

CHAPTER 1. INTRODUCTION

- 1-1. AUTHORIZATION. Section 106(b) of the Housing and Urban Development Act of 1968 authorizes the Secretary to make "seed money" loans to stimulate the production of low and moderate income housing.
- 1-2. DEFINITION. "Seed money" is defined as the total funds which are determined by the Secretary as sufficient to cover the necessary expenses of planning and obtaining financing for an eligible project. Total funds include both the Borrower's cash share and the Federal loan proceeds. Additionally, all expenses must be incurred prior to the first disbursement of the construction loan for the project.
- 1-3. DELEGATIONS OF AUTHORITY.
- a. Legislation. The legislation gives the Secretary of Housing and Urban Development authority to provide financial assistance under such terms and conditions as he/she may prescribe. The Secretary has delegated this responsibility to the Assistant Secretary for Housing-Federal Housing Commissioner.
 - b. Loan Approval Authority. Loan approval authority has been delegated to Area Managers and Deputy Area Managers and to Service Office Supervisors, Deputy Supervisors and Assistants to the Area Managers and Supervisors under Sections 200.118(b) and 200.95k of the Regulations, respectively. The Field Office shall provide the Director, Financial Analysis and Investment Division (FAID), Office of Finance and Accounting (OFA) with a list containing the names, titles and signatures of those Field Office officials authorized to approve requisitions, reservations, and contracts under the Section 106(b) program.
 - c. Field Office Responsibilities. Only those Field Offices authorized to process Section 202 loan applications shall be responsible for reviewing Section 106(b) applications. Such offices also shall be responsible for releasing any liens on land securing Section 106(b) loans, for determining the amount and reasonableness of the requested assistance, for establishing the repayment term of loans if the term is lesser or greater than 18 months, for approval of loans subject to availability of funding, and for servicing and collection of loans.
 - d. Cancellation of Repayment Authority. Authority to cancel repayment of Section 106(b) loans has been granted to the Loan Assistance Committee under Section 200.94 of the Regulations.

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- 1-4. ELIGIBLE BORROWERS AND MAXIMUM LOAN AMOUNT. Section 106(b) "seed money" loans are currently available only to private nonprofit Borrowers selected by HUD for participation in the Section 202 Direct Loan Program for Housing for the Elderly or Handicapped. Interest free loans of up to \$50,000 may be made to cover up to 80 percent of the allowable preliminary expenses in planning the project and obtaining financing under Section 202. Such expenses must be incurred and payable prior to initial closing of the Section 202 loan and must be recoverable from Section 202 loan proceeds.
- 1-5. RELATION TO SECTION 202 LOAN. Although related, the Section 106(b) loan is separate from the Section 202 loan and in no instance shall the existence of an outstanding Section 106(b) loan influence the approval of a Section 202 application for direct loan financing.
- 1-6. PREREQUISITES FOR DISBURSEMENT OF LOAN PROCEEDS. To be eligible to receive the proceeds of a "seed money" loan, a Borrower must meet the following prerequisites:
- a. Section 202 Approval. The Borrower must have an approved fund reservation under Section 202 of the Housing Act of 1959, as amended.
 - b. Nonprofit Status. The Borrower must be an incorporated private nonprofit organization whose articles of incorporation are acceptable to the Secretary.
 - c. Twenty Percent Contribution. The Borrower must have either available cash or evidence of prior eligible expenditures, or both cash and eligible expenditures, in the amount of no less than 20 percent of the total estimated allowable "seed money" expenses. Loans, grants or donations to the Borrower of any portion of these funds by an individual, corporation, partnership or other party or entity seeking a profit or monetary gain from the project are prohibited. This includes, but is not limited to, attorneys, architects, consultants, builders, developers, management agents, engineers, surveyors, subcontractors, material suppliers, banks whose officers have any identity of interest with the Sponsor/Borrower, real estate brokers and sellers of land other than Sponsors/Borrowers. Neither officers of the nonprofit Borrower nor anyone connected therewith may charge off their time and services to satisfy the cash contribution requirement.
 - d. Site Control. The Borrower must have control of the site on which the proposed Section 202 project will be constructed or rehabilitated at the time of its application for a Section 106(b) loan.
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- 1-7. TERMS AND CONDITIONS. The general terms and conditions of Section 106(b) "seed money" loans are as follows:
- a. Interest. No interest shall be charged to a Borrower on a "seed money" loan provided the Borrower complies with the terms and conditions of Form HUD 92291, Loan Contract and Trust Agreement (Appendix 1), the provisions of this Handbook, and the Section 106(b) Regulations (Appendices 2 and 2-1).
 - b. Loan Repayment. The contract for a loan shall provide for repayment by the Borrower within 18 months following the first disbursement of funds pursuant to the Loan Contract and Trust Agreement, or at such earlier time as the Borrower recovers its preliminary expenses from the proceeds of construction financing or permanent financing or from any other source, or at such other time as may be fixed by contract with the Secretary. In the event the Borrower fails to comply with the provisions of the Loan Contract and Trust Agreement, the entire outstanding loan obligation immediately shall become due and payable. In the event the Borrower is unable to develop a project pursuant to the terms of the Loan Contract and Trust Agreement or any amendment thereto, the time for repayment may be extended under such terms and conditions as may be prescribed by HUD.
 - c. Maximum Loan Amount. The loan shall not exceed the lesser of \$50,000 or 80 percent of the total and necessary costs which HUD estimates are necessary for the legal and organizational expenses of the Borrower, for planning the project, for obtaining site control, and for obtaining financing under Section 2U2.
 - d. Land. If proceeds of the Section 106(b) loan are used to purchase land or to plan a housing project on land owned by the Sponsor or Borrower, the Section 106(b) loan must be secured by a first lien if possible. If the land is encumbered with an existing lien or liens, a lien of the next highest priority should be obtained.
 - e. Number of Loans. In no event shall there be more than one Federal "seed money" loan for a proposed housing project such as one that may be approved under Section 106(b) of the Housing and Urban Development Act of 1968 or Section 207 of the Appalachian Redevelopment Act of 1965.
 - f. Outstanding Delinquent Loans. If the Borrower or any entity significantly relate to the Borrower or Sponsor, as determined by HUD, has a "seed money" loan under Section 106(b) of the Housing and Urban Development Act of 1968 or Section 207 of the

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- (1-7) Act of 1965 which is delinquent, HUD shall withhold approval of any new Section 106(b) loan until such time as the outstanding loan is settled in a manner satisfactory to HUD.
- g. Establishment of Trust Account. All disbursements to the Borrower shall be placed in a Trust Account. No other funds, including the Borrower's share of "seed money," may be placed in this account at any time. The depository shall be a bank whose deposits are insured by the Federal Deposit Insurance Corporation. Any interest earned on Trust Account funds must be deposited in the Trust Account and paid to HUD immediately following such deposit. The check covering the interest must be drawn on the Trust Account, made payable to the Department of Housing and Urban Development, and mailed to the appropriate HUD Field Office with a cover letter identifying the project, Borrower and Section 106(b) loan. The Field Office shall deposit the check and shall provide the Director, FAID, OFA, with a copy of the Borrower's cover letter, the collection ticket and the related accomplished certificate of deposit. All authorized signatories of checks drawn on the Trust Account must be covered by a Fidelity Bond in at least the amount of the approved Section 106(b) loan.
- h. In Kind Services. The Borrower's share of the "seed money" must be either in the form of cash or supported by documented evidence of prior eligible expenditures. The Borrower's share shall not be paid in kind.
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