

**PART 271—LOAN ASSISTANCE FOR
PLANNING LOW AND MODERATE
INCOME HOUSING**

Subpart A—General

- Sec.
271.1 Statement of applicable law.
271.2 Delegation from Secretary to Assistant Secretary—Federal Housing Commissioner.
271.5 Definitions.
- Subpart B—"Seed Money" Loans and Grants**
- 271.7 Scope of assistance.
271.13 Filing, processing, and approving applications.
271.16 Eligible applicants.
271.17 Use of loan proceeds.
271.20 Maximum amount of loan.
271.22 Maximum line item expenditures.
271.25 Waiver of repayment.
271.27 Maturity of loans—contract provisions.
271.30 Interest on loans.

Subpart C—"TAP" (Technical Assistance Program) Grants

- 271.50 Scope of assistance.
271.55 Filing, processing, and approving grant applications.
271.60 Eligible applicants.
271.65 Use of TAP grant proceeds.
271.70 Grant contracts—general requirements.
271.75 Period of performance.

AUTHORITY: The provisions of this Part 271 issued under section 106, 82 Stat. 490; 12 U.S.C. 1701x.

SOURCE: The provisions of this Part 271 appear at 37 FR 16704, Aug. 6, 1972, unless otherwise noted.

Subpart A—General

§ 271.1 Statement of applicable law.

(a) Section 106(a) of the Housing and Urban Development Act of 1968, as amended, authorizes the Secretary of Housing and Urban Development to provide or contract with public or private organizations to provide information, advice, and technical assistance to public bodies or to nonprofit or cooperative organizations with respect to the construction and rehabilitation of federally assisted low and moderate income housing.

(b) Section 106(b) of the Housing and Urban Development Act of 1968 authorizes the Secretary of Housing and Urban Development to make loans, under such terms and conditions as he may prescribe, to nonprofit organizations for necessary expenses of planning and obtaining financing for the rehabilitation or construction of housing for low and moderate income families under any federally assisted program.

§ 271.2 Delegation from Secretary to Assistant Secretary—Federal Housing Commissioner.

The Secretary has delegated to the Assistant Secretary—Federal Housing Commissioner the authority to execute the powers and functions, related to the production of housing, vested in the Secretary by section 106(a) and the authority to execute the powers and functions vested in the Secretary by section 106(b) of the Housing and Urban Development Act of 1968. The delegation includes the authority for the Commissioner to redelegate such authority to employees of the Department.

§ 271.5 Definitions.

As used in this part:

(a) "Act" means the Housing and Urban Development Act of 1968, as amended, (12 U.S.C. 1701 t. et seq.) and section 106 references are to section 106 of said Act (12 U.S.C. 1701 x).

[Revised at 41870, Aug. 23, 1976.]

(b) "HUD" means the Department of Housing and Urban Development or, as the context may require, the Secretary of HUD, or any other person authorized to perform any of the functions required of the Department of Housing and Urban Development by the Act.

(c) "Commissioner" means the Assistant Secretary—Federal Housing Commissioner or his authorized representative.

(d) "Fund" means the Low and Moderate Income Sponsor Fund.

(e) "Nonprofit organization" means a corporation or association organized for purposes other than the making of profit or gain for itself or any persons identified therewith and which the Commissioner finds is in no manner controlled or directed by persons or firms seeking to derive profit or gain from its operation.

(f) "Grantee" means any public or nonprofit organization selected for grant assistance under section 106(a) of the Act because of a demonstrated ability to provide information and/or advice and technical assistance concerning the construction and operation of low and moderate income housing.

(g) "TAP" means a technical assistance program under section 106(a) of the Act.

(h) "Public organization" means a Federal instrumentality, a State or territory of the United States or political subdivision or an instrumentality thereof or any unit of general local government within a State or territory of the United States.

(i) "Self-help and mutual self-help programs" means any plan whereby a

person or group of persons provides some portion of the initiative (including labor in lieu of cash investment—"sweat equity" and other such concepts if applicable) in producing low and moderate income housing for himself or itself.

(j) "TAP project" means a technical assistance program grant proposal developed under section 106(a) of the Act and approved and funded by HUD.

(k) "Loan Contract and Trust Agreement" means a legally binding agreement in a form approved by the Secretary governing the use of "seed money" which must be executed by the applicant before loan proceeds can be disbursed.

(l) "Seed money" means the estimated total funds, including both the borrower's cash share and the Federal loan proceeds, determined by the Secretary to be necessary to cover the expense of planning and obtaining financing for an eligible project, which expense must be incurred prior to the first disbursement of the construction loan for the project.

(m) "Cancellation" means the discharge of a "seed money" loan obligation, by the Secretary provided the borrower meets all the conditions for cancellation as established by HUD.

(Added at 41 FR 41870, Aug. 23, 1976.)

Subpart B—"Seed Money" Loans and Grants

§ 271.7 Scope of assistance.

The Secretary may make loans from the Fund to encourage and facilitate the construction or rehabilitation of housing for low and moderate income families and individuals under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701 q). The conditions of eligibility for applicants and applications for such loans and the terms and conditions under which the proceeds of such loans may be used are specified in this subpart.

[Revised 9-23-76, 41 F. R. 41870]

§ 271.13 Filing, processing and approving applications.

(a) The application shall be filed, on a form prescribed by the Secretary, with the HUD area or insuring office having jurisdiction over the area in which the applicant proposes to construct or rehabilitate a housing project for low or moderate income families or individuals to be financed under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701 q).

(b) The application shall be reviewed and may be approved by the appropriate Area or Insuring Office Director, acting by and for the Secretary, provided there

is a determination that the financial assistance applied for will carry out the purposes of this part, that the applicant is eligible for such assistance, and that the availability of funding for the loan has been verified by the Central Office. [Revised at 41 FR 41870, Aug. 23, 1976.]

§ 271.15 Eligible borrowers.

To be eligible for a loan, a borrower must:

(a) Be an incorporated private non-profit organization whose articles of incorporation are acceptable to the Secretary; however, principals of a private nonprofit corporation to be formed may submit the initial application. The borrower must be the proposed mortgagor of a project to be financed under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701 q).

(b) Have either available cash or evidence of prior eligible expenditures, or both cash and eligible expenditures, in the amount of 20 percent of the estimated allowable "seed money" expense. Loans or donations to the borrower of any portion of these funds by any individual, corporation, partnership or other party or entity seeking a profit or monetary gain from the project are prohibited. This includes but is not limited to attorneys, architects, consultants, mortgagees, builders, developers, management agents, engineers, surveyors, subcontractors, material suppliers, sellers of land, real estate brokers, and banks whose officers have any identity of interest with the applicant/mortgagor. However, the sale of land for a price approved by HUD by a sponsor to the proposed mortgagor shall be permitted.

[Revised at 41 FR 41870, Aug. 23, 1976.]

§ 271.17 Use of "seed money".

(a) The borrower shall agree under the Loan Contract and Trust Agreement to use "seed money" loan proceeds only for those reasonable and actual expenses which must be incurred prior to the initial disbursement of the construction loan for planning the rehabilitation or construction of the proposed project and in obtaining the financing for the proposed project. Loan proceeds may be expended only for those items specified on the approved "seed money" loan application.

(b) Before "seed money" loan proceeds can be disbursed, the borrower's contribution for "seed money" expense must be fully spent or obligated for allowable items of expense. Evidence of such expenditures or obligations shall be in the form of bills, processing fees due for the next stage of processing or outstanding

obligations under contracts or options. Obligations must be due and payable within three months of the date of the application for disbursement of loan proceeds from HUD.

(c) The Area or Insuring Office Director may approve requests for disbursements and amounts which vary from the individual line items shown on the approved Section 106(b) loan application, provided the change in amounts disbursed will not result in an increase in the total loan amount. Approval shall be in writing and shall constitute an amendment to the approved loan application and Loan Contract and Trust Agreement.

(d) Revised loan applications must be filed for increases in the total loan amount. In such cases, an additional borrower's share of 20 percent of the estimated increase in "seed money" needs must be spent or obligated as set forth in § 271.17(b) before additional Federal funds can be disbursed.

(e) Expenditures for the purchase of or for contracting to purchase land shall not be considered an eligible "seed money" expense unless the expenditure has the written approval of the Field Office Director. If the borrower owns or acquires any legal or equitable interest in the proposed project site, the "seed money" loan must be secured by a recorded mortgage describing the land comprising the proposed project site. The Area or Insuring Office Director holding the aforesaid mortgage for the Secretary has authority to release the same and shall release the mortgage lien in order to permit the initial disbursement of the construction loan under the following circumstances:

(1) If the Director determines that the "seed money" loan can be repaid from the proceeds of the construction loan.

(2) If the "seed money" loan is repaid from other sources.

(3) If that portion of the "seed money" loan which was disbursed for the payment of the land, if any, is repaid and the Director recommends cancellation of any remaining "seed money" loan.

(f) Loan proceeds shall not be commingled with any other funds, including the applicant's 20 percent share, and must be placed in a separate account in a bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, and any interest earned thereon must be returned to HUD immediately after it is paid to the borrower.

[Revised at 41 FR 41870, Aug. 23, 1976.]

§ 271.20 Maximum amount of loan.

(a) The loan shall not exceed 80 percent of the total and necessary costs

which HUD estimated will be incurred in planning the project, for the legal and organizational expense of the borrower and obtaining financing or funding under an eligible federally assisted program.

(b) In no event shall there be more than one "seed money" loan for a proposed housing project and such "seed money" loan shall not exceed \$50,000. [Revised at 41 FR 41871, Aug. 23, 1976.]

§ 271.22 Maximum line item expenditures.

(a) The maximum amount of "seed money" expense that will be approved by the Secretary shall be determined by the Area or Insuring Office Director on the basis of estimated project costs which normally occur prior to the disbursement of the construction loan. The following percentages of estimated costs for specific items are the maximum approvable "seed money" expenses for those items:

Item:	Percent
Preliminary site engineering (boundary and topographic surveys and soil tests).....	100
Architectural design fee.....	25
Permanent loan commitment fee (included in FNMA/ONMA fee).....	100
Site options.....	100
Organization expenses (reasonable travel, telephone, postage, and similar expenses of the proposed mortgagor).....	75
Legal fees.....	15
Supplemental management fees.....	25
Consultant fees.....	25
FHA application and commitment fees.....	100

1 Not to exceed \$750.

(b) The total maximum approved "seed money" expense may be increased by up to 10 percent by the Area or Insuring Office Director as a contingency for actual overruns in specified items of approved "seed money" cost.

(c) Additional items of approvable "seed money" expense, such as other financing fees, may be added to the total on a case-by-case basis; however, requests and approval of additional items must be fully documented.

[Added at 41 FR 41871, Aug. 23, 1976.]

§ 271.25 Cancellation of repayment.

The Secretary may cancel the repayment of all or any portion of the "seed money" loan provided:

(a) The borrower has not violated any of the provisions of the Loan Contract and Trust Agreement and has used "seed money" funds in compliance therewith.

(b) Either monies sufficient to repay the loan cannot be recovered from the loan for the project or the project proposed by the borrower has proved to be

APPENDIX 2

infeasible as determined by the Secretary.

(c) The amount of the debt which will be cancelled or waived will be based upon the amount of approved "seed money" expense that was not recovered and repaid from the proceeds of the construction or permanent loan or from the sale of the borrower's assets as provided in paragraph (d) of this section or from any other source. In the event of partial recovery of approved "seed money" expenditures, the amount recovered must be applied first to the repayment of any outstanding "seed money" loan obligation.

(d) That in cases where the "seed money" loan is secured by a lien on the site or where a site or other assets were purchased in part or totally with seed money, and such site or assets are not used by the borrower for a project eligible for Section 106(b) assistance, such site or assets must be sold at fair market value and the net proceeds (sales price less indebtedness and sales expense) used to repay the "seed money" loan to the extent possible.

(e) Borrowers shall be required to certify that the "seed money" loan proceeds have not been used for costs other than costs for proposed projects approved for Section 106(b) assistance.

[Revised at 41 FR 41871, Aug. 23, 1976.]

§ 271.27 Maturity of loans—contract provisions.

The contract for a loan shall provide for repayment by the borrower within 24 months following the first disbursement of funds pursuant to the Loan Contract and Trust Agreement or at such earlier time as the borrower recovers his expense from the proceeds of the construction financing, or at such other time as may be fixed by contract with the Secretary. In the event the borrower fails to comply with the provisions of the Loan Contract and Trust Agreement, the entire outstanding loan obligation shall immediately become due and payable. In the event the borrower is unable to develop a project pursuant to the terms of the Loan Contract and Trust Agreement or any amendments thereto, the time for repayment may be extended under such terms and conditions as may be prescribed by the Secretary.

[Revised at 41 FR 41871, Aug. 23, 1976.]

§ 271.30 Interest on loans.

No interest shall be charged to a borrower for loans made under this subpart provided the borrower complies with the provisions of this subpart and the Loan Contract and Trust Agreement.

[Revised at 41 FR 41871, Aug. 23, 1976.]

Subpart C—"TAP" (Technical Assistance Program) Grants

§ 271.50 Scope of assistance.

The Secretary may provide grant assistance to provide impetus for broader use of the federally subsidized low and moderate income housing programs in areas where the need is largely unmet because of economics and a lack of local capacity necessary to provide such housing. The grant assistance may be for TAP proposals providing for technical assistance to public bodies, nonprofit or cooperative organizations to stimulate the production of low and moderate income housing in areas of greatest need, including, but not limited to, the more rural areas of our country. TAP proposals may include, as a major part of their overall objective, stimulating the creation and continued viability of self-help or mutual self-help groups or programs capable of producing housing. TAP proposals may also include as a minor part of their overall objective the assembly, correlation and dissemination of information related to the production of such housing. The conditions of eligibility for applicants, application information and conditions under which the proceeds of such grant may be used are specified in this subpart.

[Amended at 41 FR 41871, Aug. 23, 1976.]

§ 271.55 Filing, processing and approving grant applications.

(a) The application shall be filed, on a form prescribed by the Secretary, together with a detailed plan for the proposed use of grant proceeds, with the HUD area or insuring office having jurisdiction over the area in which the applicant proposes the TAP project.

(b) After review and approval by the Secretary of a grant application, each approved grantee will submit a proposed form of grant agreement which, when executed by the Secretary, will become the complete contract for

the use of the grant proceeds. The form of the grant agreement shall generally follow model forms for such agreements which will be furnished to the applicant by the Secretary. After final approval of this contract, the proceeds of the grant may be disbursed in a manner prescribed by the Secretary.

(c) Special consideration shall be given to proposals which will stimulate the production of low and moderate income housing in areas where the need for subsidized housing is largely unfulfilled.

[Amended at 41 FR 41871, Aug. 23, 1976.]

§ 271.60 Eligible applicants.

(a) To be eligible for a TAP grant, the applicant must be a nonprofit or public organization.

(b) A TAP grant applicant must demonstrate the capacity, background, experience and accounting and control system deemed necessary by the Secretary to carry out the proposed TAP Project.

[Amended at 41 FR 41871, Aug. 23, 1976.]

§ 271.65 Use of TAP grant proceeds.

A grant recipient shall agree, in a form satisfactory to the Secretary, to use the grant proceeds for expenses reasonable and necessary to effectuate the TAP Project as approved by the Secretary. Any determination made by the Commissioner regarding use of grant funds shall be final. Funds will be advanced under the agreement and in conformity with HUD procedures and rules governing grants.

[Amended at 41 FR 41871, Aug. 23, 1976.]

§ 271.70 Grant contracts—general requirements.

Grant contracts shall provide for limitation of the TAP Project planned to a specific geographic area so that more immediate results can be obtained and determined from the grant program. The contracts shall further fully and specifically describe the technical assistance services to be furnished. The contracts shall contain an agreement to provide such reports concerning the operation of the program and the results produced by TAP grants and such other conditions and limitations as may be required by the Secretary.

[Amended at 41 FR 41871, Aug. 23, 1976.]

§ 271.75 Period of performance.

The period of performance of grant contracts will generally be limited to one year although extensions for longer periods may be approved by the Commissioner.

[Amended at 41 FR 41871, Aug. 23, 1976.]