

CHAPTER 5. FINANCING PROCEDURES

5-1. INTRODUCTION. This Chapter provides historical information on the financing of public and Indian housing development and modernization through HUD 100 percent loans and Series A notes, which were repaid through annual contributions. It also provides current information on bonds and Federal Financing Bank (FFB) obligations which are still outstanding for some projects.

Section 1. Historical Information

5-2. BACKGROUND. Prior to Fiscal Year 1987, public housing and Indian development and modernization funding was provided through loans with contract authority and budget authority provided to cover debt service. There were two types of loans for development: a preliminary loan under a preliminary loan contract; and a project loan under an Annual Contributions Contract (ACC). The loans were repaid through HUD payment of annual contributions.

- a. Interest on Loans. HUD was required to pay interest on loans at a rate determined monthly by the Secretary of the Treasury Department. HUD charged the PHA interest at approximately the same rate, but redetermined the rate annually instead of monthly. In addition, HUD charged a rate that was not less than a minimum or more than a maximum, as specified in the ACC between HUD and the PHA.
- b. Annual Contributions. Annual Contributions were pledged as security for loans obtained by the PHA to assist in development or modernization of the project. Annual Contribution which could be contracted for any project could not exceed a percentage, as stated in the ACC, of the development or modernization cost of the project, and could not be made for a period exceeding 40 years from the date the first annual contributions was made on the project.

5-3. PERMANENT FINANCING. After the award of the main construction contract for a project, but before completion, it was necessary to enlist private capital to the maximum extent practicable in the permanent financing of the project. Permanent financing was accomplished by one of the following methods:

- a. HUD 100 Percent Loans:
- b. Issue of Series A Notes through public sales by the PHA to others than HUD in an amount approximately 12 percent of the development cost and a HUD loan for the balance; or
- c. Issue of long-term bonds, called New Housing Authority Bonds, through public sale by the PHA to others than HUD in an amount sufficient to finance all or substantially all of the development cost.

5-4. HUD 100 PERCENT LOANS. Where an ACC covered two or more projects and it became necessary to permanently finance one of the projects, which was too small to finance by the issuance of bonds, HUD considered permanently financing the projects upon receipt of the PHA's Permanent Note.

5-5. SERIES A NOTES. Where the PHA had a small program costing less than \$500,000 and the expense of issuing bonds was disproportionate to such cost, permanent financing may have been accomplished through the public sale of short-term coupon bonds, called Series A Notes. These notes matured serially in eight annual installments with interest payable semiannually and were not callable before maturity. The notes represented about 12 percent of the project development cost with the remainder of such cost financed by the HUD loan evidenced by the PHA's Permanent Note. Series A Notes had the same tax exempt status and security as New Housing Authority Bonds. In 1962, HUD developed a method of financing called Group Financing, whereby a group of PHAs in a cooperative effort appointed one of their members as agent to issue bonds and notes to others than HUD to finance their projects collectively. Thus, several PHAs with small programs joined to sell a single large issue of bonds.

SECTION 2. Current Information

5-6. BONDS. Although bonds were last sold by PHAs in 1974, there are still bonds outstanding on projects. Therefore, for bonded projects, the following information is still applicable.

- a. Bonds were sold to the highest bidder after advertisement; were issued in bearer form as coupon bonds in the denomination of \$5,000 each or in fully registered form without coupons in such

denomination or any multiple thereof; mature serially in not more than 40 annual installments and at a date not later than 41 years from the date of issue, called Bond Date, with interest payable semiannually; and are callable after 15 years from their date at a premium of four percent which declines by one percent at five-year intervals thereafter.

b. The bonds are exempt from all Federal income taxes and are secured by annual contributions unconditionally payable by HUD pursuant to the ACC in amounts which, together with other available funds, will be sufficient to pay the principal and interest when due. Under Section 22(c) of the U.S. Housing Act of 1937 as amended, the bonds are incontestable in the hands of the bearer when certified by HUD that they are secured by annual contributions and that the full faith and credit of the United States are pledged to the payment of such annual contributions.

c. The bonds of each issue mature serially in accordance with a schedule of annual maturities prepared by HUD. The maturities are arranged so that the aggregate payments of principal and interest due in each year will be substantially equal in amount. The amount (Level Debt Services Annual Contribution) necessary to meet these payments also may include a small amount (Bond Service Carryover) which, when not needed in a particular year, will be carried over and used to supplement the Level Debt Services Annual Contribution in succeeding years. The annual contribution (Debt Service Annual Contribution) contracted to be paid by HUD is equal to the sum of the Level Debt Service Annual Contribution of all unmatured issues of bonds. Net income (Residual Receipts) for each year is paid to HUD, which reduces the amount of the Fixed Annual Contribution payable by HUD. For a complete description of the bonds and their security, see Sections 411 through 418 of the ACC. Bonds issued since 1951 are called New Housing Authority Bonds to distinguish them from the Series A bonds which were issued before that time.

5-7. FEDERAL FINANCING BANK (FFB). From 1980 to 1983, there was an agreement between HUD and the FFB to purchase any PHA outstanding financing obligations that had been certified by HUD as the actual

development or modernization cost for a project. Each project's financing is amortized over the number of the years remaining under the term of the ACC. Normally, this time period is from the date of the last annual contribution made prior to the sale of the outstanding obligations to the FFB to the last annual contribution date specified by the ACC. A repayment is made by HUD to the FFB on the first of November of each year using a combination of annual contribution and special appropriations.

5-8. FISCAL AND ALTERNATIVE PAYING AGENT.

a. Selection and Duties.

- (1) At the time HUD notified the PHA that a project was to be scheduled for permanent financing, the PHA appointed a bank which was a member of the Federal Deposit Insurance Corporation (FDIC) and had trust powers to act as Fiscal Agent for the payment of the bonds. The Fiscal Agent also might have been a depository of other PHA funds, but the transactions of the bank as Fiscal Agent were entirely separate and apart from its functions as depository of any other funds. The Fiscal Agent as such was a trustee of the funds deposited with it for the payment of the bonds. The services of the Fiscal Agent were covered under an agreement in substantially the form of Form HUD-52173, Fiscal Agent Agreement.
- (2) Not later than 60 days after the close of the PHA's fiscal year, the PHA remits to HUD all net income (Residual Receipts) after payment of operating expense, received during the fiscal year. HUD pays to the Fiscal Agent an annual contribution which is the amount necessary to pay the principal and interest becoming due in the ensuing 12-month period on the PHA's bond, plus the Bond Service Carryover. The annual contribution is paid in installments on the Annual Contributions Date and on the date which is six months thereafter. On the semiannual interest dates and on the principal maturity dates of the bonds, the Fiscal Agent uses the money in the Debt Service Fund to pay the principal and interest on the bonds then becoming due and which are presented to the Fiscal Agent for

payment, or transfers such money to the alternate paying agent for the payment of the bonds and coupons which are presented to such alternate paying agent for payment.

- (3) The Fiscal Agent may periodically be required to use monies in the Advance Amortization Fund to pay HUD-held Notes. Each year, after providing for the payment of the principal and interest which will become due during the next 12-month period, the Fiscal Agent will transfer all remaining monies in excess of an amount called the "Bond Service Carryover" from the Debt Service Fund to another trust account called the Advance Amortization Fund. Any premium received on the sale of its bonds also will be deposited in this fund. The Fiscal Agent will periodically, from monies in the Advance Amortization Fund, retire the PHA's bonds of the longest maturity by purchase of the longest maturity by purchase or redemption. The Fiscal Agent also may be required to invest any amounts in the Advance Amortization Fund in specified types of securities.

The alternate paying agent is a bank which is a member of the FDIC and is normally located in New York City. The purchaser of the bonds is given the right to designate such paying agent and also may designate an additional paying agent in some other locality.

- b. Maximum Fee Schedule. The fees to be paid by the PHA to its local Fiscal Agent should be negotiated and set forth in paragraph 7 of Form HUD-52173, Fiscal Agent Agreement, or Form HUD-52173A for Group Financing. The fees shall not exceed those shown in the schedule below:

- (1) Annual Administrative Charge of \$500.00 for the first \$1 million principal amount of bonds plus 1/50 of one percent of the principal amount of bonds in excess of \$1 million, but in no event to exceed \$2,000 per issue of bonds authorized.
- (2) For registration of bonds, an initial fee of \$2.00 for the registration of each bond.

- (3) For sorting, listing cremating, or otherwise

destroying and furnishing a certificate of cremation or other destruction, 20 cents for each coupon and 25 cents for each bond or a minimum of \$35.00 for each semiannual cremation or other destruction.

- (4) For the payment of interest on registered bonds, 50 cents per check disbursed.
- (5) For the payment of coupons by either the Fiscal Agent or the Alternate Paying Agent or Agents, 20 cents per coupon. For the payment of bonds (registered or coupon) by either the Fiscal Agent or the Alternate Payment Agent or Agents, \$2.50 per bond.
- (6) The Fiscal Agent agrees to pay all fees and charges of the Alternate Paying Agent(s), as established in subparagraphs b(1) through (5), and to pay all reasonable expenses for postage and insurance on bonds received for registration, bonds and coupons received for cremation or other destruction, and other necessary out-of-pocket costs. The PHA shall reimburse the Fiscal Agent for such fees and charges and other out-of-pocket costs incurred.

- c. Applicability of Modification. The PHA may modify all existing Fiscal Agent Agreements when necessary.
- d. Provision of Copies. The PHA shall require the Fiscal Agent to furnish certified copies of its bylaws or resolutions authorizing the execution of Form HUD-52173, Fiscal Agent Agreement, on behalf of the bank.