BedfordLending

221(d)(4) Bonding / Assurance of Completion Requirements

The General Contractor must provide an assurance of completion for the protection of HUD and Lender and to meet state and local requirements protecting material suppliers, mechanics, and subcontractors.

The assurance of completion can be provided by:

1. For non-elevator buildings, or elevator buildings with four (4) stories or less, where the cost of construction or rehabilitation is more than $500,000, the assurance shall be in the form of corporate surety bonds for payment and performance, each in the amount of 100% of HUD's estimated cost of construction or rehabilitation including an assumed builder's profit on BSPRA transactions. Alternatively, the completion assurance agreement (HUD form HUD-92450) may be secured by a cash deposit or unconditional, irrevocable Letter of Credit in the amount of 15% of the HUD estimated cost of construction or rehabilitation.

2. For elevator buildings of five (5) stories or more, the assurance shall be in the form of corporate surety bonds for payment and performance, each in the amount of 100% of HUD's estimated cost of construction or rehabilitation including an imposed builder's profit on BSPRA transactions. Alternatively, the completion assurance agreement (HUD form HUD-92450) may be secured by a cash deposit or unconditional, irrevocable Letter of Credit in the amount of 25% of the HUD estimated cost of construction or rehabilitation.

3. Letters of credit cannot be used to establish financial capability. At initial endorsement, however, letters of credit may be substituted for cash to set up many of the escrows required at initial and final endorsement or during construction. When a letter of credit is permitted, the ratings and requirements for banks issuing letters of credit for all multifamily project escrows must meet criteria in the Ginnie Mae Guide, as follows:

- Bank Rating Requirements: Irrespective if the loan is pooled with Ginnie Mae, the bank must meet rating requirements for depository institutions and deposit accounts found in Ginnie Mae MBS Guide 5500.3, Chapter 16, Part 8, Section B. It is available at the following link: https://www.ginniemae.gov/issuers/program_guidelines/MBSGuideLib/Chapter_16.pdf
- Form and Terms. For loans pooled with Ginnie Mae, the letter of credit must be in the form specified by Ginnie Mae MBS Guide 5500.3, Appendix VI-3 found at the following link: https://www.ginniemae.gov/issuers/program_guidelines/MBSGuideAppendicesLib/Appendix_VI-03.pdf
- If the loan is not pooled with Ginnie Mae, MAP Lenders must prepare beneficiary forms acceptable to HUD at closing (with substantially the same terms as Ginnie Mae).
- The Lender of record (as having a financial stake in the Borrower's position) may not be the issuer of any letter of credit without prior written consent of the Regional Center Director. Such consent will be granted only on an exception basis with sufficient investigation of a potential conflict of interest. If a demand under any letter of credit is not met immediately, the Lender must provide the cash equivalent to the remaining balance of the letter of credit.