stating the delinquent Federal debt is current or satisfactory arrangements for repayment have been made.

3.The mortgagee's reason(s) for recommendation of the applicant, which may be included in the work sheets and remarks sections of the processing documents or in a cover letter with the submission.

2-3.PRELIMINARY EVALUATION. Decide whether the application and exhibits are acceptable for processing. Send the Multifamily Housing Representative (MHR) a listing of any missing credit information or ask for supplemental or clarifying information needed to prepare the case for processing.

* A. Do not process an application if the mortgagor, sponsor, general contractor or any principal of the mortgagor has delinquent Federal debt unless the information in paragraph 2-2.D is provided. The only exception to this rule is delinquent Federal debt *

10/942-8

4470.1 REV-2 CHG 1

(2-3)*arising from owning and operating a HUD insured or HUD held project. The 2530 review process will be relied upon for these projects.*

B.Failure by the mortgagee to prescreen the application constitutes a basis for returning the application.

* C. Do not accept applications that include missing or incomplete exhibits.

D.Extract all information of a financial or credit nature, including verifications of deposits, from all application binders. The Mortgage Credit staff is to maintain this information.*

2-4.PROCESSING. Once the project is accepted for processing, the MHR will furnish the Mortgage Credit staff with a copy of the application and exhibits required for the stage of processing involved.

A.Set up a control binder for each project. Divide it along the following lines:

1.Application - Multifamily Projects, Form HUD-92013

- 2.Credit Investigation
- 3.Financial Statements and Analysis
- 4.Experience and Qualifications
- 5.Land or Property
- 6.Method and Terms of Financing
- 7.Commitment Processing
- 8.Cost Certification
- 9.Continuous History Sheet
- 10.Correspondence
- 11.Miscellaneous

B.Set up and keep current a master mortgage credit file on any active sponsor or general contractor having

2-910/94

4470.1 REV-2 CHG 1

(2-4)three or more projects in any stage of processing in the Office at the same time. At the minimum, the file must contain:

- 1.A current, within 30 days, local credit report with continuation reports, if available.
- 2.Certifications authorizing the release of credit information.
- 3.Verifications of current bank and trade references.
- 4.The latest 3 years' financial statement for any business entity or a current, within 3 months, Personal Financial and Credit Statement, Form HUD-92417 or acceptable substitute statement for any individual.
- * 5. For business concerns, management prepared interim unaudited financial statements if more than 3 months have lapsed from the date of the latest year's statement (6 months, if audited).*
- 6.A financial analysis of the financial statements with adjustments for all construction loans, insured and conventional, signed and dated by the MCE.

7.A resume of the real estate and construction experience of the sponsor/general contractor and a copy of the latest Previous Participation Certification, Form HUD-2530.

8.A continuing history sheet of pertinent telephone conversations and meetings with the sponsor and general contractor.

9.A list of the sponsor/general contractor's projects and financial commitment to each.

10.Copies of pertinent credit and financial correspondence.

11.Newspaper and magazine clippings concerning the sponsor/general contractor.

C.After final endorsement, remove copies of the credit exhibits that supported approval and place them in

10/942-10

4470.1 REV-2 CHG 1

(2-4)the Washington Docket. Follow the administrative instructions contained in Reference 9 of the Foreword.

1.These exhibits usually consist of the commercial and factual data credit reports, financial statements (Form HUD-92417) and copies of any correspondence essential to understanding the decision to approve.

2.Do not include routine memoranda and notes that are not relevant to the decision to approve.

D.Hold the credit files on all projects closed by rejection, withdrawal, expiration, or final endorsement for a year then refer to Handbook 2225.6, Records Disposition Management - HUD Record Schedule, for instructions on disposing of these files.

2-5. CREDIT REPORTS must be reliable and current.

A.When HUD orders commercial credit reports for businesses or Residential Mortgage Credit Reports (RMCR) for individuals, the reports must be ordered from a General Services Administration Federal Supply Schedule (FSS) contractor.

1.The Regional Contracting Officer (RCO) will establish, on a Regional level, a Blanket Purchase Agreement for obtaining commercial credit reports.

* a. Contract must be directly with a vendor listed on the General Services Administration's FSS. Contracting with an affiliate of a listed vendor is not acceptable.

b. Vendor must be approved to provide domestic and international business profiles under items 559-10 and 559-11, respectively, of the FSS.*

2. RMCRs are to be ordered either through contracts placed by the RCO or by purchase orders issued by the Administrative Support Division, Office of Administration.

2-1110/94

4470.1 REV-2 CHG 1

(2-5) 3. These contract arrangements should authorize Housing personnel to place call orders for reports as needed.

* B. Mortgage Credit, must assure that credit reports obtained by HUD or the mortgagee provide the following information:

1. Employment and residency history for all individual credit reports.

2. The principal's name and, for individuals, SSN.

3. For commercial trade reports, an operating history of the business, identification of the owners, number of employees, etc.

4. High credit, current status, required payment or payment terms, unpaid balance and payment history of each account.

5. For RMCRs for individuals, payment history must be in the "number of times past due" format.

6. All credit and legal information that is not considered obsolete under the Fair Credit Reporting Act, such as bankruptcies, law suits, judgements, foreclosures and tax liens.

7. UCC Filing to determine out what assets have been pledged as collateral against outstanding loans. These assets are not to be included in the working capital analysis and may not be eligible for hypothecation.*

C. Process all applications regardless of the bureau furnishing the report unless there is documented information that the source is inferior.

1. If the application includes a credit report from an unreliable source, order a backup report from the HUD contract source. Processing of the application should continue; however, withhold rendering a recommendation for approval or rejection until the backup credit report is

received and reviewed.

2. Follow this procedure until the noncontract source is supplying accurate and complete information.

10/942-12

4470.1 REV-2 CHG 1

(2-5) D. If deficiencies are noted in the review of credit information provided from a noncontract source:

1. Order a backup credit report and document all deficiencies.

2. Notify the mortgagee in writing of the deficiencies and require that evidence be provided within 10 working days that the noncontract source has been notified in writing by the mortgagee of the deficiencies.

3. File copies of the backup report and the deficient noncontract report and any correspondence generated under the name of the noncontract source.

E. If several reports with significant deficiencies are accumulated from the same source:

1. Notify the mortgagees who are principal users of this source and advise them that credit reports will not be accepted from this source until Mortgage Credit is satisfied that the noncontract source is supplying accurate and complete information.

2. Set up files for deficient credit reports under the name of the noncontract or contract source. The files should include a copy of any backup credit reports ordered and any correspondence generated. Destroy 6 years after the date of the last entry in the file.

F. Deficiencies in Credit Information from Contract Source. Provide the Multifamily Division Director with copies of the deficient report and the backup report, with comments and observations relating to the deficiencies. The deficiencies are to be reviewed and discussed with the RCO, who will be responsible for taking appropriate action under the contract.

2-6. ADDITIONAL CREDIT INFORMATION. Make inquiries of banks, trade references and other HUD Offices.

A. For bank inquiries, rely on the completed Forms HUD-92004-F, Request for Verification of Deposit, which are submitted with the application.

2-1310/94

4470.1 REV-2 CHG 1

(2-6) B. Written inquiries of trade references should include a copy of the certification authorizing the release of credit information.

C.Do not require verifications of deposit on officers of a nonprofit corporation and officers of a profit-motivated corporation that have no ownership interest in the corporation and are not being relied upon for financial capacity. However, a general written inquiry to the bank about their experience with the individual/firm is required.

D.Comments from other HUD Offices should include the sponsor's, general contractor's and housing consultant's:

1.Past performance and financial commitment to projects in commitment processing or under construction.

2.Any other information that may be of value to the inquiring Office.

2-7.INVESTIGATE ADVERSE CREDIT INFORMATION. Investigate any adverse credit information that appears on the credit report or which becomes known because of making inquiries of bank and trade references and other HUD Offices. Require a written explanation of any late payments, actions, judgements or derogatory information.

2-8.EVALUATE THE CURRENT RESUME of the sponsor, general contractor and housing consultant for real estate and construction experience.

A.Pay particular attention to:

1.Type and size of previous projects;

2.Geographic area of business involvement; and

3.Length of time served in this capacity.

B.Forward a copy of the:

1.General contractor's resume to the Production Chief for review and comment by an Architectural Technician.

2.Sponsor's resume to the Asset Management Chief for review and comment.

10/942-14

4470.1 REV-2 CHG 1

2-9.*CONFIDENTIAL NATURE OF CREDIT AND FINANCIAL INFORMATION. Under no circumstances disclose the source of confidential credit and financial statement information to third parties, except as required by public law. All personnel having access to this information must respect the confidence of those furnishing the information.

A.MCEs must familiarize themselves with Title VIII of the Civil Rights Act of 1968; the Fair Credit Reporting Act, Public Law 91-508; the Privacy Act, Public Law 93-579; Financial Privacy Act, Public Law 95-630; Equal Credit Opportunity Act (ECOA), Public Law 94-239 and Amendments to ECOA Regulation B, so that the use and the disclosure of information from a credit report or financial statement will comply with these Acts. Before disclosing any credit or financial statement information, consult with your local HUD attorneys.

B.All financial statements and credit reports and any other financial or credit information are to be maintained with the Mortgage Credit staff until placed in the Washington Docket.*

2-10.REJECTION BECAUSE OF UNACCEPTABLE CREDIT. When a sponsor/mortgagor, principal or general contractor is rejected based on a credit report, the firm/individual must be notified and given the name, address and, where available, the telephone number, of the credit agency. Indirect notice through the mortgagee is acceptable under the Fair Credit Reporting Act and the Equal Credit Opportunity Act.

A.Consider the individual/firm a credit reject if:

1.The credit investigation evidences that the principal has a history of not repaying creditors in a timely manner.

2.Delinquent Federal debt has not been resolved or satisfactory arrangements made for repayment.

3.There are judgements or actions against the party which:

a.Could significantly impact upon the financial position of the individual/firm.

2-1510/94

4470.1 REV-2 CHG 1

(2-10) b. Result in a determination that the individual/firm is

an unacceptable credit risk.

B. Do not discuss the reasons for rejection with other parties involved in the project.

C. Rejection of an individual/firm does not constitute rejection of the case if the remaining principals can successfully proceed with the project or an acceptable alternate principal is identified.

D. Rejection of the general contractor or housing consultant does not constitute rejection of the case if an acceptable alternate is identified. If this determination is made at the firm commitment stage of processing, issue a commitment conditioned on the selection of a general contractor or housing consultant acceptable to HUD.