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CHAPTER 1.      CONDITIONAL COMMITMENT FOR  
CAPITAL ADVANCE FINANCING

Section 1.   General

- 1-1.   APPLICATION SUBMISSION.   (See HUD Handbook 4571.3, Section XIV, for activities prior to submission of the conditional commitment application.) After receiving and accepting a Notification Selection letter, the Owner must submit a Request for a Conditional Commitment for Capital Advance Financing:
- A.   Within 120 days from the date of the Notification of Selection;
  - B.   Using Form HUD-92013, Application for Multifamily Housing Project, along with the exhibits listed in Appendix 1 and discussed in Paragraphs 1-6 and 1-7 of this Chapter;
  - C.   In conformance with the proposal approved at the Fund Reservation stage;
  - D.   In full compliance with the design and cost standards and programmatic policies, including any special conditions contained in the Notification of Selection.
- 1-2.   BY-PASSING CONDITIONAL COMMITMENT STAGE.
- A.   By-passing of the Conditional Commitment Stage is permitted under the following conditions:
    - 1.   The Owner provides evidence of its capability (see B1 below) to proceed directly to the Firm Commitment Stage and such evidence meets the approval of the Housing Development Director.
    - 2.   In a new construction project design:
      - a.   where there is preliminary evidence (based on the design proposed at the Fund Reservation Stage) that the project will comply with the design and cost standards, or
      - b.   which is the same design as one previously approved meeting design and cost standards or one which met cost containment requirements.

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3. In a project involving rehabilitation or acquisition without rehabilitation from the Resolution Trust Corporation (RTC) for which:
    - a. a joint walk-through and work write-up have been completed and agreed upon by HUD and the Owner, AND
    - b. any proposed rehabilitation complies with the design and cost standards.
  4. All requests must include the following draft exhibits:
    - a. A site plan showing topography, site improvements and building(s).
    - b. A front elevation.
    - c. The first floor plan with dimensions.
    - d. A typical floor plan with dimensions.
    - e. Outline specifications reflective of the current proposal.
    - f. Calculation of common areas and any special purpose areas.

B. Approval to By-Pass Conditional Commitment Processing.

1. Prior to approval, the Housing Development Director shall meet with the Chief Architect, Chief Appraiser, Design Representative and a senior Cost Analyst to review the draft Form HUD-92013 and exhibits described in A4 above to assure that the project's design will:
  - a. comply with HUD's design and cost standards (unless the owner has agreed to pay for any prohibited amenities) and
  - b. result in costs that do not exceed the supportable high cost percentage for the area involved unless:
    - (1) the owner has agreed to pay for excess costs or

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- (2) the Regional/Field Office is able to demonstrate the need for a high cost percentage in excess of its approved high cost percentage.

In such cases, the higher percentage may be used for the purposes of this review. However, Headquarters approval is required prior to issuing a Conditional (Form HUD-90174-CA) or Firm Commitment (Form HUD-92432-CA).

2. If this determination cannot be made with some reasonable assurance, the project may not by-pass the Conditional Commitment Stage.
3. Projects involving rehabilitation (or acquisitions without rehabilitation from the RTC) cannot by-pass conditional commitment processing if a joint walk-through and work write-up have not been completed and agreed upon. The joint work write-up should be made as soon as possible after the initial fund reservation.

C. Target Dates: By-passing conditional Commitment Processing Stage.

1. The Owner is required to submit its Request for a Firm Commitment for Capital Advance Financing within 180 days from the date it notifies HUD that it accepts the fund reservation.
2. The target date for issuance of the Firm Commitment is 90 days after receipt of a complete Request.

1-3. DESCRIPTION OF CONDITIONAL COMMITMENT PROCESSING STAGE  
- NEW CONSTRUCTION.

A. All technical decisions are made to determine:

1. Acceptable design and MPS compliance
2. The estimated cost of the project
3. The as-is and fully-improved values of the site
4. The detailed estimates of operating expenses

5. The supportable cost
  6. The financial and credit acceptability of the general contractor based on a specific design
- B. The following exhibits are reviewed:
1. Management exhibits
  2. Affirmative Fair Housing marketing Plan (Form HUD-935.2) and other Fair Housing and Equal opportunity exhibits
- C. All applicable processing data and documentation forms are completed in their entirety at this time.
- 1-4. DESCRIPTION OF CONDITIONAL COMMITMENT PROCESSING STAGE - REHABILITATION. In addition to the technical decisions described in Paragraph 1-3 above, the analysis of a rehabilitation project includes a project feasibility determination which involves:
- A. A physical inspection to establish the condition of the buildings, including any major structural defects or other signs of advanced deterioration or obsolescence;
  - B. The extent and nature of work needed to attain the level of rehabilitation considered appropriate;
  - C. Project operating costs;
  - D. Continued marketability of the project;
  - E. The economics of demolition versus the cost of rehabilitation; and
  - F. Suitability of the rehabilitation to accommodate the needs of the elderly (including the frail and physically disabled elderly).
- 1-5. DESCRIPTION OF CONDITIONAL COMMITMENT PROCESSING STAGE ACQUISITIONS FROM THE RTC WITHOUT REHABILITATION.
- A. Acquisitions of existing housing from the RTC proposed without rehabilitation require:
    1. A joint inspection of the housing and related facilities to establish their physical condition.

2. An analysis of the extent and nature of any repairs or alterations that may be required.
- B. If it is determined that the repairs or alterations will exceed 15 percent of the capital advance amount:
1. Process as a rehabilitation project in accordance with Paragraphs 1-3 and 1-4 above.
  2. Recalculate the capital advance amount based on 100 percent of the development cost limits identified in Subparagraph 1-6A of HUD Handbook 4571.3 for purposes of determining the maximum capital advance amount.
  3. Notify Headquarters, Attention: Development Branch, HMEED, by memorandum, of the change in production method.

1-6. REQUEST FOR CONDITIONAL COMMITMENT.

A. Target Dates.

1. The owner is required to submit its Request for a Conditional Commitment for Capital Advance Financing within 120 days from the date it notifies HUD that it accepts the Fund Reservation.
2. The target date for issuance of the Conditional Commitment is 60 days after receipt of a complete Request.

B. Description of Required Exhibits - New Construction.

The exhibits required to be submitted at the Conditional Commitment stage are described below (see Appendix 1 for a list of the required submissions and number of copies).

1. Form HUD-92013, Application for Multifamily Housing Project, completed in its entirety. If the owner plans to contribute all or a portion of its land draw to meet the minimum capital investment, it should so indicate on this form under Source of Cash to Meet Requirements.
2. Form HUD-92013-E, Supplemental Application and Processing Form - Housing for the Elderly/Disabled completed in its entirety and including any

estimates for the operation of any support services (e.g., transportation services, recreational facilities, etc.).

3. Form HUD-92013.Supp-Supplement to Application for Multifamily Housing Project, on the Sponsor and Owner corporations, officers of the Sponsor and Owner and the general contractor (if appropriate).

NOTE: If the Owner elects to select a general contractor by competitive bidding rather than negotiation, submit all exhibits required with respect to the general contractor immediately after selection of the contractor, but in no event later than 30 days prior to initial closing.

4. Owner-Architect Agreement (AIA Document B181) with HUD Amendment (Form HUD-90169-CA).

- a. Agreement Format. An agreement between the licensed professional architect and the Owner for architectural services shall be submitted as soon as the appropriate form has been executed, but no later than at the time of submitting an application for conditional Commitment (or Firm Commitment if the former stage is being by-passed). Design should not begin until an agreement has been executed. The executed agreement shall be AIA Document B181, Standard Form of Agreement Between Owner and Architect for Housing Services. It shall include the HUD Amendment to AIA Document B181, Form HUD-90169-CA.

- (1) The scope of services shall include all architectural, structural, mechanical, electrical, civil, landscape, and interior design and consulting services necessary to prepare drawings, specifications and other documents setting forth in detail the requirements for construction of the project. The scope of services shall also provide for administration of the construction contract.

- (2) The scope of services shall designate the responsibility for the services to

be provided, whether by the Architect, Owner or others.

- (3) There may be separate agreements for design and construction services if the same architect is not employed for both. Where there is a separate agreement for construction contract administration, it must be submitted not later than initial closing. Where separate agreements are made, inapplicable sections shall be deleted.

b. Architects' Fees.

- (1) Capital advance disbursements for architect's fees at the time of initial closing and subsequent disbursements shall be in accordance with procedures as set forth in Handbook 4470.1 REV.
- (2) In the event the request for first capital advance disbursement (Form HUD-92403-CA, Request for Disbursement of Capital Advance Funds) includes an amount for payment(s) to the architect, a Form HUD-92403-1, Mortgagor's and Architect's Certificate, must be submitted. The amount requested in the draw may not exceed the amounts shown on Form HUD-92403-1.
- (3) If no funds will be disbursed for the architect in the first draw, Form HUD-92403-1 is not required. The first request which does include an amount for architect's fees must be accompanied or preceded by submission of the Form HUD-92403-1.

- C. Termination of Architectural Services. Inadequate performance, undue delay, misrepresentation, conflict of interest, or failure to act on the part of the architect or associates and employees shall be reason for

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the termination of the architect's services on the project and may adversely affect the firm's acceptability on future projects. The

Field Office responsibility and actions to be taken with respect to this matter are discussed further in Handbook 4460.1 REV-1, Architectural Analysis and Inspections for Project Mortgage Insurance.

- d. Identity of Interest. See Paragraph 1-9 of Handbook 4571.3.
5. Form HUD-5087 - Outline Specifications.
6. Preliminary drawings drawn to scale which include:
  - a. Site plan showing:
    - (1) Lot lines and dimensions;
    - (2) Adjacent buildings (show outline and number of floors);
    - (3) Proposed buildings, outline and overall dimensions;
    - (4) Parking areas and total number of cars that can be parked;
    - (5) Driveways;
    - (6) Adjacent streets and utilities and their sizes. If public facilities are not available to the site, the architect shall specify the manner in which sewer and water facilities are to be provided and include the on-site and off-site locations.
    - (7) Patios, recreation, and other areas;
    - (8) Living unit types, composition, and total;
    - (9) Contours when topography of drainage is a design factor;
    - (10) North arrow, and

- (11) Site and gross floor areas.
  - b. Basement plans or foundation plans where no



basements are provided - minimum 1/8 inch scale;

- c. A dimensional plan of each typical living unit 1/4 inch scale;
  - d. Elevations of each typical building - minimum 1/8 inch scale;
  - e. Typical floor plans - minimum 1/8 inch scale;
  - f. For elevator and complex construction types, the following plans also will be included:
    - (1) Lobby floor;
    - (2) Floor showing mechanical, service, storage, and other non-shelter facilities;
    - (3) Typical wall section for each building type.
- 7. Topographic survey.
  - 8. Soil test borings.
  - 9. Form HUD-51994, Life Cycle Cost Analysis of Utility Combinations. If the prototype utility analyses are not available from the Field Office or if the owner desires to vary from the prototype furnished by the Field Office, the Owner's architect shall prepare an analysis of utility costs in accordance with instructions contained in Handbook 7418.1, Life Cycle Utility Analysis. The Owner's architect shall recommend the best combination, complete Form HUD-51994 and submit them together with the required exhibits.
  - 10. Form HUD-2530, Previous Participation certificate, on the general contractor (if identified), management agent, Owner, Sponsor, and consultant, if not previously submitted.

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- 11. Current resume of general contractor's construction experience (if applicable), including type, size, and location of buildings constructed, geographic areas of contractor's construction business involvement, length of time contractor

has acted in that capacity, and contractor's use of minority and women-owned businesses.

12. Financial statements on the general contractor (if applicable) for the last three years, the latest of which is not more than three months old.
- a. An exception would be an audited financial statement, not more than 12 months old, containing an unqualified opinion of an Independent CPA or Public Accountant.
  - b. The exception applies, provided the audited statement is supplemented with updated interim statements if more than three months have expired since the closing date of the audited statement.
  - c. If the financial statement is not submitted on Form HUD-92417, Personal Financial and Credit Statement (for use by individuals -not companies), it must contain original signatures and the following certification:

I HEREBY CERTIFY that the foregoing figures and the statements contained herein, submitted by me as an agent of the Owner for the purpose of obtaining Capital Advances under Section 202 of the Housing Act of 1959, as amended, are true and give a correct showing of the financial condition as of this date:  
Signed this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

(Name/Authorized Agent) \_\_\_\_\_

13. Current financial statements on the Owner and Sponsor. (If the most current financial statement submitted by the Sponsor at the Fund Reservation Stage meets the definition of "current financial statement" as stated in Subparagraph 12 above, new statements on the Sponsor are not required.)

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- 14. Form HUD-935.2, Affirmative Fair Housing Marketing Plan.
- 15. Form HUD-9832, Management Entity Profile.
- 16. Form HUD-9839-A, Project Owner's Certification for Owner-Managed Multifamily Housing Projects OR

Form HUD-9839-B, Project Owner's and Management Agent's Certification for Multifamily Housing Projects for Identity-of-Interest or Independent Management Agents OR Form HUD-9839-C, Project Owner's/Borrower's Certification for Elderly Housing Projects Managed by Administrators.

17. Resume on the Resident Manager or Management Agent which includes qualifications and experience.
18. An unqualified certification from Resident Manager or Management Agent that the project is feasible from a management standpoint.
19. Statement by Owner that it will provide the proposed management and maintenance services typically provided for the type of housing.
20. The form of lease the owner proposes to use which must be in accordance with the Model Lease, which will be issued as Appendix 2 at a later date.
21. Proposed operating expenses per unit/per month, by size and building type.
22. List the equipment, utilities, and services to be included in the Operating Expenses Estimate. Specify the utilities and services not included and provide for each an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.
23. a. Evidence of an attempt to obtain exemption from State and/or local real and/or personal property taxes in one of the following forms:
  - (1) Tax Exemption
  - (2) Tax Abatement

- (3) Payment in Lieu of Taxes (PILOT)
- (4) Ineligibility for any tax relief
- b. Submit evidence of filing, together with any response received from the taxing authority. If exemption is being claimed, also include:
  - (1) Supporting statements which describe the

project and the proposed method of operation on which the claim for exemption is based.

- (2) The Owner's attorney's opinion setting forth the basis on which exemption or abatement is claimed and stating that except for future changes in the statute or material change in the operation, the project will be entitled to exemption or abatement and whether a statutory exemption based on a direct loan also would apply to capital advances. The opinion must cite the State statute involved and include as attachments, any other material supporting the claim, i.e., local administrative rulings or court decisions, opinions of local, private or public counsel or the State's Attorney General.
  - (3) Evidence of tax abatement or exemption and the owner's attorney's opinion must be current within one year of the filing of the Request for a Conditional Commitment.
  - (4) Documents supporting tax exemption regarding similar projects in jurisdiction where abatement or exemption was requested or granted.
24. Evidence of site control site option agreement(s), contract(s) of sale, or other documents(s) which evidences the owner's effective control of the site(s). If the Sponsor had site control at the Fund Reservation Stage and such control is still in effect at the time of submission of the Request for a Conditional Commitment, new evidence of site control need not

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be submitted. However, if an option were furnished as evidence of site control at the Fund Reservation Stage and the option has since expired, the Owner must furnish updated evidence of site control.

- a. If the sale evidenced above is not an arms-length transaction, submit similar evidence of

the previous arms-length sale - price, date, etc.

- b. In the event other costs are shown on Form HUD-92013, Section D-3, submit a full explanation.
  - c. If the project involves rehabilitation of property owned or being purchased, which purchase is not an arms-length transaction, submit evidence of the existing indebtedness.
25. Evidence of Permissive Zoning.
- a. Provide a statement from the local zoning board indicating that the proposed project complies with existing zoning, unless such statement were submitted at the Fund Reservation Stage.
  - b. Any rezoning which may have been necessary as indicated in the application submitted at the Fund Reservation Stage must have been accomplished prior to submission of the Request for a Conditional Commitment.
26. Any amendments to relocation plan, if site occupants are to be displaced.
27. A schedule covering the cost of all capital expenditures such as furniture, supplies, equipment, and other items necessary to the basic operation of the project and not covered by the proceeds of the Capital Advance. The schedule should include the Owner's plan on how it will meet these costs -- through donations, cash outlays, etc. If the Project Contingency has not been depleted during the construction phase, the Owner may use a portion of the Project Contingency to cover these expenses.

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28. Submit individual conflict of interest and disclosure certifications for all officers, directors and board members of the Owner and Sponsor and identity of interest and disclosure certifications for all known development team members. (See Subparagraph 1-9C and Appendices 3 and 4 of Handbook 4571.3.)

NOTE: Once the fund reservation application has been filed, the conflict of interest provisions apply to officers and directors of the Sponsor and Owner for two years after resignation or final closing, whichever is later.

29. Owner Certifications.

- a. OMB Circular A-129 requires a certification that the owner is not delinquent on the repayment of any Federal debt.
- b. Form HUD-92010, Equal Employment Opportunity Certification.
- c. Certification of Drug-Free Workplace by Owner.
- d. Certification/Disclosure Regarding Lobbying Activities.

30. Form HUD-91732A-CA, Certificate of Incorporation, for Owner and its application for IRS tax exemption.

1-7. ADDITIONAL EXHIBITS - REHABILITATION OR ACQUISITION WITHOUT REHABILITATION. In addition to the exhibits described in Paragraph 1-6, the owner shall submit the following exhibits (see Appendix 3).

A. Projects Involving Rehabilitation.

- 1. Authorization to inspect the property.
- 2. Narrative description of rehabilitation proposed.
- 3. Sketch plans of units as proposed to be rehabilitated.
- 4. Schematics of any structural changes or changes in floor plans or other-significant alterations.

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7/92

1-14

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- 5. Survey/site plan sketch, as built.
- 6. Drawings and specifications of existing facilities, if obtainable.

B. Acquisitions without Rehabilitation from the RTC.

- 1. Authorization to inspect the property.

2. Narrative description of any repair work proposed.
3. Survey/site plan drawing, as built.
4. Drawings and specifications of existing facilities, if available.

1-8. RECEIPT OF REQUESTS FOR CONDITIONAL COMMITMENT.

Processing Control and Reports (PC&R) must:

- A. Log in each Request for Conditional Commitment.
- B. Date-stamp each Request and distribute to the following technical disciplines (see Appendices 4 and 5 for distribution procedures and Appendix 6 for format for review checklist):
  - Multifamily Housing Representative (MHR)
  - Fair Housing & Equal Opportunity (FHEO)
  - Housing Management (HM)
  - Field Counsel (FC)
  - Architectural, Engineering and Cost (A&E)
  - Valuation (VAL)
  - Mortgage Credit (MC)
  - Community Planning & Development (CPD) when updated information is provided for property which is to be (or has recently been) acquired or the property is (or has recently been) occupied or if there is a proposed site change
  - Economic Market Analysis Staff (EMAS)
- C. Maintain Field Office Docket copy

1-9. SCREENING FOR COMPLETENESS.

- A. Program and technical disciplines must:
  - review the Request to determine whether all required

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exhibits pertinent to its review have been submitted and are properly completed and

- return comments to PC&R staff within one working day after receipt of the Request for review.

- B. PC&R staff must:

- assure the timely receipt of review comments and
- compile the comments from the program and technical disciplines and forward to MHR who shall prepare the checklist summary (see Appendix 7).

C. For projects involving construction contracts to be awarded by the formal competitive bidding procedure, exhibits required in Subparagraphs 1-6B11 and 12 need not be submitted until after bids have been received. This should be considered in the screening process.

1-10. ELIGIBILITY FOR TECHNICAL PROCESSING.

A. Acceptable Requests for Conditional Commitment.

1. MHR shall:

- a. Determine whether the Request is complete based on a review of the comments from the technical and program staffs and
- b. Advise the PC&R staff of the determination.

2. PC&R shall notify the technical and program staffs to begin the processing of the application.

NOTE: A description of the processing to be performed by the technical and program staffs is contained in Paragraphs 1-12 through 1-14 and sections 2 through 9 of this Chapter.

B. Incomplete Requests for Conditional Commitment. The MHR shall prepare a letter for the signature of the Housing Development Director which:

- 1. Lists the deficiencies;
- 2. Invites the Owner to correct deficiencies by a specified date (generally within 15 days);

- 3. States that if additional information is not received by the specified date, the Request will be returned and may be resubmitted when it is complete.

C. Receipt of Additional Information.



1. PC&R staff shall log-in the additional information and forward to the MHR for review for acceptability.
2. For additional information which is complete, the MHR shall follow the procedures outlined in Subparagraph A above.
3. For incomplete information, the MHR shall prepare a letter to the Owner and;
  - a. return the application,
  - b. outline the deficiencies, and
  - c. invite a prompt resubmission of the Request when it is complete.

1-11. COORDINATION OF TECHNICAL AND PROGRAM REVIEWS.

A. The PC&R staff must:

1. Keep track of the progress of a request through processing by the various technical and program staffs;
2. Advise the MHR when target dates are not being met.

B. The MHR is responsible for:

1. Monitoring the overall progress of a Request through processing to identify problem areas;
2. Assisting the technical and program staffs in securing additional documentation or information needed to complete processing.

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1-12. FIELD COUNSEL REVIEW. If the Owner's Request includes provisions for abatement or exemption of real property taxes, the Field Counsel's concurrence in the validity of the exemption must be obtained before the exemption can be considered in determining the feasibility of the project. The Housing Director, therefore, must receive such concurrence before approving a request for financing on the basis of the project receiving abatement or exemption. The Field Counsel shall review all documents in the Owner's submission as described in Subparagraph 1-6.B.25, as follows:

- A. Exemption Based on Special Legislation. In some States, special legislation has been passed granting tax exemption to particular types of housing, e.g., housing located in urban renewal areas or housing for low and moderate income groups or for other social needs. Generally, tax exemption, pursuant to such legislation may be safely assumed. However, Counsel must determine whether statutory exemption for a direct loan extends to Section 202 capital advance projects. If, after review, the Field Counsel determines that the proposed project meets the special criteria of the legislation, he/she shall advise the Housing Director that the project may be processed on a tax exempt basis.
- B. Exemption Based on General Charitable Statutes. Exemption under a general statute exempting projects for charitable purposes may not be assumed. However, Field Counsel may determine that a proposal is eligible for processing on a tax-exempt basis if either of the following situations prevail:
1. The opinion of the Owner's attorney sets forth the basis on which exemption is claimed and states that, except for future change in the statute or material change in the operation, the project will be entitled to exemption. This is further supported by Field Counsel's knowledge that the taxing jurisdiction has routinely granted exemption to a Section 202 project.
  2. Statement from the local taxing authority indicating that the exemption has been approved or that it will favorably consider an application for tax exemption for the Section 202 proposal.

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7/92

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- C. Where it has been determined that a proposal is entitled to be processed on a tax exempt basis, Field Counsel will advise the Housing Director whether such exemption is effective during construction or after project completion so that processing may be completed accordingly.
- D. While a taxing jurisdiction may grant tax exemption, it may impose a payment in lieu of taxes (PILOT) for improvements, facilities or services rendered by the local authority to the project. Where this situation prevails, Field Counsel's advice will address the issue

so that processing will take PILOT into consideration.

- E. Should tax exemption be terminated by the local taxing authority during project operation due to statutory change or altered circumstances, the owner may submit a request for an increase in its operating budget to cover the added tax burden as provided in the Regulatory Agreement.
- F. Mandatory Filing Requirement for Tax Exemption. Whether there is existing special State legislation or a general charitable statute governing tax exemption, it shall be mandatory for the owner to file with the local taxing authority. Such evidence of filing, together with the response received therewith, must be submitted at the time of Conditional or Firm Commitment application.

1-13. ECONOMIC MARKET ANALYSIS STAFF (EMAS) REVIEW. Review by EMAS at the Conditional Commitment stage is limited to Requests that involve a site change as provided for in Paragraph 1-65 of this Handbook.

- A. In reviewing the new site:
  - 1. Follow the procedures outlined in Paragraph 3-38 of Handbook 4571.3.
  - 2. Coordinate market review with Farmers Home Administration in accordance with outstanding instructions.

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- B. Upon completion of the analysis set forth in Subparagraph A above, EMAS shall prepare a memorandum to the Housing Development Director which sets forth its findings and states whether or not the Request is acceptable or unacceptable from a market standpoint.
  - C. If 24 or more months have elapsed since the project was approved, the market must be re-analyzed to determine whether there is still sufficient sustainable demand.
- 1-14. COMMUNITY PLANNING & DEVELOPMENT (CPD) REVIEW. CPD staff participation at the Conditional Commitment stage is limited to:
- A. Review of a Request that involves a site change to assure that there is a comprehensive Housing Affordability Strategy (CHAS) in effect covering the

jurisdiction in which the new project site is located.

- B. Review of a Request that involves relocation to assure that it meets current requirements (see Section 7 of this Chapter for full discussion of this review).

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7/92

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## Section 2. Architectural and Engineering Analysis

- 1-15. GENERAL. Follow outstanding architectural instructions in accordance with HUD Handbook 4460.1 REV-1, Architectural Analysis and Inspections for Project Mortgage Insurance, Section 207, except as modified herein, including review for compliance with appropriate HUD Minimum Property Standards (MPS); the accessible design, construction and alteration requirements of Section 504 (see 24 CFR Part 8) and the Uniform Federal Accessibility Standards (UFAS) reprinted at 24 CFR Subtitle A, Part 40, App. A); and the accessible design and construction requirements of the Fair Housing Act (see 24 CFR 100.205 and ANSI-A117.1-1986). Where local codes and ordinances are more stringent, the local requirements shall prevail.

It is important to note that the owner has wide latitude in designing the project within certain parameters, i.e., maximum unit sizes and prohibited amenities. If larger unit sizes or prohibited amenities are included, or if the replacement cost exceeds regulatory per unit cost limits, the sponsor must provide other funds.

- 1-16. ACCESSIBILITY REQUIREMENTS. All housing covered by the accessibility requirements imposed by the Fair Housing Act and Section 504 must comply with those requirements. The guidelines provided in A, B and C below are not intended to limit the requirements of those laws.

### A. New Construction.

1. Design 5 percent of the total dwelling units, but at least one unit (whichever is greater), all common areas and entrances to be made accessible to and useable by disabled persons (see 24 C.F.R. 8.22). Provide for an additional 2 percent (but at least one) of the units to be accessible to persons with hearing and vision impairments. This can be accomplished by using the UFAS or an equivalent standard.
2. Design all buildings consisting of four or more dwelling units to meet accessibility requirements

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NOTE: For non-elevator buildings, dwelling units which are not on a ground floor are not subject to the Fair Housing Act's accessibility requirements.

- B. Rehabilitation of Existing Structures. Such structures must meet the accessibility requirements of either 24 C.F.R. 8.23(a) or 8.23(b), as appropriate.
- C. All Structures, including Existing Structures (RTC Properties), with or without Rehabilitation or Alterations. Section 504 requires that Owners make reasonable modifications and accommodations to housing when such accommodations or modifications are necessary to enable a disabled person to use and enjoy the premises.

1-17. DESIGN CONSIDERATIONS.

- A. The Design Representative must assure that:
  - 1. Amenities are provided which are conducive to day-to-day activities of the elderly tenants.
  - 2. The design and materials specified are related to the limited physical ability of the occupants.
  - 3. Only efficiency or one-bedroom units are provided, except for the manager's unit which may be a two-bedroom unit.
  - 4. No amenities are included which were not proposed by the Sponsor at the initial fund reservation stage.
- B. Each unit must include:
  - 1. A kitchen which provides a refrigerator, cooking facilities, sink, and storage space for food and utensils.
  - 2. A complete bathroom as defined in the MPS.
- C. The project must include:
  - 1. Community space (common areas) such as multi-purpose

rooms, game rooms, libraries and reading

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7/92

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rooms, hobby craft shops, lounges, barber and beauty shops and snack bars, and central kitchen and dining facilities. (Owners are encouraged to use individual areas for more than one purpose.)

2. Grades which eliminate or reduce steps and steep inclines.
  3. Barrier-free access and egress for all persons.
  4. Nearby parking facilities for residents and visitors, including the disabled. Owners should be encouraged to seek waivers where local zoning requirements appear excessive in relation to the intended market.
  5. Minimum length of travel between frequently used areas.
  6. Suitable outside areas for active and passive recreational activities.
  7. Selection and use of materials which stress safety.
  8. Proper provisions for all utilities to be included in the operating expense estimates.
  9. Controlled access and egress tailored to the needs established by the structures, the surrounding and the adjacent thoroughfares.
  10. Space and facilities for deliveries. Planning shall include design features which will assist the management function.
  11. An elevator in a two-story building would be treated as cost not attributable to dwelling use and non-elevator cost limits would be used in processing.
- D. The facilities enumerated in Subparagraph C.1 above shall not be classified as commercial spaces and may be included if the owner establishes the need.
- E. Community space shall be restricted to those proposed at the fund reservation stage and are needed to serve

the residents and may not exceed 10 percent of the

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1-23

7/92

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4571.5

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total project cost. (Some latitude may be permitted by the Field Office Manager where acquisition or rehabilitation of an existing structure is involved.)

- F. Generally dining space, when provided, should be large enough to seat only about 1/3 to 1/2 of the tenant body, since it is unlikely that all residents will desire to eat at the same time.
- G. In providing special amenities for the comfort, health and recreation of the elderly, the continuing costs of operating the amenities must be considered.
- H. Prohibited amenities and facilities include atriums, bowling alleys, swimming pools, saunas, jacuzzis, commercial spaces which does not include areas operated by the owner for the sale of convenience items, and dishwashers, trash compactors, washers, dryers, balconies and decks in individual units.

NOTE: An exception may be granted where the Sponsor agreed at the fund reservation stage to contribute the incremental developmental cost and continuing operating costs associated with the additional amenities or the project involves a facility acquired from the RTC and the amenities were already incorporated into the existing structure (see Handbook 4571.3, Subparagraph 1-9E.2.e).

- I. Projects may NOT include infirmaries, nursing stations, intermediate care facilities, hospitals or spaces for overnight care.

1-18. ADDITIONAL DESIGN CONSIDERATIONS. None of the items set forth below are categorically prohibited, but are areas where economies can be achieved. Therefore, the following should be considered during the design stage, consistent with the statutory requirements for modest design and for providing accessible housing in accordance with this Handbook and applicable regulations:

A. Site Use:

- 1. Site size (i.e., elimination of excess land area), shape and topography.
- 2. Locating improvements to least disturb natural

features.

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7/92

1-24

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4571.5

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3. Locating buildings to minimize the length and sizes of utility lines.
4. Minimizing walk, drive and parking area pavement. Consider location, length, width and shape of parking areas and drives.
5. Using double loaded parking where possible and provide only the number of parking spaces that are needed.
6. Matching structure type and structural system to site conditions.

B. Structural Type and Configuration:

1. Building footprint, typical floor configuration, building height, circulation and vertical movement, ingress and egress, accessory and service spaces.
2. Minimizing exterior surfaces to reduce construction cost and heating and air-conditioning expense.
3. Maintaining simple straight line configurations and avoiding building configurations that create needless offsets and unusable interior space.
4. Avoiding one and two-story protrusions or set backs on high-rise buildings.
5. Using straight line double loaded corridors terminating in emergency exits where possible.
6. Keeping stairs within the building where possible.

C. Structural System:

1. Relating the structural system to the site and number and type of dwelling units.
2. Selecting structural systems which do not result in multiple shed roofs and numerous roof intersections, slope changes, off-sets or similar complexities.



4571.5

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3. Aligning structural columns or walls at most reasonable spacing, minimizing number and size of girders and beams.
4. Using parallel open web wood joist trusses for wood construction and other similar innovative cost effective systems.

D. Dwelling Unit Module:

1. Minimizing width of dwelling units with the length perpendicular to the corridor to reduce corridor and perimeter wall.
2. Arranging adequately-sized spaces for functional food preparation, dining, living, sleeping, sanitation and storage.
3. Relating kitchen size to number and type of occupants.
4. Avoiding deep storage closets and similar unusable space.
5. Minimizing dwelling unit halls.

E. Community Spaces and Amenities:

1. Relating size of accessory and service spaces to intended use and locating to complement each other, i.e., central laundry next to lounge or community room.
2. Using space for multiple functions, such as a multi-purpose room for recreation and dining.
3. Orienting indoor recreational space to exterior passive and active recreational areas.
4. Locating trash disposal systems and elevators near the middle of the building with ready access to a service entrance.

F. Mechanical Systems:

1. Minimizing length and size of utility lines.
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4571.5

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2. Using heating and cooling systems and type of energy based on the utility analysis and the cost of system, installation, operation and maintenance for all available systems and fuels.
3. Grouping plumbing fixtures to take advantage of back-to-back piping and common risers.

1-19. REVIEW AND ACCEPTANCE OF EXHIBITS.

A. HUD's Architectural staff shall:

- maintain architectural liaison with Owner's architect throughout the design stages.
- review and approve preliminary drawings and specifications.

B. Architect's, engineers' or designers' certifications will not be accepted in lieu of HUD review.

1-20. ELIGIBLE EQUIPMENT. Equipment eligible to be covered in the mortgage includes:

A. All fixed equipment which normally is part of the realty.

B. The following items which are normally covered under the construct on contract:

1. Stoves and refrigerators in the individual units.
2. Heavy equipment in a central kitchen.
3. Washers and dryers in a central laundry area.

C. Other major moveable equipment that may be paid for out of the Project Contingency (but only to the extent funds are not needed for change orders), such as:

1. Certain maintenance equipment, such as a lawn mower.
2. Furnishings for public areas.

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NOTE: The Sponsor/owner must submit evidence of the availability of any funds required for equipment and furnishings over and above that provided in the capital advance. (See also Paragraphs 1-28 and 1-50C of this Chapter).

1-21. COMPARATIVE COST ANALYSIS OF UTILITIES. The Architectural staff is responsible for:

- A. Reviewing Form HUD-51994 and all attendant exhibits, if required.
- B. Determining that the most economical utilities, fuels, related mechanical equipment and methods of purchase have been included in the drawings and specifications.

FOR EXAMPLE: If utility companies indicate that Power Demand Controllers would result in cost savings, consider using Controllers.

1-22. ARCHITECTURAL ANALYSIS: PROJECTS INVOLVING REHABILITATION AND ACQUISITION FROM THE RTC.

- A. Rehabilitation Projects. Projects involving the rehabilitation of existing structures shall be inspected and processed in accordance with the instructions outlined in Paragraph 1-4 of this Chapter, Chapter 7 of HUD Handbook 4510.1, Rental and Cooperative Housing for Lower-income Families, and Chapters 1 and 2 of HUD Handbook 4460.1 REV.
- B. Acquisitions from the RTC. Projects involving the acquisition of existing housing from the RTC shall be inspected and processed in the same manner as rehabilitation projects with the exception that only the rehabilitation necessary to meet the needs of the occupants shall be required. Additionally, the following requirements apply:
  - 1. A minimum of five percent of the dwelling units (and not less than one) shall be accessible to persons with physical disabilities with an additional two percent (at least one) of the units to be accessible to persons with hearing and vision impairments.

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- 2. All community facilities (common spaces) and at

least one entrance shall be accessible to persons with physical disabilities.

3. The property shall comply with MPS Chapter 2, General Acceptability criteria, and with the general intent of all other chapters of the MPS.
4. Since existing housing and very limited rehabilitation or repairs (if any) are involved in these projects, the projects may be exempt from certain limits such as unit sizes and prohibition of certain amenities.

NOTE: Refer to Paragraph 1-6A.9 of Handbook 4571.3, concerning Sponsor/Owner payment for excess costs from other than capital advance proceeds.

If the existing structure(s) meets these requirements, no rehabilitation shall be required and no further architectural analysis is needed.

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1-29

7/92

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4571.5

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### Section 3. Cost Processing

1-23. GENERAL. Use HUD Handbook 4450.1-REV-1, Cost Estimation for Project Mortgage Insurance, except as follows:

- A. The Cost Analyst assists the Design Representative to assure that drawings and specifications comply with local codes and applicable MPS requirements.
- B. The contract documents must exclude prohibited amenities or they must be paid for by the owner.

1-24. COST NOT ATTRIBUTABLE TO DWELLING USE.

- A. Supplemental Estimate for Cost Not Attributable to Dwelling Use includes cost of community spaces.
- B. Cost not attributable cannot exceed 10 percent of total project cost (a 10 percent "B" over "A" ratio) without Headquarters approval.
- C. Include on-site areas, elements, improvements and facilities not usually found in typical residential rental projects that provide comfort, health and recreation of elderly residents (see D5 below).
- D. Items not attributable to dwelling use are defined as:

1. Parking areas and the walks and driveways leading to them, not including roads and streets.
2. Garages or covered parking and the walks and driveways leading to them, not including roads and streets.
3. Project administrative and maintenance areas, such as:
  - a. Offices
  - b. Employee bathrooms
  - c. Janitor or cleaning closets
4. Storage facilities not for occupant use.
5. Other community spaces for the elderly, such as:

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7/92

1-30

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4571.5

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- a. multi-purpose rooms
  - b. game rooms
  - c. libraries
  - d. reading rooms
  - e. hobby and craft shops
  - f. barber and beauty shops
  - g. lounges or sitting rooms
  - h. snack bars
  - i. central kitchens and dining rooms
6. The cost of any equipment not required by the MPS, but required by the local municipalities or State building codes pertaining to the elderly.

FOR EXAMPLE: The MPS do not require an elevator in a two-story structure with no living units above the first floor for occupancy by persons with physical disabilities and no central dining facilities; however, local or State building codes require elevators in all projects for the elderly with two or more stories. Include the cost of the elevators in the estimate of Cost Not Attributable to Dwelling Use.

- E. Income producing areas are classified as "commercial" spaces (not other spaces) and may not be included in the project except as follows:
1. Central dining facilities.

2. Convenience stores operated by the Owner.
3. Barber and beauty shops.

F. The costs of foundations, plumbing, heating, air conditioning, water, electric, and/or sewage facilities are prorated to the community space, as appropriate.

1-25. ADEQUACY OF ESTIMATES. As the Section 202 cost limits do not take into account the additional costs associated with community space, the Cost Analyst should:

A. Assure that estimate of Cost Not Attributable to Dwelling Use includes all items set forth in Paragraph 1-24 above and in HUD Handbook 4450.1 REV-1.

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1-31

7/92

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4571.5

B. Contact the Office of Insured Multifamily Housing Development, in Headquarters, regarding any questions about the eligibility of these items or the estimation process.

1-26. BUILDER'S PROFIT. Always include an amount for Builder's Profit in processing (see Paragraph 3-7 of HUD Handbook 4450.1 REV-1).

1-27. IMPACT FEES. These special, one-time fees local governments charge Owners of proposed housing developments to offset the impact such housing will have in the community, such as additional road improvements and utility usage.

A. Typical Impact Fees.

1. Traffic
2. Solid Waste
3. Sewer
4. Water
5. Electric
6. Gas
7. Police Protection
8. Fire Protection

B. The Owner should:

1. Contact CPD to determine if locality is a recipient of HUD Community Development Block Grant funding.

2. Negotiate elimination or reduction of fees.

C. The Cost Analyst shall:

1. Report on Line 48, Other Fees, of Form HUD-92264, Rental Housing Project Income Analysis and Appraisal.

2. Provide a breakdown between Owner's and contractor's fees in Section O, Remarks, Form HUD-92264.

1-28. CAPITAL EXPENDITURES.

A. Owner must submit a detailed schedule of all capital expenditures with cost.

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7/92

1-32

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4571.5

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B. Include items necessary, to the basic operation of the community space in the project, such as:

1. Furniture and equipment

2. Other items not covered by the capital advance proceeds

C. While dishes, eating utensils and other items with short-term life cycle such as office and maintenance supplies should be included in the schedule, these items may not be paid for out of the Project Contingency.

D. Cost Analyst shall:

1. Review schedule to see if costs are reasonable,

2. Prepare memorandum to Chief, Mortgage Credit Branch, as to acceptance.

1-29. SUPPLEMENTAL ESTIMATES.

A. Owner must pay (as front money) the cost of prohibited amenities.

B. Cost Analyst shall:

1. Develop estimate of the cost of the identified items.

2. Report in Remarks on Form HUD-92264, or attach

a memorandum.

1-30. COST ANALYSIS: REHABILITATION.

- A. Review work write-up and other cost exhibits required by work write-up.
- B. Detail of Quantities and Costs.
  - 1. Unit of measurement must be square feet, linear feet, window, door, range, etc.
  - 2. Cost must be applied to each item required, summarized and transcribed to trade items and Form HUD-2328, Contractor's and/or Mortgagor's (Owner's) Cost Breakdown.

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1-33

7/92

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4571.5

- 3. Fees and supplemental estimates are also entered on Form HUD-2328.
- C. Estimate of Rehabilitation Costs.
  - 1. Accept Owner's estimate if reasonable and use as HUD's estimate.
    - a. Use Form HUD-92325, Report of Cost Processing - Conditional Stage Worksheet, for land improvements and supplemental estimates.
    - b. Use Form HUD-92326-A, Project Cost Estimate Worksheet for Structural Trade Items, for estimates of appropriate items.
    - c. Summarize cost of land improvements, structures and supplemental estimates on Form HUD-92326, Project Cost Estimate. Include applicable fees.
    - d. Identify items of importance to Valuation and Mortgage Credit staffs in Section O, Remarks, of Form HUD-92264.
  - 2. When Owner's estimate appears unreasonable (high or low):
    - a. Review estimate for errors.
    - b. Attempt to resolve differences.



c. If not resolved, use HUD estimate and identify differences in Section O, Remarks, of Form HUD-92264.

3. Estimate the contingency reserve percentage and enter in Section O of Form HUD-92264.
4. Estimate starting date and rehabilitation period and enter the number of months in Section G of Form HUD-92264.

D. Bench Mark Costs.

1. Use bench mark data for trade items in costing-out work write-up.
  - a. Project the cost of trade items to the

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7/92

1-34

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4571.5

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estimated start of rehabilitation.

b. Consider in the trade items the cost of repair or removal before rehabilitation.

2. In making adjustments to data bench mark costs:
  - a. Project the construction start date,
  - b. Consider the amount of demolition required prior to the actual rehabilitation.
3. Apply bench mark costs for structures to the specific requirements of the work statement based on a gross square foot cost, square foot cost or per unit cost, as applicable.
4. Base land improvement estimate on a square foot cost or per unit cost, as applicable.

E. Estimate of a New Structure.

1. If rehabilitation will be too costly (i.e., cost would exceed the cost of demolition and construction of a new facility), estimate the complete demolition of the existing structure.
2. Determine the replacement cost of a new structure.
3. Compare the two estimates and note in Section O, Remarks, on Form HUD-92264.

- F. Estimate involving Moderate Rehabilitation.
  - 1. Perform cost analysis in same manner as rehabilitation described in Paragraphs C and D above.
  - 2. Do not make the estimate of a new structure as described in Subparagraph E above.
- G. Estimate involving Acquisition without Rehabilitation. Summarize the cost analysis as "zero" (0) on Form HUD-92264.
- H. Rehabilitation: Cost Not Attributable to Dwelling Use. Make the determination and give to the appraiser.

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1-35

7/92

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4571.5

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#### Section 4. Valuation Analysis

- 1-31. GENERAL. Follow the instructions in HUD Handbooks 4465.1, Valuation Analysis for Project Mortgage Insurance, and 4480.1, Multifamily Underwriting Reports and Forms Catalog, except as modified herein:
- A. Do not use fee appraisers.
  - B. Valuation processing includes:
    - 1. Establishing a fully-improved land value appraisal for new construction sites and an "as is" value appraisal (including land and improvements) for existing properties. When sites are purchased from a public body (including RTC properties) the land value will be the lesser of the fully improved market value of the site upon completion or the acquisition cost, whichever is less, plus any allowable costs in accordance with HUD Handbook 4465.1.
    - 2. Determining the project replacement cost.
    - 3. Estimating operating expenses.
    - 4. Determining the unit limitations and capital advance amount equivalent to the mortgage limitations allowed by the Section 202 program.
    - 5. Estimating Personal Benefit Expenses (PBE)

utility allowances and other services, if any to be paid by the tenants.

NOTE: Unlike the expense allocation amount attributed to units, this amount should be allocated by unit type.

6. Re-analyzing evidence of permissive zoning, if necessary.
7. Re-examining evidence of site control.
8. Analyzing project marketability if the Owner has requested a site change.

1-32. ENVIRONMENTAL ASSESSMENT AND SITE APPRAISAL.

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7/92

1-36

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4571.5

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A. If a site change is proposed, complete an environmental assessment on Form HUD-4128, Environmental Assessment, for a new construction proposal. For a proposal which involves rehabilitating an existing structure, complete a Form HUD-4128.1, Compliance and LAC Conditions Record (short form), but ONLY when ALL of the following conditions exist:

1. The number of units is not increased more than 20 percent;
2. The project does NOT involve any land use change;
3. There is NO substantial rehabilitation (i.e., the estimated cost of rehabilitation is less than 75 percent of the total estimated replacement cost after rehabilitation) and
4. The proposal does not involve demolition of any part of a residential structure.

If any one of the above conditions does not exist, Form HUD-4128 must be completed for rehabilitation.

B. If a site change is proposed or the site appraisal was not completed prior to submission of the Conditional Commitment application:

1. Record site analysis and appraisal conclusions on Page 3 of Form HUD-92264.
2. Complete in its entirety the Project Site Analysis

and Appraisal in Section J of Form HUD-92264.

1-33. REPLACEMENT COST ESTIMATE (NEW CONSTRUCTION). Determine the HUD estimate of development cost by:

- A. Processing request as a nonprofit project.
- B. Developing the replacement cost, using an abbreviated replacement cost formula to determine the unknowns. For rehabilitation projects, see Paragraph 1-43 of this Chapter.
- C. Completing Section G of Form HUD-92264 in accordance with HUD Handbook 4480.1, except as modified below:
  - 1. Interest. No interest during construction.

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1-37

7/92

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4571.5

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- 2. Fees. No Examination, Inspection, Financing and GNMA/FNMA fees.
  - 3. Mortgage Insurance Premium (MIP). No MIP.
  - 4. Project Contingency. Change Line 60 of Form HUD-92264 to read Project Contingency fee.

Calculate at 2 percent of replacement cost and enter amount on this line.

a. Eligible use of project contingency funds:

- (1) Cost of necessary change orders approved before final closing.
- (2) Increased carrying charges (taxes and insurance) caused by unavoidable delays in construction.
- (3) Increases in otherwise eligible non-construction line items, such as title recording and organization expenses.
- (4) Major moveable furnishings and equipment essential for project operation (non-realty items).
- (5) Costs directly related to rent-up of project such as advertising expenses.

b. Ineligible use of project contingency funds:

- (1) Additional fees for architect, attorney, consultant or other development team members.
  - (2) Dishes and eating utensils.
  - (3) Items with short-term life cycle such as office and maintenance supplies.
5. Taxes, Insurance, Title and Recording Expenses. Estimate according to HUD Handbook 4480.1.
  6. Legal, Organization and Cost Certification Audit Fee.

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7/92

1-38

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4571.5

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- a. Exclude from "Organization Expenses" the services performed by a consultant. (See Subparagraph 8 below).
  - b. Include sufficient funds for fidelity bonding in "Organization Expense" line item. (See Form HUD-90164-CA, Property Insurance Requirements, for the bonding requirements.)
7. Supplemental Management Fund. Not applicable.
  8. Consultant's Fees. As applicable, include fee approved by Mortgage Credit staff, including the base fee and incentive payments set forth in Paragraph 3-23 of HUD Handbook 4571.3.

NOTE: Fee should be developed using the replacement cost formula amount.

9. Relocation Expenses. If the project involves displacement of site occupants who are eligible for relocation assistance, include an amount for relocation expenses as approved by the CPD relocation specialist. Until the Form HUD-92264 is revised, enter the approved amount on Line 70 under Section G, by deleting "Supplemental Management Fund" and inserting "Relocation Expenses." Process in accordance with instructions contained in Notice H-91-53 and HUD Handbook 1374, Relocation and Real Property Acquisition - Responsibilities of HUD Staff.

1-34. ANNUAL OPERATING EXPENSE ESTIMATE. Estimate in accordance

with Chapter 6, HUD Handbook 4465.1, except as modified herein and complete Section E of Form HUD-92264.

- A. Form HUD-92274, Operating Expense Analysis Worksheet. Complete in accordance with HUD Handbook 4480.1, Multifamily Underwriting Reports and Forms Catalog.
1. Base the final estimate of expenses on the results of processing Form HUD-92274 and not on the Owner's estimate.
  2. Complete the form in full and attach all documentation supporting the expense comparables used, adjustments and correlation of expenses.

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1-39

7/92

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4571.5

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- B. Form HUD-92013. Owners should list only those expenses estimated to be required for:

1. Living quarters;
2. Residential accessory space and
3. Utilities furnished at no additional expense to tenants.

- C. Form HUD-92013-E.

Used by Owners to show estimated expenses and income relating to other supportive services (see Subparagraph 1-51B) such as:

- food services (any meals program must be voluntary on the part of the residents)
- housekeeping assistance
- transportation services
- health-related services.

NOTE: Health care must be based in the community, not in the project. A small multipurpose room may be provided for emergency use, but not overnight care. No staff provisions may be made for doctors, nurses, or other medical personnel.

- D. Congregate Housing.

1. Owners may provide congregate dining and other

facilities and supportive services as discussed in Subparagraph C above.

2. Purchase of personal services, including meals, cannot be required as a condition of occupancy.
3. The cost of a service coordinator (when at least 25 percent of the residents will be frail elderly or those determined to be "at risk") and supportive services for the frail elderly and those elderly determined to be "at risk" are eligible costs under the PRAC.
  - a. The HUD-approved operating expenses may include up to 15 percent (up to \$15 per unit/

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7/92

1-40

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4571.5

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per month) of the service cost for the frail and "at risk" elderly.

- b. The balance of the service costs for the frail and "at risk" elderly (85 percent) and service costs for the other elderly must be paid for from other sources, such as:
      - (1) Co-payment by the tenant receiving the services.
      - (2) Sponsor/Owner contribution.
      - (3) State/Local funds.
  4. Owners must separate charges for services from the total charges for shelter and project-supplied utilities which are entered on Form HUD-92013.
- E. Prohibited Amenities. If a prohibited amenity will result in an increase in the annual operating expenses, complete the Expense Reduction Format found in Appendix 8.
1. Use the Format to calculate the amount of the expenses associated with any excess amenities.
  2. The Format assumes that there is a difference between the net rentable residential area of the proposed project and the net rentable area of the amenities and that the difference in those areas is a reasonable basis for the allocation of operating expenses. If this is not the case, use

another reasonable and documented means for allocating expenses.

3. Note any additional expenses attributable to ineligible amenities in Form HUD-92264, Section O. - Remarks.

NOTE: The Owner will be required to establish at initial closing an escrow account for 40 years in an amount sufficient to generate adequate interest income to meet the annual expenses related to the prohibited amenities. The amount of the escrow will be reflected in "Remarks" Section of the Form HUD-92264 and Mortgage Credit will incorporate in the Form HUD-92264A, Supplement to Project Analysis.

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1-41

7/92

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4571.5

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1-35. ESTIMATE OF INCOME. The Form HUD-92264 will be processed in accordance with HUD Handbook 4480.1, except complete Section C as follows since there is no estimate of income:

- A. Block C27 - No. of Each Family Type Unit. Enter the total number of revenue units, by type, under this column.
- B. Block C27 - Unit Rent Per Month.

Add Line E29 and the Annual Ground Rent, if any. Multiply the total x 1.05, divide by 12, then by the proposed number of income-producing units. Round these amounts up to the next whole dollar and enter for each unit type in Block C27. This will reflect the per unit per month (PUPM) operating amount, excluding any PBE, required for the project.

- C. Block C27 - Total Monthly Rent for Unit Type.

Multiply the total number of revenue units by the per unit per month operating amount and enter the results under the column "Total Monthly Rent for Unit Type." In the column heading, cross out the word "rent" and insert "expense."

- D. Blocks C28 and C31.

The sum of C above will be entered in Blocks C28 and C31.

- E. Block C29 No. of Parking Spaces. Do not include any income from parking charges.



F. Block C30 Commercial. Leave this block blank since commercial spaces are not permitted.

G. Block C32 - Total Annual Rent.

Block 31 will be multiplied by 12 to derive the annual expense estimate, with an allowance for vacancy and collection loss. The result will be entered in Block C32. The headings in Blocks C31 and C32 should be changed to read "expense" rather than "rent."

H. Enter the PBE in Section O "Remarks" for each unit type.

1-36. INCOME COMPUTATIONS. Do not complete Section F. - Income

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7/92

1-42

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4571.5

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Computations of Form HUD-92264 since this function is not applicable.

- 1-37. MAXIMUM PERMISSIBLE RENTAL ANALYSIS. There will be no analysis made of maximum permissible rents. Leave Section H. - Maximum Permissible Rental Analysis of Form HUD-92264 blank.
- 1-38. ESTIMATE OF OPERATING DEFICIT. Generally, a project will not be feasible if more than a nominal operating deficit is projected.
- 1-39. INCOME APPROACH TO VALUE. There will be no income approach to value. Omit Section K. - Income Approach to Value of Form HUD-92264.
- 1-40. COMPARISON APPROACH TO VALUE. There will be no comparison approach to value. Omit Section L. - Comparison Approach to Value of Form HUD-92264.
- 1-41. CALCULATION OF BUDGETED CONSTRUCTION COST. A calculation of budgeted construction cost is not required. Leave Section N. - Calculation of Budgeted Construction Cost of Form HUD-92264 blank.
- 1-42. TENANT PAID UTILITY ALLOWANCES (PBE).
- A. Estimating Allowances.
1. Base on the utility expenses (except telephone) typically incurred by tenants of comparable living units for each unit type.

2. Prepare a Schedule of Allowances patterned after Section I of Form HUD-92264-B, Cooperative or Condominium Housing Project Analysis.

NOTE: The resulting monthly amount for each item reflects the monthly average of the expected annual expense for each unit type.

B. Schedule of Allowances.

1. Compare Schedule of Allowances with estimates contained in the application.
  - a. If differences are minor, accept Owner's estimates.

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1-43

7/92

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4571.5

- b. If unacceptable, do not reject application. Condition Conditional Commitment on adoption of the HUD-approved Schedule of Allowances.
  2. Route Schedule of Allowances and synopsis of any findings regarding the acceptability of Owner's estimates to the Office's Utility Specialist (or Housing Management Division maintenance Engineer) for review and comments.
    - a. Forward prior to completion of technical processing.
    - b. Attach a copy of any Housing Management comments to the Findings Memorandum prepared by the Valuation staff.
    - c. Enter the PBE (if any) for each unit type in Section O. - "Remarks" of Form HUD-92264.

1-43. VALUATION ANALYSIS: REHABILITATION PROJECTS. Follow the preceding instructions for proposed construction, except process using a replacement cost formula for rehabilitation projects and in accordance with the following.

A. Joint Inspection. The appraiser participates in the joint inspection.

B. Substantial Rehabilitation.

1. A property requires substantial rehabilitation if the estimated cost of required repairs is 15

percent or more of the final estimated value of project after repairs and has a useful life of 55 years.

2. References to total estimated development cost means the summation estimate, the sum of the "as-is" value and cost of rehabilitation including carrying charges.
3. If property is acquired from RTC, total development cost means the summation estimate, the sum of the "as-is" value or purchase price (whichever is lesser) and cost of rehabilitation including carrying charges.
4. Omit the findings of market value after rehabilitation.

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7/92

1-44

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4571.5

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5. Determine the "Total Housing Expense" (sum of the PUPM expense and any utility allowance) in accordance with Paragraphs 1-35 and 1-42 of this Chapter.
- C. Acquisitions Without Rehabilitation. (RTC Properties only).
1. Estimate "as-is" market value of property in accordance with outstanding valuation instructions.
  2. Allow in processing the lesser of the "as-is" market value of property or purchase price.
  3. Estimated Replacement Cost of Project. Complete Form HUD-92264 as follows:
    - a. Show zero ("0") rehabilitation cost in Line G50, Total for All Improvements.
    - b. There will be no rehabilitation period.
    - c. Do not include any taxes and insurance during rehabilitation.
    - d. There will be no cost for contingency reserve (Line G71).
    - e. There will be no allowances for supplemental management fund (Line G70).

f. Enter appropriate amounts in:

- (1) Line G60, Project Contingency (2%)
- (2) Line G62, Title and Recording
- (3) Line G63, Total Carrying charges
- (4) Line G64, Legal
- (5) Line G65, Organization
- (6) Line G66, Cost Certification Audit Fee
- (7) Line G67, Total Legal, Organization

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1-45

7/92

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4571.5

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and Audit Fees

- (8) Line G69, Consultant Fee
- (9) Line G72, Total Estimated Development Cost (Exclusive of "As-Is" Value)
- (10) Line G73, The lesser of the "as-is" Market Value of Property or purchase price
- (11) Line G74, Total Estimated Replacement Cost of Project

- 3. Closing. Projects involving no rehabilitation shall have only one closing. Supplemental instructions will be provided for such projects.

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7/92

1-46

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#### Section 5. Mortgage Credit Analysis

1-44. GENERAL. Follow the instructions in HUD Handbook 4470.1 REV, Mortgage Credit Analysis for Project Mortgage Insurance, except as modified herein to:

- A. Determine maximum capital advance amount, total requirements for settlement and source of funds to meet cash requirements.
  - B. Determine the acceptability of the general contractor, if identified at this stage.
  - C. Complete the credit investigation.
  - D. Update the financial statement analysis.
- 1-45. ANALYSIS OF THE GENERAL CONTRACTOR. Perform a risk analysis and review of the general contractor in accordance with Chapter 2 of HUD Handbook 4470.1.
- 1-46. ANALYSIS OF SPONSOR AND OWNER.
- A. Note that the Owner corporation will be a newly-formed organization that will be financially dependent on the Sponsoring organization.
  - B. In analyzing the owner's capability, include an evaluation of the capability of the sponsoring organization.
- 1-47. DETERMINATION OF MAXIMUM CAPITAL ADVANCE. A determination of the maximum capital advance shall be made by completing Section I of Form HUD-92264-A, Supplement to Project Analysis, in accordance with the following instructions.
- A. Section I - Determination of Maximum Insurable Mortgage. Change title to "Determination of Maximum Capital Advance."
  - B. Criterion 1. - Mortgage or Loan Amount Requested in Application.
    - 1. Change heading to read "Fund Reservation Amount".
    - 2. Enter the fund reservation amount.

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4571.5

- C. Criterion 2. - Statutory Dollar Limit. Not applicable.
- D. Criterion 3. - Amount Based on Value or Replacement Cost.
  - 1. Line a. Enter the replacement cost from Section G. of Form HUD-92264 and multiply by

100 percent.

2. Lines b and c. Make reductions for:
    - a. Grants/loans for replacement cost items.
    - b. Excess unusual land improvements.
    - c. Cost associated with ineligible amenities.
    - d. Value of leased fee.
    - e. Unpaid balance of any special assessment.
  3. Lines d and e. Self-explanatory.
- E. Criterion 4. - Amount Based on Limitations Per Family Unit. (See Section 889.245 of the Regulations and Paragraph 1-6 of Handbook 4571.3.)
1. Line a.
    - a. First Set of Blank Columns: Enter the total number of units, including nonrevenue units, for each bedroom type.
    - b. Second Set of Blank Columns: Multiply the applicable per unit dollar limitation by the high cost percentage for the area in which the project will be located and enter the product in these columns.
    - c. Column 1.: Multiply the entry in Subparagraph 1.a above by the entry in Subparagraph 1.b above and record the product in the space provided under Column 1.
  2. Line b.
    - a. First Blank Space: Enter the product of multiplying the "Total Estimated Development Cost", Section G., Line 72 of Form HUD-92264,

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7/92

1-48

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4571.5

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by the cost not attributable percentage indicated in Section M. of Form HUD-92264.

- b. Second Blank Space: Enter 100 percent.
- c. Column 1.: Multiply the entry in

Subparagraph 2.a above by the entry in  
Subparagraph 2.b above and enter the product in  
Column 1.

3. Line c. Self-explanatory.
  4. Line d. Not applicable.
  5. Line e. Enter sum of value of leased fee and unpaid balance of special assessments, if any.
  6. Line f. Self-explanatory.
- F. Criterion 5. - Amount Based on Debt Service Ratio.  
Not applicable to Section 202 projects.
- G. Criterion 6. - Amount Based on Estimated Cost of Rehabilitation Plus.
1. Applicable to projects involving substantial rehabilitation.
  2. Treat any property purchased within the last 2 years as property to be acquired.
  3. When there is an identity of interest between the seller of the property and the owner, treat as property owned and use existing debt of seller of the property in computation.
  4. Property Owned.
    - a. Line a. Enter "Total for All Improvements" reflected in Section G. of Form HUD-92264.
    - b. Line b. Enter offsite costs reflected in Section M. of Form HUD-92264.
    - c. Line c. Enter "Total Carrying charges and Financing" and Contingency Reserve from Section G. of Form HUD-92264.

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4571.5

- d. Line d. Enter "Total Legal, Organizational and Audit Fees", Relocation Costs and Consultant Fee from Section G. of Form HUD-92264.
- e. Line e. Self-explanatory.

- f. Line f.
  - (1) First Blank Space: Enter the "As Is" Value from Section J. of Form HUD-92264. If leasehold, reduce this amount by the value of the leased fee.
  - (2) Second Blank Space: Enter 100 percent.
  - (3) Column 1.: Multiply Subparagraph f(1) above by Subparagraph f(2) above and record product in Column 1.
- g. Line g. Delete "or Purchase Price of Property (To be Acquired)". Enter the amount of verified mortgage indebtedness.
- h. Line h. Self-explanatory.
- i. Line i.
  - (1) In the first blank space, enter 100 percent.
  - (2) Multiply the result of Line h. by 100 percent and enter product in Column 3.
  - (3) Reduce the abovement amount by the amount of any grants/loans for replacement cost items and the cost of any ineligible amenities.

5. Property to be Acquired.

- a. Lines a through f. Complete by following instructions in subparagraph 4. above for "Property Owned".
- b. Line g. Delete "Existing Mortgage Indebtedness (Property Owned) or". Enter in Column 1 the purchase price shown in the purchase or option agreement.

7/92

1-50

4571.5

- c. Lines h and i. Follow instructions in Subparagraph 4. above for "Property Owned".

1-48. MAXIMUM CAPITAL ADVANCE. After completing Section I. of Form HUD-92264-A in accordance with the instructions in Paragraph 1-47 above, make a comparison of Criterion 1



- Fund Reservation Amount, Criterion 3 - Amount Based on Value or Replacement Cost, Criterion 4 - Amount Based on Limitations Per Family Unit and Criterion 6 - Amount Based on Estimated Cost of Rehabilitation Plus (for projects involving rehabilitation).

- A. If Criterion 1 exceeds the other mortgage criteria, the amount established by Criterion 1 shall be considered the maximum capital advance.
- B. In NO case shall the amount of the capital advance ever exceed Criterion 4, unless Headquarters has authorized a High Cost Percentage exceeding the existing High Cost Percentage for the geographic area.
- C. New Construction.
  - 1. If Criterion 3 exceeds Criterion 1, but is less than Criterion 4, Criterion 3 will be the maximum capital advance.
    - a. Increase the fund reservation to equal the amount in criterion 3.
    - b. Requests for capital advance increases should be submitted to the Regional Office in accordance with Paragraph 1-72 of this Handbook.
  - 2. If Criterion 3 exceeds Criterion 4, Criterion 4 will be the maximum capital advance amount.
    - a. Increase the fund reservation to equal the amount in Criterion 4.
    - b. Submit request for capital advance increase to Regional Office as indicated in Subparagraph 1.b above.
- D. Rehabilitation.
  - 1. Criterion 6 should never exceed Criterion 3.

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- 2. If Criterion 6 exceeds Criterion 1, but is less than Criteria 3 and 4, Criterion 6 will be the maximum capital advance.
    - a. Increase the fund reservation to equal the amount in criterion 6.

- b. Submit request for capital advance increase to Regional Office as indicated in Subparagraph 1.b above.
- 3. If Criterion 6 exceeds Criterion 4, Criterion 4 will be the maximum capital advance amount.
  - a. Increase the fund reservation to equal the amount in Criterion 4.
  - b. Submit request for capital advance increase to Regional office as indicated in Subparagraph 1.b above.

1-49. OWNER'S COST SAVINGS.

- A. When the maximum capital advance amount is based on the criteria set forth in Subparagraphs 1-48C and D above and results in an increase in the fund reservation amount, the owner forfeits the ability to share in any cost savings.
- B. When the maximum capital advance amount is based on the original fund reservation amount:
  - 1. The Owner will be entitled to share in 50 percent (or 75 percent if the project includes certain energy saving features) of the difference between the reservation amount and the certified costs recognized by HUD.

NOTE: The calculation of any cost savings will be done at cost certification (see Paragraph 5-4 of this Handbook).

- 2. The difference between the reservation amount and the replacement cost will be restricted and placed in a separate column on Form HUD-92451, Financial Record of Mortgage Loan Transaction.
- C. The shared cost savings may not be applied to offset cost associated with the inclusion of ineligible

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amenities for which the Owner is required to pay for with its own funds. For example, if an owner wishes to include an ineligible amenity, i.e., individual balconies, it may do so, but the cost associated with the amenity must be funded by the Owner at initial

closing.

- D. In Section IV - Recommendations, Requirements and Remarks of Form HUD-92264-A, identify the difference between the fund reservation amount and the lesser of Criterion 3, 4 or 6 (rehabilitation only) and include a statement that the firm commitment must indicate that the shared cost savings will be restricted until final closing.

1-50. DETERMINATION OF THE FINANCIAL REQUIREMENTS TO COMPLETE THE PROJECT. The development of the financial requirements to complete the project is essential to the evaluation of the Owner's financial capacity to provide the required funds, This analysis involves the following determination:

A. Front-End Money Requirements.

- 1. Determine the net amount of cash required over and above the available capital advance proceeds to construct project by deducting the available capital advance amount from the HUD replacement cost formula amount, or in the case of rehabilitation projects, from the total cost of rehabilitation.
- 2. Include the cost of any prohibited amenities for which the Owner must pay with its own funds.

B. Minimum Capital Investment. Determine the amount of the minimum capital investment which is defined to be one-half of one percent of the capital advance amount or \$25,000, whichever is less.

C. Capital Expenditures.

- 1. The owner shall:
  - a. Determine the amount of capital needed to defray the cost of placing the project into immediate operation, such as costs for:

- (1) furniture
- (2) supplies
- (3) equipment

(4) other expenditures necessary to the basic operation of the project

b. Submit a schedule of those items.

2. The Mortgage Credit staff shall:

a. Determine and breakdown between those items to be covered by Project Contingency funds and those to be paid for by Owner.

b. Forward to Cost Staff which will determine the reasonableness of the estimated costs.

3. Cost Staff shall advise Mortgage Credit of its findings.

1-51. DETERMINATION OF OWNER'S FINANCIAL CAPACITY TO CLOSE THE TRANSACTION AND OPERATE THE PROJECT. The Mortgage Credit Staff shall:

A. Determine if the Owner has been capitalized by the Sponsor in an amount sufficient to provide:

1. Any front-end money as determined in accordance with Paragraph 1-50A above;

2. The minimum capital investment;

3. The funds needed to meet the costs of all capital expenditures.

B. Review plan for feasibility, considering any commitments from public or private organization to donate funds, furniture, equipment, supplies, etc.

C. Review Owner's estimates of operating costs (Form HUD-92013-E) not directly related to the project, such as the operation of transportation services, congregate dining and recreation facilities, housekeeping services and other supportive housing services.

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7/92

1-54

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4571.5

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The review will determine whether:

1. There is sufficient income from Sponsor contributions, co-payments from tenants and funds committed from State or local organizations to cover the projected expenses;

2. Whether the commitments from other sources are binding.

If it is determined that the Owner lacks the resources to cover these expenses, request the owner to submit information on its plans to meet the requirements.

1-52. RECORDING THE RESULTS OF THE MORTGAGE CREDIT ANALYSES.

- A. Record findings in appropriate sections of Form HUD-92264-A.
  1. Section I - Determination of Maximum Capital Advance. Complete in accordance with Paragraphs 1-47 and 1-48 of this Handbook.
  2. Section II - Total Requirements for Settlement.
    - a. Part A.
      - (1) Lines 1 through 3. Complete in accordance with HUD Handbook 4480.1.
      - (2) Line 4. Reflect lower of Criterion 3, 4, or 6 (rehabilitation only) from Section I of Form HUD-92264-A.
      - (3) Line 5. Reflect amount of any grant/loan funds for replacement cost items.
      - (4) Lines 6 through 12. Complete in accordance with HUD Handbook 4480.1.
    - b. Part B. Not applicable.
  3. Section III - Source of Funds to Meet Cash Requirements. Complete in accordance with HUD Handbook 4480.1.

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1-55

7/92

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4571.5

4. Section IV - Recommendations, Requirements and Remarks.
  - a. If there are expenses attributable to prohibited amenities, include the amount of the expense escrow in this section. (See Subparagraph 1-34E concerning this escrow.)
  - b. If project is eligible to share in cost savings, identify difference between the fund

reservation amount and the lesser of criterion 3, 4 or 6 (rehabilitation only) from Section I of Form HUD-92264-A and include statement that the firm commitment must indicate that any cost savings will be restricted until final closing.

- B. Reject application if it is determined that the Owner is clearly unable to provide the funds required by Subparagraphs 1-50A and B of this Chapter.
- C. Prepare a memorandum providing an opinion, based on available data, as to the ability of the Owner to provide funds for any up-front costs and the continuing operating expenses of the project.

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7/92

1-56

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4571.5

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#### Section 6. Management Processing

- 1-53. GENERAL. The Housing Management Staff shall review the Request to determine the management capability of the Owner or management agent and the approvability of the proposed lease. The Housing Management Staff also shall review the operating expenses for adequacy from a management viewpoint. Reviews shall be completed in accordance with Handbook 4381.5 Rev-1, Management Documents, Agents and Fees, except as modified herein.
- 1-54. REVIEW OF MANAGEMENT'S QUALIFICATIONS. The Owner may propose to manage the project itself or contract with the sponsor or a management agent. If the owner determines to contract with a management agent, (project administrator or resident manager, if self-managed), it must submit the Management Entity Profile (Form HUD-9832), the appropriate Management Certification (Form HUD-9839 A, B or C), Form HUD-2530 and a list of positions that will be charged against the project's operating account. The Housing Management staff shall review these documents for compliance with HUD requirements and to determine the acceptability of the management agent.
- A. Management Agent Qualifications. Using the Management Entity Profile, the Management Specialist shall evaluate the capacity of the Management Agent to manage a multifamily project successfully. Particular attention should be given to the Management Agent's experience in handling problems inherent in managing low-income housing. In the event the information on the statement is not sufficient to make a reasonable determination, the Management Agent should be required

to submit supplemental information.

A history of poor management practices in defaulted projects would quite obviously disqualify a Management Agent, but the acceptability of the Management Agent will generally be a judgement based on the experience, motivation, financial capacity, and potential of the Management Agent. If the Management Entity Profile or the Form HUD-2530 indicates the Management Agent has

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1-57

7/92

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4571.5

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had pertinent difficulties with projects under the jurisdiction of another Field Office, the Management Specialist shall obtain a written report from that Office relative to the performance of the Management Agent.

- B. Certification by the Management Agent. The Management Specialist will make certain the Management Agent has submitted the appropriate certification that he/she considers the project feasible from a management standpoint and has reviewed the management exhibits in the Request. The certification must be completed in its entirety.
- 1-55. REVIEW OF FORM OF LEASE. The form of lease shall be reviewed by the Housing Management Staff for sufficiency and compliance with HUD requirements. The Model Lease for use in Section 202 projects will be provided in the future as Appendix 2.
- 1-56. REVIEW OF FORM HUD-92013 AND FORM HUD-92264. The operating expense estimates which are prepared by the Owner and entered in section E of Form HUD-92013 and prepared by the Valuation staff and entered in section E of Form HUD-92264 shall be reviewed by the Housing Management Staff. The expense estimates shall be checked against known operating expenses for successfully operating similar projects in order to assure that the estimates are adequate from a management viewpoint.
- 1-57. REPORT TO HOUSING DIRECTOR. At the conclusion of its reviews, the Housing Management Staff shall prepare a memorandum to the Housing Director stating whether or not the proposed management, the form of lease and the operating expense estimates are acceptable.

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7/92

1-58

Section 7. Relocation Review

- 1-58. GENERAL. Where site occupants have been (or are to be) displaced, or real property has been (or is to be) acquired, CPD must review the Request for a Conditional Commitment in accordance with HUD Handbooks 1378, CHG-1, Tenant Assistance, Relocation and Real Property Acquisition and 1374, Relocation and Real Property Acquisition - Responsibilities of HUD Staff.
- 1-59. MHR RESPONSIBILITIES.
- A. Notify CPD when Conditional Commitment application is submitted to Field Office.
  - B. Forward the following to CPD for review:
    - 1. Amendments to relocation plan, if any.
    - 2. Form HUD-92013.
    - 3. Any other documents which may be relevant.
  - C. Act as liaison between CPD and the Owner.
    - 1. Contact owner for additional information when required by CPD to complete its review.
    - 2. Coordinate any meetings to resolve complex issues.
  - D. Advise Valuation of any expense changes made by CPD.
- 1-60. CPD RESPONSIBILITIES.
- A. Re-evaluate the owner's relocation Plan.
  - B. Advise MHR (for transmittal to the Owner) on such matters as:
    - 1. Eligibility determination of "displaced persons".
    - 2. Relocation Payments.
    - 3. Owner's recordkeeping requirements.
  - C. Monitor treatment of displaced site occupants.



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Section 8. Fair Housing and Equal Opportunity Review

- 1-61. GENERAL. FHEO staff should follow guidance contained in the following:
- A. HUD Handbook 4065.1, Previous Participation.
  - B. HUD Handbook 4381.5 REV-1, Management Documents, Agents and Fees.
  - C. HUD Handbook 4050.4, Reporting Requirements for Automated Systems for Public Housing, Indian Housing Agencies and Private Owners.
  - D. HUD Handbook 8025.1 REV-1, Implementation of Affirmative Fair Housing marketing Requirements for Multifamily Housing.
  - E. HUD Handbook 1378, CHG-1, Tenant Assistance, Relocation and Real Property Acquisition.
  - F. HUD Handbook 1374, Relocation and Real Property Acquisition - Responsibilities of HUD Staff.
- 1-62. FHEO RESPONSIBILITIES.
- A. HUD Form 92010, Equal Employment opportunity Certification. FHEO reviews for original signature of authorized official and current date.
  - B. HUD Form 2530, Previous Participation. FHEO reviews to determine whether the general contractor (if identified), management agent, Owner, Sponsor or consultant are in violation of civil rights laws.
  - C. Review/approval of the Affirmative Fair Housing Marketing Plan. FHEO should follow the guidance contained in the Affirmative Fair Housing Marketing Handbook as modified by subsequent Headquarters instructions (Handbook 8025.1 REV-1 CHG-1) regarding deletion of data formerly requested by HUD in Block No. 7 (estimated applicant or occupancy goals or other methods of assessing AFHMP implementation through anticipated applicant or occupancy results).
  - D. Management Documents. FHEO reviews management documents in accordance with Handbook 4381.1 REV except

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as modified by subsequent Headquarters instructions in Housing Notice H-90-33, Tenant Selection and House Rules. Additionally, FHEO reviews management documents to assure consistency with provisions of the Affirmative Fair Housing Marketing Plan.

- E. Relocation Documents. FHEO reviews relocation documents to ensure that they address the civil rights requirements associated with relocation, displacement, tenant assistance and real property acquisition. These requirements include fair housing counseling as part of the relocation advisory services, maintaining racial and ethnic data on program participants and beneficiaries, and providing opportunities for minorities to rent or purchase in a full range of neighborhoods, including neighborhoods which are outside areas of minority concentration.
- F. Review/approval of site changes to determine whether the new site meets site and neighborhood standards.
- G. Review/approval of change in Sponsors or a Co-Sponsor. FHEO reviews Exhibits 11 and 21 to determine whether the Sponsor is eligible to participate in the program.

The Housing Development Director shall be advised of any deficiencies noted during the review so they may be corrected prior to issuance of the Conditional Commitment.

#### Section 9. Additional Program Requirements

- 1-63. MAINTAINING TIMELY APPLICATION PROCESSING. The Housing Development staff must maintain close working relationship with the owner and its development team members to ensure timely processing of the application by:
  - A. Communicating frequently by telephone and in writing with the owner to assure that there is full communication at all times.
  - B. Identifying problems and working with the Owner to resolve them.
  - C. Holding technical disciplines accountable for their processing responsibilities.

- D. Holding Owners accountable for their actions, including the activities of their development team.
- E. Documenting actions taken by the Field Office to expedite processing or to assist Owners which are having difficulty or are falling behind schedule.

1-64. FUND RESERVATION EXTENSIONS AND CANCELLATIONS.

- A. Field Offices. Follow the procedures for fund reservation extension and cancellation actions as set forth in Paragraph 3-65 of HUD Handbook 4571.3.
- B. Regional Offices. The Regional Office may extend a fund reservation beyond 24 months but not to exceed 36 months from the date of the initial fund reservation, based on the criteria set forth in Subparagraph 3-65D of Handbook 4571.3.

- 1. The Regional Office is expected to:
  - a. Review and retain supporting Field Office justification for granting the extension.
  - b. Grant only the time realistically necessary to complete processing and start construction, rehabilitation or acquisition.

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7/92

1-62

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4571.5

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- 2. The Regional Office shall advise Headquarters and the Field Office of its decision. The Field Office shall follow the instructions herein in notifying the Owner of the Regional office's decision.
- 3. Where a project does not reach start of construction, rehabilitation or acquisition within 36 months of the initial fund reservation, the Regional Office will submit to Headquarters a request to either cancel or extend the fund reservation.
  - a. Either request must include supporting justification.
  - b. A request to extend the fund reservation must only be for the time necessary to complete processing and start construction, rehabilitation or acquisition.

C. Headquarters. Headquarters will:

1. Review all requests to issue Notices of Intent to Cancel and appeals of Notices of Intent to Cancel and issue decisions within 45 days of the Field Offices' receipt of the Owner's appeal.
2. Act upon requests from Regional Offices for extensions of fund reservations beyond the initial 36 months for projects which were unable to reach start of construction, rehabilitation or acquisition by that time.

1-65. DEOBLIGATION OF CAPITAL ADVANCE FUND RESERVATION AND PROJECT RENTAL ASSISTANCE CONTRACT AND BUDGET AUTHORITY. If Headquarters authorized cancellation of a fund reservation, the MHR shall:

- A. Initiate cancellation of the capital advance and the PRAC by:
1. Preparing Form HUD-718, Funds Reservation and Contract Authority, cancelling the previously reserved Capital Advance Authority.

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1-63

7/92

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4571.5

2. Preparing Form HUD-52540, Assisted Housing Project Accounting Data (PAD), cancelling the previously reserved Project Rental Assistance Contract and Budget Authority.
  3. Sending the original Forms HUD-718 and HUD-52540 to RAD to deobligate the outstanding reservation.
- B. Distribute copies of the HUD-718 along with the Owner's cancellation letter (see Paragraph 3-65 of HUD Handbook 4571.3) as follows:
1. Regional Housing Office.
  2. Funding Control Division in Headquarters.
  3. Housing for Elderly and Handicapped People Division in Headquarters.
  4. Project Docket File.

NOTE: Once cancelled, a reservation cannot be reinstated.

1-66. MONITORING ACTIVITIES.

- A. Owners should monitor the work of their development team members. Inadequate performance by any development team member is not a sufficient basis for granting a fund reservation extension.
- B. Field Office Managers. Monitor the Owner's performance and provide timely feedback and assistance by:
  - 1. Providing timely guidance and processing of applications.
  - 2. Considering previous sponsor performance when evaluating fund reservation extension requests.
  - 3. Providing firm leadership when owners fail to perform, including recommending issuance of Notices of Intent to Cancel to the Assistant Secretary, where appropriate.
- C. Regional Administrators. Monitor Field Offices' performance by:

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7/92

1-64

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4571.5

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- 1. Setting goals and providing technical assistance or cross-training as necessary.
- 2. Detailing personnel from strong to weak offices for a brief period, to assist the weak office to improve its performance.
- 3. Providing each Office:
  - a. A printout of its pipeline cases by Fiscal Year, including all projects for which fund reservations have been issued, and which have not reached initial closing.
  - b. Advice on how it ranked in relation to other Field Offices within the Region.
- D. Headquarters. Monitor Regional offices' performance by:
  - 1. Using the tracking system as the primary data source, although copies of extension letters and Notices of Intent to Cancel will be reviewed.

2. Conducting on-site reviews of the Regions which will include reviews of the Regional office's extension files.
3. Providing regular feedback. Each quarter, the Region will receive:
  - a. Its ranking, with respect to other Regions, based on the average length of time it has taken projects to reach initial closing during the last quarter.
  - b. A written evaluation of its performance, based on all data available to Headquarters, including recommendations for improvement.

1-67. SITE CHANGES. The Field Office Managers have the authority to approve a change in sites based on the following:

- A. The Owner has submitted a written request to change sites to the Field Office, along with supporting justification.

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1-65

7/92

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4571.5

B. The Field Office staff has determined that:

1. The new site is equal to or better than the original site in order to not alter the fairness of the funding competition in the fiscal year in which the project was funded.
2. There is a market demand for the housing at the new location.
3. The new site location is consistent with the approved Comprehensive Affordable Housing Strategy and meets site and neighborhood standards.
4. The appropriate State or local agency has certified that the provision of services at the new location is well designed to serve the special needs of the category of elderly persons the housing is intended to serve (if new location is outside of the jurisdiction of the State or local agency that originally certified).
5. The new site is environmentally equal to or better than the previous site. A complete environmental

assessment (using Form HUD-4128, Environmental Assessment, or Form HUD-4128.1, Compliance and LAC Conditions Record), including (where applicable) EO-11988 (Floodplain Management) 8-step process, Historic Preservation (Section 106 process), etc., must be prepared, signed and approved by the Housing Development Director.

6. The new site is in the same market area as the original site, if possible. The Office may permit a switch to another market area if the Owner adequately documents that:
  - a. No other acceptable sites are available in the same market area.
  - b. It is unable to provide necessary services, unless the project is relocated to another market area.
- C. Forward copies of any approvals to change sites to the Regional Housing Director and the Director, Housing for Elderly and Handicapped People Division in Headquarters.

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7/92

1-66

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1-68. SECONDARY FINANCING. Requests for secondary financing can only be approved in Headquarters.

- A. Submission of Owner's Request. Forward Owner's request to the Office of Elderly and Assisted Housing (HMEE) along with:
  1. Proposed mortgage documents:
    - a. Mortgage Note (or Promissory Note).
    - b. Mortgage or Deed.
    - c. Loan Agreement.
    - d. Commitment Letter.
  2. Field Office's recommendation, supported by Field Counsel's review.
- B. Headquarters' Review. Headquarters will consider requests for secondary financing on a case-by-case basis subject to the following criteria:

1. The secondary financing must be by a public body.
2. The second mortgage may not become due and payable in whole or in part until the term of the capital advance has matured, except as permitted under 3 below.
3. The only payments allowable on the second mortgage prior to the maturity date of the capital advance will be from Residual Receipts, to the extent available, and any such payments will require approval by the Field Office in advance. The only exception is where the owner agrees to make payments from its own funds, and such funds clearly do not come from the project.
4. Compliance by the Owner with HUD requirements will satisfy the requirements of the second mortgage holder. No requirements by the second mortgage holder will be permitted which interfere with or conflict with HUD requirements concerning the development or operation of the project, or in any way jeopardize continued operation of the project on terms at least as favorable to existing and

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1-67

7/92

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4571.5

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future tenants as required under Section 202(c)(1) of the Housing Act of 1959, as amended.

5. No default under the second mortgage may be declared without HUD approval.
  6. HUD approval of a Transfer of Physical Assets (TPA) will constitute approval of the TPA by the second mortgage holder.
- C. Uses of Secondary Financing.
1. Funds associated with secondary financing may be used for any purpose related to the development of the project, except for:
    - a. Minimum capital investment.
    - b. Items that would change the character of the project, such as nursing stations.
  2. Examples of Permissible Items:
    - a. Excess land costs.



- b. Unusual off-site costs.
  - c. Prohibited amenities.
3. Examples of unacceptable items include those amenities that would raise the operating expenses, (unless the owner is willing and able to pay the operating expenses out of its own or other non-HUD funds), such as:
- a. Swimming pools, saunas and jacuzzis.
  - b. Bowling alleys.
  - c. Washers and dryers in individual units.
- D. Community Development Block Grant (CDBG) funds. Under certain circumstances, CDBG funds may be used to provide second mortgage financing.
- 1. Cities may make second mortgages using their:
    - a. CDBG funds.

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7/92

1-68

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- b. Entitlement grants.
  - c. Distributions from State grantees.
2. If cities make second mortgages with funds described in Subparagraph 1 above, the Field Office will process the application to assure that HUD funds are not being used to finance prohibited amenities.

NOTE: The mortgage would not be reduced in cases where the public body providing the second mortgage receives CDBG funds but the funds are being used for purposes unrelated to the subject project.

1-69. REQUESTS TO TRANSFER FUND RESERVATIONS AND CHANGE SPONSORS.

A. Transfers of Capital Advance Fund Reservations.

Transfers of fund reservations, except from the Sponsor to its Owner corporation, are prohibited.

B. Change of Sponsors.

1. Requests to change sponsors should be strongly discouraged and such requests will be considered in Headquarters in rare situations where it is deemed necessary to protect HUD's financial interest in the project, such as for a project which had reached initial closing and afterwards:
  - a. The original Sponsor is unable to meet its financial commitment to the project due to bankruptcy, loss of needed State funding for services, etc.
  - b. The original sponsor experienced a change in leadership and the new leaders take the position that the Sponsor can no longer support the project.
2. Documentation. The reason for changing sponsors must be fully documented and must be based on the following:
  - a. The original Sponsor must submit a request to the Field Office along with all the

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1-69

7/92

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documents necessary to review the eligibility of the proposed Sponsor, i.e., the relevant documents filed by Sponsors at the Fund Reservation Stage - Exhibits 3 through 11, 14, 21, and 25 through 28 of Appendix 11, HUD Handbook 4571.3).

- b. The appropriate Field Office disciplines are to review the above documents and make a determination regarding the eligibility of the proposed Sponsor.
  3. Submit the request to Headquarters, Office of Elderly and Assisted Housing, with a recommendation based on the Field Office's review of the exhibits (do not submit exhibits).
- C. Requests for a Co-Sponsor. Field Office Managers have the authority to approve the addition of a sponsor to a project provided:
1. The new Sponsor is necessary to enhance the feasibility of the project.

2. The new Sponsor is eligible based on a review as discussed in Subparagraph B2 above.

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7/92

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Section 10. Preparing and Issuing Conditional Commitment

1-70. HOUSING DEVELOPMENT DIRECTOR FUNCTIONS.

- A. Reviews the underwriting and program conclusions and amends them when necessary, with proper documentation.
- B. When appropriate, directs the MHR to:
  1. Prepare the Conditional Commitment for Capital Advance Financing, Form HUD-90174CA.

NOTE: The fund reservation amount is the amount on which the commitment will be based, even though it may exceed the replacement cost estimate.

2. Schedule a Conditional Commitment conference.

1-71. CONDITIONAL COMMITMENT CONFERENCE.

- A. The Field Office must invite the Owner to attend a Conditional Commitment conference to discuss the conclusions reached as a result of processing.
- B. Upon agreement between the owner and the Field Office staff, issue the Conditional Commitment.

1-72. AMENDMENTS TO RESERVATIONS OF CAPITAL ADVANCE AND PRAC FUNDS.

- A. Amendment of Fund Reservation.
    1. Decreases. No decreases to outstanding fund reservations shall be made at the time of conditional Commitment processing (see Paragraph 2-18 of this Handbook for further details).
    2. Increases. The following are submission requirements for different types of amendments:
      - a. Increases in capital Advance Amounts Handled by Regional Office.
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- (1) The Regional Office is authorized to approve amendment funds for projects prior to initial closing and start of construction provided that the:
    - the project costs are within the high cost percentage established by the Assistant Secretary and
    - cases do not involve any unit increases.
  - (2) Submit amendment requests to the Regional Housing Director along with the following exhibits:
    - Field Office Manager's written recommendation
    - Form HUD-92013, Application-Project Mortgage Insurance
    - Form HUD-92013-E, Supplemental Application and Processing Form
    - Form HUD-92264, Rental Housing - Project Income Analysis and Appraisal
    - Form HUD-92264-A, Supplement to Project Analysis
    - Replacement Cost Formula calculation
    - Form HUD-92274, Operating Expense Analysis Worksheet.
- b. Increases in Capital Advance Amounts Handled by Headquarters. Increases which require the Assistant Secretary's approval to exceed the currently approved high cost percentage must be submitted on a case-by-case basis to the Office of Insured Multifamily Housing Development, Attention: Technical Support Division, HMIT, along with the exhibits identified in Subparagraph a above.

c. Unit Increases.

- (1) If an Owner is unable to develop a financially feasible project with the number of units allocated to it in the fund reservation, unit increases may be approved based on the minimum total number of units required to attain feasibility.
- (2) Feasibility as used herein is defined as the capability of the owner to proceed to construction given its financial resources and the maximum approvable capital advance amount to meet all capital requirements.

NOTE: Unit increases will not be approved in cases where a site changes makes additional units possible.

- (3) Submit unit increase requests to the Office of Elderly and Assisted Housing, HMEE, accompanied by the processing documents and justification for the increase.

B. Amendment of PRAC Reservation.

1. Decreases. No decreases to the PRAC reservation can be made before initial closing.
2. Increases.
  - a. Increases in the PRAC reservation necessitated by increased operating expense estimates must be submitted to the Regional Office if amendment funds have been assigned to the Regional Office or to Headquarters, as appropriate.
  - b. If approved, the PC&R staff will prepare revised Forms HUD-52540, as described in Paragraph 3-61C of HUD Handbook 4571.3.