

CHAPTER 2. HFA APPLICATION, APPROVAL AND UNIT ALLOCATIONS

2-1 QUALIFIED HOUSING FINANCE AGENCIES.

- A. APPROVAL AS HUD MORTGAGEE. HFAs must be HUD-approved mortgagees under 24 CFR 202.10 through 202.19. Details are in Handbook 4060.1. An HFA that is not currently a HUD-approved mortgagee may submit its application for mortgagee approval separately but at the same time as the application for the pilot program. The HFA must maintain eligibility by continuing to comply with the eligibility requirements set forth in the regulations and the Risk-Sharing Agreement and be a HUD-approved mortgagee in good standing.
- B. BASIC QUALIFICATION REQUIREMENTS. The HFA must:
1. Carry the designation of "top tier" or its equivalent as evaluated by Standard and Poor's or any other nationally recognized rating Agency; or  
  
Receive an overall rating of "A" for the HFA for its general obligation bonds from a nationally recognized rating Agency; or  
  
Otherwise demonstrate its capacity as a sound and experienced Agency based on, but not limited to, experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, and State and local support.
  2. Be a HUD-approved multifamily mortgagee in good standing;
  3. Have at least 5 years experience in multifamily underwriting; and
  4. Certify that:
    - a. The Department of Justice has not brought a civil rights suit against the HFA, and no suit is pending;
    - b. There has not been an adjudication of civil rights violation in a civil action brought against the Agency by a private individual, unless the HFA is operating in compliance with a court order, or implementing a HUD-approved compliance agreement designed to correct the areas of noncompliance; and
    - c. There are no outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations as a result of formal administrative proceedings, or the

Secretary has not issued a charge against the HFA under the Fair Housing Act, unless the HFA is operating under a compliance agreement designed to correct the areas of noncompliance.

2-2 RESERVE REQUIREMENTS. HFAs must maintain certain reserves to participate in the Risk-Sharing program:

- A. HFAs WITH TOP-TIER DESIGNATION OR OVERALL RATING OF "A" ON GENERAL OBLIGATION BONDS. HFAs in either of these categories are not required to have additional reserves so long as they maintain that designation or rating, unless HUD determines that a higher level of reserves is necessary. If the designation or rating is lost or if the HFA cannot provide the required legal opinion relative to the "A" rating (see application requirements in Appendix 2), the HFA must comply with the provisions of paragraph B. It must immediately establish a reserve account funded as set forth in paragraph B. The reserve account must be computed on the basis of all loans in the HFA's portfolio endorsed under the Risk-Sharing program.
- B. OTHER HFAs - DEDICATED ACCOUNT. A specifically identified dedicated account consisting entirely of liquid assets (i.e., cash or cash equivalents or readily marketable securities) must be established and maintained in a financial institution acceptable to HUD. This account may be drawn upon by HUD and may be used by the HFA only with the prior written approval of HUD for the purpose of meeting the HFA's risk-sharing obligations under the program.
  - 1. Acceptable financial institution. An institution that:
    - a. has assets of not less than \$100,000,000;
    - b. is organized under the laws of the United States or a State thereof; and
    - c. is regulated and examined by the Comptroller of the Currency, Federal Deposit Insurance Corporation or the Federal Reserve Board, has a long term bank deposit rating of "A-1" or better by Moody's Investors Service or "A+" by Standard and Poor's.
  - 2. Establishment and amount of dedicated account. The account must be established prior to execution of the Risk-Sharing Agreement in an initial amount of not less than \$500,000. Thereafter, the HFA must deposit at each loan closing and thereafter maintain the following additional amounts in the dedicated account:

- a. \$10.00 per \$1,000 of the unpaid principal balance that is equal to or less than \$50 million; plus
- b. \$7.50 per \$1,000 of the unpaid principal balance that is greater than \$50 million and less than \$150 million; plus
- c. \$5.00 per \$1,000 of the unpaid principal balance that is greater than \$150 million.

The Commissioner may determine that higher levels of reserves may be necessary.

2-3 APPLICATION SUBMISSION. The HFA must submit an application for approval that includes the required exhibits listed in Appendix 2. The application must be accompanied by evidence that the required \$10,000 application fee has been wire-transferred to the U.S. Treasury via FEDWIRE.

A. FEDWIRE - The Federal Deposit System offers individual and corporate remitters the ability to move funds electronically from their bank accounts to the U.S. Treasury. The remitter (HFA) identifies the payment and the Department of Housing and Urban Development as the government agency to be credited on the funds transfer message. This payment method must be used by HFAs submitting an application for this program. Instructions for the HFA's bank to follow to complete a FEDWIRE are contained in the Notice of Implementation for the HFA Pilot program.

B. The application must be submitted (original and 3 copies) to:

Director  
Office of Insured Multifamily Housing Development  
Room 6142  
Department of Housing and Urban Development  
451 7th Street, S.W.  
Washington, D.C. 20410

C. Once an application has been accepted for processing, the fee will not be refunded.

2-4 REVIEW OF HFA APPLICATIONS

A. ALL APPLICATIONS. HUD will review submissions for completeness and for compliance with applicable program requirements.

B. ACCEPTABILITY STANDARDS FOR NON-TOP-TIER/A-RATED HFAs. HUD will review the submissions of HFAs that do not have a top-tier rating or have not received an overall rating of "A" on their general obligation bonds in accordance with the standards set forth below. The questionnaire in Appendix 3 covers the information

required for this category of HFAs. (The top-tier designation and "A" rating signify a similar review by recognized rating agencies relative to an HFA's financial and administrative capacity that HUD will not duplicate.)

1. Demonstrated capability to carry out program responsibilities, including continuity of management, staff qualifications and experience and the HFA's established track record of performing multifamily loan processing, servicing, asset management (including capability to enforce regulatory agreements and to perform workouts), and property disposition for the types of loans eligible under the program.
2. Adequacy of the HFA's administrative capabilities, including quality controls to ensure sound underwriting and asset management.
3. Soundness of the HFA's multifamily portfolio, including default experience.
4. Strength of the relationship between the HFA and the State or local government.
5. The HFA's fiscal soundness, including amounts and sources of revenues for housing activities and its investment policies for fund balances (if any), how it proposes to meet any monetary obligations required under the program, and the adequacy of funding to commit to the level requested in the application.

HFAs that are other than top-tier or A-rated must submit evidence of establishment of the required dedicated account no later than the request for execution by HUD of the Risk-Sharing Agreement.

C. APPROVAL LEVELS. HFAs may be approved as follows:

1. Level I - approval to originate, service, and dispose of multifamily mortgages where the HFA uses its own underwriting standards and loan terms and conditions, and assumes 50-90 percent of the risk (increments of 10 percent).
2. Level II - approval to originate, service, and dispose of multifamily mortgages where the HFA uses underwriting standards and loan terms and conditions approved by HUD:
  - a. When loan-to-replacement cost ratio for new construction and substantial rehabilitation projects or loan-to-value ratio for existing projects are greater than or equal to 75 percent, the HFA shall assume at least 25 percent of the risk.

- b. When loan-to-replacement cost ratio for new construction and substantial rehabilitation or loan-to-value ratio for existing projects are less than 75 percent, the HFA shall assume 10 percent, or 25 percent, at the HFA's option, of the risk.
- 3. Combined Levels I/II - For HFAs which plan to use Level I and Level II processing, the underwriting standards and loan terms and conditions to be used on Level II loans must be approved by HUD as described in paragraph 2, above.

#### D. REVIEW OF HFA UNDERWRITING PROCEDURES

- 1. The statute permits HFAs taking 50 percent or more of the risk to use their own underwriting standards and loan terms and conditions as disclosed and submitted with their application. HUD has no authority to modify these procedures as part of the approval process, but will use the HFA's procedures submitted as part of the application in the monitoring process to determine that an HFA is underwriting in accordance with its own standards.
- 2. HUD will review the underwriting standards and loan terms and conditions of any HFA taking less than 50 percent of the risk (for all or a portion of its loans).
  - a. HUD may require changes to those procedures as a condition of approval for projects insured under the pilot program. For example, HUD may require use of HUD procedures for a particular part of the process, such as for cost certification.
  - b. HUD may also require that the underwriting standards and loan for a HUD mortgage insurance program (e.g., 221(d) or 223(f)) be used. In this case, only the general framework of the program requirements and basic underwriting standards must be used (e.g., loan-to-replacement cost or value ratio, debt service coverage, etc., would be used, but new construction and existing could be under same mortgage; HUD forms are not required if the HFA has similar documents or computer-generated forms); projects will not be insured under the National Housing Act.
- 3. Underwriting procedures in all cases will be incorporated into the Risk-Sharing Agreement. The HFA must notify HUD of changes to procedures. An Addendum to the Risk-Sharing Agreement is required

for such changes (see paragraph 2-5).

- 2-5 ALLOCATION SYSTEM. HUD will announce the availability of assistance under this program through publication of a Notice in the Federal Register. This notification will include the terms and conditions for applications and participation in the program. For the 2-year pilot program (FY 94 and FY 95), the allocation for the approved 30,000 units was made using a population-based formula.
- 2-6 CREDIT SUBSIDY. Credit subsidy is required for all insured projects, including those in the Risk-Sharing pilot, and is subject to availability based on a quarterly allocation to the Department. Reservation and obligation of credit subsidy will be subject to outstanding Department instructions.
- 2-7 PROGRESS REVIEWS AND REALLOCATIONS. HUD will survey the Risk-Sharing program pipeline from time to time to determine each HFA's progress in using its allocation and set-aside. HUD may determine that an HFA is clearly unable to use its allocation and the units will be allocated to other HFAs demonstrating the need.
- 2-8 EXECUTION OF RISK-SHARING AGREEMENT. Execution by the HFA of a Risk-Sharing Agreement (RSA) is a prerequisite to participation in this program. The RSA governs the rights and obligations of HUD and the HFA. See Appendix 9 for a sample RSA.
- A. PROVISIONS. The RSA includes, among other things, the allocation of units set aside for the HFA and the risk-sharing level or levels at which the HFA has been approved to participate in the program.
- B. MASTER RSA. The letter from HUD to the HFA approving its participation in the Risk-Sharing program will transmit the Master RSA for execution by an authorized representative of the HFA (i.e., one who is so designated in the HFA's application). The original signed RSA must be returned to HUD Headquarters, Office of Insured Multifamily Housing Development. If the HFA wishes to have an original signature document for its files, two original signature RSAs should be submitted to HUD Headquarters. Headquarters will transmit a copy of the executed Master RSA to the applicable Designated Office.
- Along with the Master RSA, HFAs for which a dedicated account is required pursuant to paragraph 2-2B must also submit evidence to HUD Headquarters of establishment of the dedicated account.
- C. ADDENDUM TO RSA. An addendum to the RSA is required in several circumstances. Addendums should be numbered in consecutive order. In States with more than one multifamily HUD Office, each Office should use an

identifier (e.g., LA for Los Angeles) along with consecutive numbers. Copies of each addendum should be sent to the Designated Office. The Designated Office should be consulted by phone or facsimile transmission regarding the next number to use.

An addendum:

1. Reserves units for a specific project and establishes the risk-share percentage between the HFA and HUD for that project;
2. Modifies overall units previously set-aside or allocated to the HFA;
3. Identifies new principal staff or individuals with authority to sign loan documents or commit the HFA and/or changes the financial institution where any dedicated account is established by the HFA;
4. Incorporates by reference changes to existing HFA underwriting standards and procedures and loan terms and conditions.
5. Makes any other required changes to the RSA.

2-9 HEADQUARTERS DATA ENTRY. Upon approval of an HFA, Headquarters staff will enter basic information about the HFA, including its total unit set-aside, Designated Office, and other identifying information, into the 542(c) data system. Once the HFA is in the data system, local HUD

Office will be able to enter project data in accordance with Chapter 4.