

project's replacement reserve account at project completion.

**§ 891.818 Firm commitment application.**

(a) *New construction.* The mixed-finance owner and the Nonprofit Organization shall submit an application for a firm commitment for capital advance funding. The application shall consist of the required application form HUD 92013 and additional materials, including:

(1) Form HUD 92013-Supp, and any other supplementary forms or attachments to the application form that HUD requires;

(2) Organizational documents of the mixed-finance owner, including the partnership documents and organizational documents of the Nonprofit Organization that will receive the capital advance, together with an incumbency certificate listing all duly qualified and sitting officers and directors by title and the beginning and ending dates of each person's term;

(3) The name and address of the mixed-finance owner and the Nonprofit Organization, and the name, title, address, and telephone number of the respective officers to whom communications should be addressed;

(4) A balance sheet showing that the mixed-finance owner is adequately capitalized;

(5) Evidence that the sponsor, mixed-finance owner, or the Nonprofit Organization has control of the site of the proposed mixed-finance development, along with a legal description of the proposed site and a title report covering the site;

(6) The mixed-finance owner's submission showing proposed amounts and uses of the developer's fee, demonstrating compliance with 24 CFR 891.823;

(7) Evidence that the zoning for the site of the proposed mixed-finance project complies with existing zoning, or that any necessary zoning approvals or variances have been obtained;

(8) Number of units (with bedroom count) for which funds have been reserved under section 202 or 811, and, in the case of section 811 units, the population to be served in those units; the number of units (with bedroom count)

funded or financed from sources other than section 202 or 811, if any (if 811, the population to be served in the non-811 units including the number of persons with disabilities, if applicable); the types and amounts of non-dwelling space to be provided; whether the assisted units will be floating or designated fixed units (Uniform Federal Accessibility Standards (UFAS) accessible units must always be designated fixed units); evidence demonstrating that the development will comply with all fair housing and accessibility requirements, including the design and construction requirements of the Fair Housing Act; evidence demonstrating that units serving persons with disabilities will be dispersed throughout the development in the most integrated environment possible and other requirements of section 504 of the Rehabilitation Act of 1973; evidence demonstrating that the project will comply with accessibility requirements, project standards, and site and neighborhood standards under 24 CFR 891.120, 891.125, 891.210, 891.310, and 891.320, as applicable; and evidence demonstrating that the project will comply with 24 CFR 8.4(b)(5), which prohibits the selection of a site or location which has the purpose or effect of excluding persons with disabilities from federally-assisted programs or activities;

(9) The proposed development schedule for completion of the mixed-finance development, including the estimated time to complete each major development stage. If a mixed-finance development proposal will be implemented in phases, the mixed-finance owner must include in its proposal a general description of each planned phase of development, including:

- (A) The overall number of phases;
- (B) The intended scope of each phase (including number of units);
- (C) The anticipated sources and uses of financing for each phase; and
- (D) A schedule (to be approved by HUD) for submission of a supplementary proposal for each phase;

(10) A previous participation certificate for all officers and directors of the sponsor, mixed-finance owner, Nonprofit Organization, developer, housing

consultant, general contractor, and management agent;

(11) Identification of the housing consultant, if one is employed;

(12) A mixed-finance owner-Architect Agreement;

(13) Final Working drawings and specifications with the architect's certificate that the project design has been reviewed and approved by the local Building Department;

(14) Topographic survey, surveyor's report, and soil test borings;

(15) Life Cycle cost analysis of utility combinations;

(16) Affirmative Fair Housing Marketing Plan;

(17) Current resumes of general contractor's development experience and general contractor's financial statements for the last three years;

(18) Contractor's cost breakdown and cost analysis;

(19) Resume of resident manager or management agent, which includes qualifications and experience;

(20) Schedule of capital expenditures such as furniture, supplies, equipment, and other items necessary to the basic operation of the project that will not be covered by proceeds from the capital advance, and a description of how the development will meet these costs;

(21) Certification/disclosure of lobbying activities by the mixed-finance owner and the Single-Purpose Non-profit Organization;

(22) Consolidated owner certifications for the mixed-finance owner, including the certification required by OMB circular A-129; Equal Employment Opportunity certification; certification of drug-free workplace; certification of compliance with design and cost standards; the Uniform Federal Accessibility Standards, section 504 of the Rehabilitation Act of 1973; and, for covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991, the design and construction requirements of the Fair Housing Act and the Americans with Disabilities Act where applicable, and HUD's implementing regulations;

(23) Certification of Compliance with Davis-Bacon prevailing wage requirements and related labor standards;

(24) Flood Disaster Protection Act of 1973 Certification;

(25) Certification of compliance with the National Environmental Policy Act and related environmental laws and authorities; and

(26) Certification that the information in the firm commitment application is true and accurate.

(b) *Acquisition with rehabilitation.* In the case of acquisition with rehabilitation, the mixed-finance owner must submit the documentation required in paragraph (a) of this section, as well as:

(1) An authorization to inspect the project;

(2) A description of the proposed rehabilitation and a description of any steps to be taken to make the development accessible to persons with disabilities;

(3) Final drawings and specifications of the units as proposed to be rehabilitated, including any structural changes, changes in floor plans, locations of the fixed UFAS accessible units and other units serving persons with disabilities dispersed within the project, or other significant alterations;

(4) A survey or site plan drawing of the development as built; and

(5) Drawings and specifications of the existing facilities, if such drawings can be obtained.

(c) *Acquisition without rehabilitation.* In the case of acquisition without rehabilitation, the mixed-finance owner must submit the documentation required in paragraph (a) of this section (except for paragraphs (a)(13) and (23)), as well as:

(1) An authorization to inspect the project;

(2) A narrative description of any repair work proposed, and the manner in which the project will be made accessible to persons with disabilities;

(3) A survey or site plan drawing of the development as built;

(4) Drawings and specifications of the existing facilities, if such drawings can be obtained.

(d) *Lead-based paint certification.* In the case of acquired developments constructed before 1978 in which any child under six years of age resides or is expected to reside, the mixed-finance owner must also submit a certification of compliance with the Lead-Based

Paint Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992.

**§ 891.820 Mixed-finance proposal.**

The mixed-finance owner must submit a mixed-finance proposal along with the firm commitment application. Each mixed-finance development proposal shall be in the form prescribed by HUD and must contain the following information:

(a) *Development description.* A description of the proposed project including: the number and types of units with bedroom count; the number of 202 or 811 units and the number of units to be financed from funds other than 202 or 811 funds; the types and amounts of non-dwelling space to be provided; schematic drawings and designs; the proposed building and unit plans including the location of the fixed UFAS accessible units and other units serving persons with disabilities dispersed within the project; and final plans and specifications.

(b) *Financing.* A detailed description of all financing necessary for the implementation of the proposal, specifying the sources, together with a 5-year operating performance projection, known as a “pro forma” (pro forma), for the development, including all underlying assumptions. In addition, the mixed-finance owner is required to submit to HUD for approval all documents relating to the financing of the proposal, including, but not limited to, any loan agreements, financing commitments, notes, mortgages, or deeds of trust, use restrictions, operating pro formas relating to the viability of the development, and other agreements or documents pertaining to the financing of the proposal. If tax credits are being used, the mixed-finance owner must submit official confirmation of the award of tax credits from the State allocating agency. Any financing commitments must be firm and irrevocable in order to be approved by HUD.

(c) *Sources and uses.* A statement of the sources and uses of financing; if a project is to be developed in phases, the sources and uses of financing for each phase;

(d) *Site information.* An identification and description of the proposed site, site plan, and neighborhood.

(e) *Development construction cost estimate.* A development construction cost estimate based on the schematic drawings and specifications and current construction costs prevailing in the area. In addition, a copy of the development schedule, including the architect or contractor estimate of the time required to complete each major development stage.

(f) *Life cycle analysis.* For mixed-finance projects with new construction or rehabilitation, the criteria to be used in equipping the proposed development with heating and cooling systems, which shall include a life-cycle cost analysis of the installation, maintenance, and operating costs of such systems.

(g) *Relocation plan.* Information concerning any displacement of current site occupants, including identification of each displacee, the distribution plan for notices, the anticipated cost and source for funding of relocation benefits, and compliance with 24 CFR 891.155(e).

(h) *Activities and relationship of participating parties.* Identification of: (1) The participating parties, together with full information as to any conflict-of-interest or identity-of-interest between any of the parties, including the general partner, limited partners, mixed-finance owner, Nonprofit Organization, 202 or 811 sponsors, and development team members;

(2) The activities to be undertaken by each of the participating parties; the legal and business relationships among the participating parties; and

(3) The rights and liabilities (financial and otherwise) and respective commitments of the parties with respect to the development;

(i) *Operating feasibility.* A demonstration of the operating feasibility of the development, which must be accomplished by:

(1) Showing that the estimated operating expenses of the development will not exceed its estimated operating income; and

(2) Submitting a 5-year operating pro forma for the development, and including all underlying assumptions and, if