CHAPTER 23. SECTION 221(d) PROGRAM

23-1. PURPOSE OF 221(d) PROGRAMS.

A. The purpose of the Section 221(d)(3) and Section 221(d)(4) programs is to assist private industry in providing comfortable and attractive rental accommodations for low- and moderate-income families in Section 221(d)(3) program and for moderate-income families in the Section 221(d)(4) program, with preference or priority of occupancy to such families who have been displaced from urban renewal areas or because of governmental action or as a result of a disaster determined by the President to be a major disaster.

B. Elderly (62 years of age or older), physically handicapped and displaced single persons are considered families under these programs. Projects may be specifically designed for the elderly and handicapped. Projects for single room occupancy (SRO) also may be insured under Section 221(d).

23-2. BASIC SOURCEBOOKS. Basic program instructions are in:

A. HUD Handbook 4560.1 REV, Section 221(d)(3) Market Interest Rate for Project Mortgage Insurance.

B. HUD Handbook 4560.2, Mortgage Insurance for Moderate-Income Housing Projects, Section 221(d)(4).

C. HUD Handbook 4560.3, Mortgage Insurance for Single Room Occupancy (SRO) Projects, Section 221(d).

23-3. MORTGAGE CREDIT PROCEDURES AND ANALYSIS. Complete according to instructions under Section 207 (Section 213 when cooperative or investor-Sponsor Mortgagors) except as modified herein.

23-4. ELIGIBLE MORTGAGORS.

A. The mortgagor shall meet one of the following qualifications as defined in regulations, 24 CFR 221.510.

1. Nonprofit and builder-seller mortgagors.

2. Limited distribution mortgagors.

(23-4)3. Cooperative and investor-sponsor mortgagors.

4. General mortgagors.

5. Public mortgagors.

B. Supervision of Mortgagors:

1. HUD approves all mortgagors and regulates them through a Regulatory Agreement.

2. Mortgagors must be single asset, sole purpose entities.

C. Housing Consultants. A fee for a housing consultant is eligible for inclusion in the replacement cost of those Section 221(d) projects involving a nonprofit mortgagor. See Reference 15 of the Foreword for a complete discussion on the use of consultants and eligible fees.

23-5. DETERMINING LOAN AMOUNT AND AMORTIZATION PERIOD. Analysis of the credit risk is based on a loan for a definite amount and amortization period. Refer to requirements in paragraph 4-1.

23-6. AMOUNT OF LOAN - NEW CONSTRUCTION. Includes construction of all types of projects not involving substantial rehabilitation. The insurable amount is the lowest of:

A. Application amount.

B. The result of HUD's estimate of the replacement cost after completion, less the amount of grant/loan funds attributable to replacement cost items, multiplied by the applicable percentage.

	Section	Mortgagor	Percent
(1)	221(d)(3)	General and Limited Distribution	90
(2)	221(d)(3)	All Others (including Cooperatives)	100
(3)	221(d)(4)	All Mortgagors	90

C. Debt service that does not exceed the applicable percentage of project's estimated net income. The mortgage may exceed this limit by capitalizing the savings from any tax abatement.

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(23-6)	Section	Mortgagor	Percent
(1)	221(d)(3)	General and Limited Distribution	90
(2)	221(d)(3)	All Others	95
(3)	221(d)(4)	All Mortgagors	90

NOTE:This criterion does not apply to Cooperative Mortgagors.

D.Construction cost attributable to dwelling use, excludingexterior land improvements, not to exceed:

1.For walk-up structures:

a.Projects involving eligible nonprofit mortgagorsto be insured under Section 221(d)(3) of the Act, the per family unit limits in 24 CFR 221.514(a)(1)(i).

b.Projects involving eligible mortgagors other thannonprofit mortgagors to be insured under Section 221(d)(3) of the Act, the per family unit limits in 24 CFR 221.514(a)(1) (ii).

c.Projects involving eligible mortgagors to be insured under Section 221(d)(4) of the Act, the per family unit limits in 24 CFR 221.514 (a)(1)(iii).

2.For elevator type structures:

a.Projects involving eligible nonprofit mortgagorsto be insured under Section 221(d)(3) of the Act, the per family unit limits in 24 CFR 221.514(b)(1).

b.Projects involving eligible mortgagors other thannonprofit mortgagors to be insured under Section 221(d)(3) of the Act, the per family unit limits in 24 CFR 221.514(b)(2).

c.Projects involving eligible mortgagors to be insured under Section 221(d)(4) of the Act, the per family unit limits in 24 CFR 221.514(b)(3).

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(23-6)3. Exceptions to insurable amount limitations:

a.The mortgage may exceed these limits by the percentage of the site not attributable and cost not attributable to dwelling use, including exterior land improvements.

Section Mortgagor Percent..TX:
(1) 221(d)(3) General and Limited
Distribution 90 (2) 221(d)(3) All Others (including
Cooperatives) 100 (3) 221(d)(4) All Mortgagors 90

b.Per-family-unit limits may be increased in following instructions contained in paragraph 4-2.E.4.c of this Handbook.

23-7.AMOUNT OF LOAN - REHABILITATION. (This includes only projects involving substantial rehabilitation or reconstruction.) The insurable amount loan is the lowest of:

A.Amounts in paragraph 23-6, except B.

B.The result of HUD's cost estimate of rehabilitation and fair market value of the land and existing improvements before rehabilitation, less the amount of grant/loan funds attributable to replacement cost items, multiplied by the applicable percentage.

Section	Mortgagor	Percent
(1) 221(d)(3)	General and Limited Distribution	90
(2) 221(d)(3)	All Others (includes Cooperatives)	100
(3) 221(d)(4)	All Mortgagors	90

23-8.EXISTING REHABILITATED PROJECT. Includes only purchase transactions involving existing construction that has been rehabilitated by a local public agency with Federal assistance under Section 110(c)(8) of the Housing Act of 1949. The insurable amount is the lower of:

A.Amounts in paragraph 23-6, except B.

(23-8)B. The result of HUD's estimated value of the property as of the date the mortgage is accepted for insurance, less the amount of grant/loan funds attributable to replacement cost items, multiplied by the applicable percentage.

Section	Mortgagor	Percent
(1) 221(d)(3)	General and Limited Distribution	90
(2) 221(d)(3)	All Others (including Cooperatives)	100
(3) 221(d)(4)	All Mortgagors	90

C.The result of the actual purchase price of the property;total carrying charges, financing and legal, organizational and audit expense, less the amount of grant/loan funds attributable to replacement cost items, multiplied by the applicable percentage.

Section	Mortgagor	Percent
(1) 221(d)(3)	General and Limited Distribution	90
(2) 221(d)(3)	All Others (including Cooperatives)	100
(3) 221(d)(4)	All Mortgagors	90

23-9. BUILDER-SELLER MORTGAGOR UNDER SECTION 221(d)(3).

A.Before applying for project mortgage insurance, the mortgagor enters into an agreement (satisfactory to HUD) with a private nonprofit corporation eligible for insurance.

1.The builder-seller mortgagor agrees to sell the project, on completion, to the nonprofit for no more than the HUD approved certified cost of the project.

2.If the sale is not consummated, the project willbe operated as a limited distribution rental project.

B.The MCE will prepare two Forms HUD-92264-A to determine the Maximum Insurable Mortgage (MIM) for:

1.Limited distribution mortgagor.

(23-9)2. Nonprofit mortgagor.

C.At final endorsement the mortgagee will hold the difference between the two MIMs developed above until the project is sold to a nonprofit.

23-10.INVESTOR-SPONSOR MORTGAGOR UNDER SECTION 221(d)(3) certifies its intention to sell the project to a management type cooperative within 2 years after project completion.

A.The MCE prepares two Forms HUD-92264-A to determine the MIM for:

1.Limited distribution mortgagor.

2.Management type cooperative.

B.The difference between the MIM amount available to the cooperative and the lesser amount available to the investor-sponsor will be escrowed.

1.At final endorsement, the mortgagee will hold theescrow until the project is converted to a cooperative.

2.If the project is not converted to a cooperativeform of operation within 2 years from the date of completion, the escrow will be applied:

a.Against the mortgage or

b.In such other manner as the Commissioner may direct.

23-11.INSURING ADVANCES.

A.Initial/Interim Advances. Use basic Section 207 instructions.

B.Final Advance.

1.The amount to be approved for final advance should follow basic Section 207 instructions.

2.However, approval of a final advance for an investor-sponsor or builder-seller mortgagor may be conditioned on escrowing a portion of the

(23-11)mortgage proceeds until closing the sale to a cooperative (management type) or nonprofit mortgagor.

23-12.COST CERTIFICATION PROCEDURES. Use basic Section 207 instructions except as modified here.

A.Certification purposes in builder-sponsor and investor-sponsor cases:

1. To establish the maximum insurable mortgage for the project based on the allowed cost of the completed project.

2. To establish the ceiling price at which the project may be sold.

B. Legal, organization and marketing expense in investor-sponsor cases:

1. Two sets of legal and organizational expenses areinvolved besides marketing expense and should be shown separately in Form HUD-92330:

a. Expenses involving the mortgagor (investor-sponsor).

b. Expenses involving the cooperative corporation formed to buy the project.

2. Since the investor-sponsor is legally bound to use its best efforts to sell the project to a cooperative, its marketing expenses should be included.

3. If the legal and organizational sum attributableto the cooperative has been exhausted before final endorsement:

a. Investor-sponsor may deposit more money with themortgagee before final endorsement for application against further organizational expenses of the cooperative (as approved by HUD).

b. The additional deposits may be included in cost certification.

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