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CHAPTER 3. PROCESSING OF LOAN APPLICATIONS  
AND REQUISITIONS

- 3-1. GENERAL. After the application number has been assigned, PCRS shall forward the application and all exhibits to the Mortgage Credit Staff (MCS) for processing.
- 3-2. MORTGAGE CREDIT REVIEW. Form HUD 92290, Section 106(b) Nonprofit Sponsor Assistance "Seed Money" Loan Application, shall be completed by the Borrower in accordance with the instructions included thereon. In order to provide evidence of its ability to meet preliminary development costs, the prospective Section 202 Borrower may submit its application for a Section 106(b) loan simultaneously with its application for a Section 202 fund reservation. Applications for "seed money" loans may also be submitted at any time subsequent to the reservation of Section 202 funds and prior to the initial closing of the Section 202 loan. In the event the Borrower submitted its "seed money" application with its application for a Section 202 fund reservation, the actual costs for eligible "seed money" items may not be known at that time, and the review procedures outlined below take this fact into account. Form HUD-92290 shall be reviewed by the MCS in accordance with the following instructions.
- a. Blocks 1 through 7. The MCS shall review these blocks to determine that they are properly completed.
  - b. Block 8. The Borrower is required to attach an itemized statement classifying all eligible estimated costs, expenditures and current obligations under the line items listed in Block 8. These expenditures must be shown by check number, date, payee, amount, and purpose. Current obligations (bills due and payable as of the date of the application) must be supported by bills, professional estimates or documentation such as the consultant's contract or land options, etc. No disbursements of Section 106(b) funds will be made to cover those estimated line items until receipt of the required supporting documentation. The MCS shall review this statement and the supporting documentation for each line item in accordance with the limitations listed below.
    - (1) Organizational Expenses. "Seed money" used to cover organizational expenses cannot exceed \$750, and is to defray the cost to the Borrower for postage, telephone, travel to the Field Office, and a fidelity bond for the "seed money" loan. Other organizational expenses are to be covered by legal and consultant fees.

CHAPTER 3

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- (3-2) (2) Legal Fees. The allowable amount for this item cannot exceed 15 percent of the actual legal fee agreed to by the attorney provided such fee is determined to be in line with legal fees currently being charged on projects involving similar construction and organization. If, after consulting with the Area Counsel, it is determined that the stated fee is too high, the MCS shall appropriately reduce the amount reflected in the application. In cases where the attorney has not been retained and a legal agreement between the Borrower and attorney has not been made, the MCS shall consult with the Area Counsel to determine the reasonableness of the estimated cost for legal services. Based on the Area Counsel's judgment, the MCS shall make the necessary adjustments to the requested amount.
- (3) Consultant Fees. The allowable amount for this item cannot exceed 25 percent of the consultant fee specified in the consultant's contract provided such fee does not exceed the maximum allowable consultant's fee specified in Handbook 4571.1, paragraph 1-10. If the Borrower has not yet retained a consultant but plans to do so, the maximum amount approvable for this item shall be 25 percent of the maximum amount stated in Handbook 4571.1, paragraph 1-10 based on the Section 202 loan amount for the proposed project.
- (4) Architect Fees. The allowable amount for this item cannot exceed 25 percent of the amount shown for design services in a written contract between the Borrower and architect, provided such amount is in line with fees currently being charged for design services for projects of similar type and structure. If an architect has not been retained, the maximum amount for this item will be based on 25 percent of the maximum allowable amount for design services for projects of similar type and structure as determined by the Cost staff in the Field Office.
- (5) Preliminary Site Engineering Fees. Up to 100 percent of the amount which is necessary for boundary survey, topographic survey, and soil tests and investigation may be allowed, provided it is reasonable. The items must be supported by paid receipts, bills, or estimates from surveyors, engineers, soil scientists, etc. The MCS shall consult with the Cost and Architectural and Engineering staffs to determine whether the requested amounts are reasonable and eligible for inclusion in the Section 202 loan.

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- (3-2) (6) Land. In all cases, the requested amount for land must be supported by appropriate documentation. No seed money loan may be recommended for approval unless evidence of site control is submitted with the application.
- (a) Options should, if possible, have unlimited extension provisions but in no event may a Section 106(b) loan be approved for a proposed project with a land option which is not of sufficient length (with extension provisions) to cover the period of the Section 202 fund reservation. This means that the option may initially specify a period of only a few months, but must contain extension provisions which will permit it to be renewed for up to eighteen months. The allowable amount for land options cannot exceed that amount which is typically charged in the local real estate market. In no event can land option fees exceed five (5) percent of the HUD estimate of value of land for each year of the option. Option fees must apply to the purchase price.
- (b) Outright land purchases using Section 106(b) funds are strongly discouraged and requests to do so shall be approved only under the most unusual of circumstances. Such arrangements may be approved only by HUD Headquarters. The request must be thoroughly documented and must bear a positive recommendation by the Area Manager/Service Office Supervisor. The request along with the recommendation must be forwarded to the Director, Office of Multifamily Housing Development, Attention: Development Division, HUD Headquarters, for review and approval. In the event "seed money" is used for the outright purchase of the site or if Section 106(b) funds are used to plan a project on land owned by the Sponsor or Borrower, the Section 106(b) loan must be secured as specified in paragraph 1-7d of this Handbook.
- (7) Other. This item will include any fees for mortgageable items which are determined to be eligible "seed money" expenses, but which are not covered elsewhere on the application. For example, the recording fees which may be incurred by the Borrower in filing HUD's mortgage lien against the site in situations described in subparagraph (6)(b) above may be included here. Also, supplemental management fees of up to 25% of the Management Fund are eligible "seed money" costs which should be recorded under this line item (see paragraph 5-2 of Handbook 4571.1 REV). In no event shall items be allowed which are not due and payable prior to initial closing and which are not

recoverable from the proceeds of the Section 202 loan.

HUD-Wash., D. C.

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4535.3 REV-1

CHAPTER 3

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- (3-2) (8) Total. The HUD approved amount for this item cannot exceed \$62,500 inasmuch as the maximum Section 106(b) loan is \$50,000. The Borrower's matching share for a \$50,000 loan is \$12,500.
- c. Block 9. The MCS shall contact the Direct Loan Branch of the Development Division in Headquarters by telephone to determine if the Borrower or Sponsor has an outstanding delinquent "seed money" loan.
- (1) The Direct Loan Branch shall review its files for delinquent "seed money" loans under both Section 106(b) of the Housing and Urban Development Act of 1968 and Section 207 of the Appalachian Redevelopment Act of 1965. If it is found that the Sponsor or Borrower or any entity controlled by or under the control of either of these parties has a delinquent "seed money" loan under either or both of these programs, the Direct Loan Branch shall so advise the MCS. The MCS shall prepare a letter to the Borrower from the Area Manager/Service Office Supervisor advising of the delinquency and stating that the Borrower's application for a Section 106(b) loan cannot be approved until the delinquency is resolved.
- (2) The Direct Loan Branch shall advise the Field Office having jurisdiction over the delinquent loan in writing to take immediate steps to resolve the delinquency.
- (3) If no delinquency is evident, the MCS shall proceed with its review of the Borrower's application.
- d. Block 10. The MCS shall determine that the application is properly signed.
- e. Block 11. In considering its recommendation for approval or disapproval, the MCS must determine that the Borrower has either obligated or expended funds sufficient to meet its required share of the "seed money" or that it has the available cash to meet its required share through analysis of the Borrower's financial statement and any other documentation furnished by the Borrower as evidence of its ability to meet its required investment.
- (1) If the MCS recommends disapproval of the application, it shall prepare a letter to the Borrower from the Area

Manager/Service Office Supervisor advising of the reasons for the disapproval.

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6/79

Page 3-4

HUD-Wash., D. C.

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4535.3 REV-1

CHAPTER 3

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(2) If the MCS recommends approval of the application, it shall follow the procedures outlined in paragraph 3-3 below.

3-3. FIELD OFFICE ACTIONS PRECEDENT TO RESERVATION OF FUNDS. The MCS shall follow the procedures outlined below to reserve "seed money" funds.

a. Applications submitted Prior to Reservation of Section 202 Funds. When the MCS completes its review of a "seed money" application submitted with a Section 202 application for a fund reservation and if it determines that the "seed money" application is approvable, it shall prepare and transmit a teletype to the Director, Financial Analysis and Investment Division (FAID), OFA, identifying the project by application number, project number, and name, if available, and requesting that a specified amount of Section 106(b) nonprofit sponsor assistance funds be reserved. The teletype must be signed by a Field Office official authorized to approve the Borrower's application. The FAID will respond to the Field Office by teletype advising whether or not a preliminary reservation has been made and the amount of the reservation.

(1) If the FAID notifies the Field Office that sufficient funds are not available, the MCS shall prepare a letter to the Borrower from the Area Manager/Service Office Supervisor stating that funds are not available and requesting that the Borrower advise the Field Office, within a specified period (normally ten (10) calendar days), whether or not it will be able to provide the estimated seed money from other sources. And, if so, the Borrower shall identify the source(s) in its response. A copy of the letter shall be submitted to the Director, Development Division, Attention: Direct Loan Branch, Headquarters.

(2) If the FAID notifies the Field Office that a preliminary reservation has been made, the MCS shall include this fact in its memorandum outlining its review of the Borrower's application for a Section 202 fund reservation and shall take no further action on the "seed money" application until the Section 202 selection process has been completed.

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4535.3 REV-1

CHAPTER 3

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- (a) If the Borrower is awarded a Section 202 fund reservation, the MCS shall complete Form HUD-92290 in the appropriate blocks and shall take care to assure that the amount entered in Block 11 is the approved loan amount, not the total amount of "seed money" approved. The MCS shall prepare a memorandum from the Area Manager/Service Office Supervisor to the Director, FAID, OFA, transmitting the original and three (3) copies of the application. A copy of the memorandum shall be forwarded to the Director, Development Division, Attention: Direct Loan Branch in Headquarters.
- (b) In the event the Borrower's application for Section 202 fund reservation is not approved by the Field Office, but the preliminary reservation for Section 106(b) funds has been made, the MCS shall prepare a memorandum from the Area Manager/Service Office Supervisor to the Director, FAID canceling the preliminary reservation for Section 106(b) funds.
- b. Applications Submitted Subsequent to Reservation of Section 202 Funds. When the MCS completes its review of a "seed money" application submitted subsequent to the reservation of Section 202 funds for the proposed project, it shall prepare and transmit a teletype to the Director, FAID, OFA, as specified in paragraph (a) above.
- (1) If the FAID notifies the Field Office that sufficient funds are not available, the MCS shall prepare a letter to the Borrower from the Area Manager/Service Office Supervisor stating that funds are not available. A copy of the letter shall be forwarded to the Director, Development Division, Attention: Direct Loan Branch, Headquarters.
- (2) If the FAID notifies the Field Office that sufficient funds are available, the MCS shall proceed as indicated in subparagraph a-(2)(a) above.
- 3-4. RESERVATION OF FUNDS BY OFA. Provided that sufficient funds are available, the Director, FAID, OFA, shall, upon receipt of the application, reserve an amount equal to the loan amount approved by the Field Office as indicated in Block 11 of the application and
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shall evidence the reservation by completing and signing Block 12 of the original and all copies of the application. The original shall be kept in the FAID files. One copy shall be forwarded to the Direct Loan Branch and two copies returned to the Field Office, one of which shall be returned to the Borrower.

3-5. FIELD OFFICE ACTIONS FOLLOWING RESERVATION OF SECTION 106(b) FUNDS.

a. Notification to Borrower. Immediately following receipt of the approve application from OFA, the Field Office shall prepare a letter to the Borrower which must contain the following:

(1) Forms.

- (a) Three (3) copies of Form HUD 92291, Loan Contract and Trust Agreement (Section 106(b) Seed Money Loans/Section 202 Projects).
- (b) Four (4) copies of Form HUD 274, Designation of Depository for Direct Deposit of Loan and/or Grant Funds. (See Appendix 4.)
- (c) A supply of (approximately 30) Form HUD 922893, Requisition for Advance of Funds from Section 106(b) Nonprofit Sponsor Assistance Fund. (See Appendix 5.)
- (d) One (1) executed copy of Form HUD 92290, Section 106(b) Nonprofit Sponsor Assistance "Seed Money" Loan Application.

(2) Information.

- (a) That loan approval is given with the understanding that neither the Sponsor, the Borrower nor any entity controlled by or under the control of these entities has a delinquent "seed money" loan under Section 106(b) of the Housing and Urban Development Act of 1968 or Section 207 of the Appalachian Redevelopment Act of 1965.
- (b) That the loan has been approved in a specified amount and that prior to the disbursement of Federal funds, the following requirements must be met:

- 1 The Borrower must have spent or obligated its share of "seed money" (indicate dollar amount) for

HUD-Wash., D. C.

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4535.3 REV-1

CHAPTER 3

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- (3-5) allowable "seed money" expenditures. Any unexpended portion of the Borrower's share must be available as cash on hand.
- 2 Form HUD 92291, Loan Contract and Trust Agreement (Section 106(b) Seed Money Loans/Section 202 Projects), must be completed with the original and two copies executed by the Borrower and returned to HUD.
  - 3 The Borrower must establish a Trust Account with a bank whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) and must designate this bank as the depository for all Section 106(b) loan proceeds. Accordingly, an original and three (3) copies of Form HUD 2741 must be completed and fully executed. One copy must be kept by the Borrower, one by the bank and the original and the remaining copy returned to HUD. All disbursements of Section 106(b) loans shall be mailed directly to the depository. Only loan proceeds and any interest earned on loan proceeds may be placed in the Trust Account. No other funds, including the Borrower's share of "seed money" may be placed in this account.
  - 4 The Borrower must purchase a fidelity bond covering all persons authorized to sign checks drawn on the Trust Account. This bond must be in an amount of at least the full amount of the loan. Such bond shall be maintained over the full term of the Section 106(b) loan. Two (2) copies of the bond along with a copy of a receipt for at least the first six (6) months premium must be returned to HUD. NOTE: The fidelity bond premium is an eligible organizational expense for Section 106(b) and Section 202 purposes.
  - 5 Using the figures shown in the "Approved" column of Block 8 of Form HUD 92290, the Borrower shall, if necessary, prepare an original and three (3) copies of Form HUD 92289, in accordance with instructions included thereon. This requisition shall cover both current expenses and expenses which are expected to occur within three (3)

months of the date the requisition is prepared.

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6/79

Page 3-8

HUD-Wash., D. C.

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4535.3 REV-1

CHAPTER 3

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- (3-5) (c) That in the event the Borrower is approved for more than one "seed money" loan, such Borrower must establish separate Trust Accounts and purchase separate fidelity bonds for each of its Section 106(b) loans.
- b. Execution of Loan Contract and Trust Agreement and Distribution of Documentation. The above documentation shall be returned to the Field Office whereupon the Area Manager/Service Office Supervisor shall execute the Loan Contract and Trust Agreement. The requisitions must be processed, in accordance with paragraph 3-6, within five (5) working days following receipt. The Mortgage Credit staff shall distribute the documentation in the following manner:
- (1) Loan Contract and Trust Agreement, Form HUD-92291
    - (a) Original to the Financial Analysis and Investment Division, OFA, Headquarters.
    - (b) Copy to the Borrower.
    - (c) Copy retained for Field Office files.
  - (2) Designation of Depository for Direct Deposit of Loan and/or Grant Funds, Form HUD-274.
    - (a) Original to the Financial Analysis and Investment Division, OFA, Headquarters.
    - (b) Copy retained for Field Office files.
  - (3) Fidelity Bond.
    - (a) Copy to the Financial Analysis and Investment Division, OFA, Headquarters.
    - (b) Copy retained for Field Office files.
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4535.3 REV-1

CHAPTER 3

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- 3-6. SUBMISSION AND PROCESSING OF REQUISITIONS. Form HUD 92289, Requisition for Advance of Funds from Section 106(b) Nonprofit Sponsor Assistance Fund, must be prepared by the Borrower in accordance with instructions included thereon and submitted in an original and three (3) copies. Requisitions should be submitted quarterly and must cover the Borrower's estimated expenses for the three-month period following the date of the requisition. Requisitions may be submitted more frequently if the need arises.
- a. General Review and Approval of Requisitions. The MCS shall review each requisition to determine that expenditures and requests are in keeping with the approved loan. If line item expenditures increase as a result of changes in the Section 202 loan application, the advance must be limited to the percentages or other limits imposed in paragraph 3-2b and the most recently prepared Form FHA-2264, Rental Housing Project Income Analysis and Appraisal. Reductions in one line item may be used for increases in others. Field Office approval of requisitions which result in increases in line items of the approved Section 106(b) loan application shall constitute HUD approval of such increases in the line items.
  - b. Other Review Considerations. Approval of requisitions also may be affected by mortgage and individual line item reductions. In no event may total disbursements exceed the lesser of the approved loan amount or the total of the maximum allowed for approved line items as set forth in paragraph 3-2 when applied to the most recently prepared Form FHA-2264. For example, assume that an architect's design fee of \$100,000 was shown on Form FHA-2264 and that this amount was required by contract at the time the Section 106(b) loan was approved. Further, assume that the architect was paid 15 percent of his/her design fee or \$15,000 upon approval of the preliminary plans and specifications under Section 202. Subsequently, the mortgage is reduced resulting in a revised design fee of \$75,000 as shown on a later contract and Form FHA-2264. As a result, the architect would be due a total of only \$18,750 prior to initial closing as opposed to the \$25,000 shown on the Form HUD 92290. Accordingly, he/she would receive only \$3,750 on the next advance, which would be due upon approval of the Final Working Drawings and Specifications by the Field Office. If the total amount due the architect upon approval of Final Working Drawings and Specifications is less than the amount which was properly paid to the architect upon approval of the preliminary plans and specifications, the architect need not repay the
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HUD-Wash., D. C.

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4535.3 REV-1CHAPTER 3

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- (3-6) Borrower at this time. However, the total amount due the architect at initial closing would, of course, be reduced by the amount previously paid from "seed money." Similar reductions or increases also would be applied to legal and consultant fees.
- c. Approval of Payments for Preliminary Site Engineering Fees, Site Options and Organizational Expenses. Payments for preliminary site engineering fees, site options, and organizational expenses or for recoupment of expenses paid shall be approved by the Field Office at any time after the execution of the Loan Contract and Trust Agreement provided the requested amounts are in accordance with the criteria set forth in paragraph 3-2 and further provided the requested amounts are either due or will become due in the next three months.
- d. Approval of Payments for the Architect. Payments for the Architect shall be approved by the Field Office in accordance with the criteria set forth in paragraph 3-2 and provided the payment is within the following specified percentages, when applicable:
- (1) Upon issuance of the conditional commitment, up to fifteen (15) percent of the design fee.
  - (2) Upon acceptance and approval of the final plans and specifications by the Field Office, up to twenty-five (25) percent of the allowable design fee less the amount of any previous payment.
- e. Approval of Payments for the Consultant. Payments to the Consultant shall be approved by the Field Office in accordance with the criteria set forth in paragraph 3-2 and provided the payment is within the following specified percentages, when applicable:
- (1) Upon issuance of the conditional commitment, up to fifteen (15) percent of the consultant's fee.
  - (2) In the event the conditional commitment stage is bypassed, upon Field Office acceptance for processing of the firm commitment application, up to fifteen (15) percent of the

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4535.3 REV-1

CHAPTER 3

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allowable consultant's fee. As used here and in the following paragraph "acceptance for processing" means that the application has been reviewed by the Field Office and determined to be complete and ready for technical processing.

- (3) Upon issuance of the firm commitment, up to twenty-five (25) percent of the allowable consultant's fee less the amount of any previous payment.
- f. Approval of Payments for the Attorney. Payments for the attorney, shall be approved by the Field Office in accordance with the criteria set forth in paragraph 3-2 and provided the payment is within the following specified percentages, when applicable:
- (1) Upon issuance of the conditional commitment, up to five (5) percent of the legal fee.
  - (2) In the event the conditional commitment stage is bypassed, upon Field Office acceptance for processing of the firm commitment application, up to five (5) percent of the allowable legal fee.
  - (3) Upon issuance of the firm commitment, up to fifteen (15) percent of the allowable legal fee less the amount of any previous payment.
- g. Other Consideration in Determining Payments for Architect, Consultant and Attorney. The base amounts for all payments to the architect, consultant, and attorney shall be the lesser of the amounts shown in the latest Form FHA-2264, or those shown on the agreements between the Borrower and these three professionals.
- 3-7. DISTRIBUTION OF REQUISITIONS. The original of each requisition, Form HUD-92289, shall be forwarded to the Director, FAID, OFA, following Field Office approval. A copy of the approved requisition will be returned to the Borrower by the Field Office, one copy placed in the MCS' credit control binder, and one copy placed in the Washington docket. The FAID shall make disbursements directly to the depository.