

Questions and Answers for Request for Proposals (RFP) 2011-02
Credit Underwriting, Permanent and Construction Loan Servicing
and Compliance Monitoring

Question 1:

Page 11, Item 9:

Is the Servicer required to verify that the architect/engineer carries Errors and Omissions insurance in an amount equal to the greater of \$1,000,000 or 10% of the construction contract amount prior to submission of a final credit underwriting report to be considered by the Board? All insurance verification typically occurs after Board approval but before closing.

Answer:

No. Evidence of insurance should be provided as soon as available and must be approved by the underwriter prior to loan closing.

Question 2:

Page 11, Item 9:

If the architect and/or engineer are associated with multiple projects and the cumulative amount of those construction contracts exceeds \$10,000,000, is the architect/engineer required to carry Errors and Omissions insurance in an amount equal to 10% of those cumulative contracts? Our experience is E&O insurance coverage rarely exceeds \$1,000,000.

Answer:

If the coverage is per occurrence, then the aggregate amount would not be an issue unless the per occurrence aggregate limits of the underlying policy would be exhausted by payment of claims.

Question 3:

Page 11, Item 11:

Is the Servicer required to verify and document the adequacy of the general contractor and owner's insurance policies as to dollar amount and types of coverage and ensure that Florida Housing is named as loss payee, mortgagee, and additional insured, as applicable prior to submission of a final credit underwriting report to be considered by the Board or prior to closing the loan?

As with the item above, full insurance coverage is typically not verified until after Board approval but prior to Loan Closing. Perhaps both of these sections could be revised to require verification of adequate coverage prior to any FHFC loan closing and/or funding.

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Answer:

No. Evidence of insurance should be provided as soon as available and must be approved by the underwriter prior to loan closing.

Question 4:

Page 18 a.:

Is it acceptable to retain electronic-only versions of files?

Answer:

All real estate transaction documents with original signatures would need to be maintained in a paper format. It would be acceptable to retain all other documents in an electronic-only version.

Question 5:

Page 19, Item 1:

Will Servicer for purposes of this section also include “and/or it’s (sic) approved vendor/assignee”?

Answer:

It is acceptable to FHFC that the physical inspection may be done by the servicer and/or its approved vendor/assignee.

Question 6:

Page 21, Item c.:

If an inspection report is received before getting a draw request from a Developer, is it correct to assume that there is no notification required to FHFC unless/until 5 days from the date that the draw request is received?

Answer:

Yes. There is a five-day notification limit once both the Inspection Report and the Draw Request have been received by the Servicer.

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Question 7:

Page 27, Item 8:

(a) Are mail interviews to be completed in addition to the onsite interviews of employees? (b) Or are mail interviews be (sic) completed only if onsite interviews cannot be completed for a sufficient representative sample of employees during the site visit?

Answer:

(a) No. The Servicer is not required to provide mail interviews in addition to onsite interviews of employees. (b) When onsite, if there are no workers available or if the Servicer cannot get a sufficient variety of different worker classifications, then the mail out interviews would be required.

Question 8:

Page 44, Item c.:

If the Borrower decides to not provide IRS Form 8609s to the Servicer upon request, is there a legal requirement for them to do so? In other words, we are concerned the Servicer does not have a non-compliance “stick” related to a Borrower not providing 8609s. Without the 8609’s, we cannot determine any compliance issues that could be confirmed via receipt of said documentation.

Answer:

The 8609 instructions state:

Building owner: You must make a one-time submission of Form 8609 to the Low-Income Housing Credit (LIHC) Unit at the IRS Philadelphia campus. After making a copy of the completed original Form 8609, file the original of the form with the unit no later than the due date (including extensions) of your first tax return with which you are filing Form 8609-A, Annual Statement for Low-Income Housing Credit.

Note: The housing credit agency may require you to submit a copy of Form 8609 with a completed Part II to the agency. You should contact the agency to obtain agency filing requirements.

If the management companies are being told this at their first compliance meeting, they have been notified of the agency requirement (yellow highlight above) and if they are not meeting the requirement, they should be placed in noncompliance.

Florida Housing also plans to add the following at 67.48.023 (8):

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The Applicant shall submit form 8609, with Part II completed, and Schedule A (Form 8609-A) to the Corporation for the first year tax credits are taken in each building at the time the tax return is filed with the Internal Revenue Service.

Question 9:

Page 16, Section 5 (ii) I 1 (i) and (ii) The RFP indicates that many items need to be completed prior to submission to Florida Housing for approval. Some of these items will not occur until after approval, but prior to closing. We would request that language be added as follows at the beginning of Section 5 “...prior to submission to Florida Housing for approval *or prior to closing as appropriate.*”

Answer:

The information/reference provided is not sufficient to address this question.

Question 10:

Page 20, Section 16(iii):

Will the source and uses format used in loan closing suffice to fulfill these requirements?

Answer:

A table format similar to the one in the CUR with the appropriate headers is acceptable. An example would be as follows:

Source	Committed	Current Draw Request	Cumulatively Disbursed after Current Draw		Available Remaining
Wells Fargo Bank	\$2,700,000.00	\$450,000.00	\$900,000.00	33.33%	\$1,800,000.00
SAIL	\$1,200,000.00	\$200,000.00	\$400,000.00	33.33%	\$800,000.00
Miami-Dade County	\$180,000.00	\$30,000.00	\$60,000.00	33.33%	\$120,000.00
HC Equity	\$4,000,000.00	\$0.00	\$1,750,000.00	43.75%	\$2,250,000.00
Total	\$8,080,000.00	\$680,000.00	\$3,110,000.00	38.49%	\$4,970,000.00

Question 11:

Page 21, Section (e):

We would like you to reconsider these requirements due to the administrative burden they will create. We would request that the section require submission of payments 2

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times each month on the 15th and last day. The proposed language would require significant tracking and multiple wires throughout the month.

Answer:

The RFP will remain as written.

Question 12:

Page 39, Section b.1.i. and ii.:

During the physical inspection of the buildings and units, what is the Servicer expected to test in order to determine if the owner is satisfying the “green” and “energy” commitments? Our concern is that most items cannot be verified post construction. Will a self certification from the owner be sufficient?

Answer:

There are certain green and energy features required for some developments that cannot be verified post construction. If the development is required to follow the Energy Star requirements in the Universal Application, a certified Home Energy Rater will conduct inspections during construction. As stated on page 23, Section p of the RFQ, the thermal bypass inspection must be done before the drywall is put up. If the developer selected green certification in the Universal Application, a third party verifier from the certification program will conduct inspections based on the program requirements, as stated on page 23, Section q of the RFQ.

If the development is not required to follow the Energy Star requirements in the Universal application, the Servicer must inspect the required energy features in the applicable section of Part III.B.4 of the Universal Application Instructions, which can be verified post construction.

Question 13:

Page 44, Section IV., c.:

(a) Is Florida Housing going to place language in any document which will require the owner to provide the final 8609 to the Servicer. (b) In addition, will the Servicer be permitted to charge a penalty for not providing this document?

Answer:

(a) Please see answer to Question 8. (b) No, there are no current plans that provide for a monetary penalty for not providing a final 8609.

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Question 14:

Page 32, D. Compliance Monitoring:

Since the first sentence no longer states specific Florida Housing programs does this also include Demo Loans, PLP, and EHCL?

Answer:

Yes.

Question 15:

Page 33, I. d.

Since this does not list specific loan closing documents, does the reference in this sentence refer to such documents as the Loan Agreement, Promissory note, etc.? If the answer is no, could you be specific about which loan documents this refers to?

Answer:

Yes.

Question 16:

Page 35, b. 1:

Initial Program Reports – Since this section appears to omit the requirements for an Initial Program Report for SAIL, CWHIP, & MMRB are there NO requirements as to when developments with these loan programs begin reporting?

Answer:

This requires a modification. Modified language is as follows:

b. Submission of Program Reports shall be as follows:

1. Initial Program Reports

i. For ~~those all~~ all Developments ~~receiving competitive Housing Credits or HOME Rental, funds, funded by Florida Housing, except those~~ Developments receiving an allocation of non-competitive Housing Credits without any Florida Housing issued loans, if the Development is occupied at closing or carryover, the Initial Program Report shall be prepared as of the last day of the calendar month during which the loan closing or the execution of the carryover allocation agreement occurred, and shall be submitted no later than the 15th of the following month. The Servicer shall

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collect a copy of the Program Report accompanied by copies of executed Tenant Income Certifications for ten percent (10%) of the certified units.

ii. For ~~those all~~ Developments receiving competitive Housing Credits or HOME Rental funds, funded by Florida Housing, except those Developments receiving an allocation of non-competitive Housing Credits without any Florida Housing issued loans, and if the Development is not occupied at closing or carryover, the Initial Program Report shall be prepared as of the last day of the calendar month during which rental of the initial unit occurred and shall be submitted no later than the 15th of the following month. The Servicer shall collect a copy of the Program Report accompanied by copies of executed Tenant Income Certifications for ten percent (10%) of the certified units.

The modification has also been posted on the Florida Housing website at:

<http://www.floridahousing.org/BusinessAndLegal/Solicitations/RequestForProposals/>

Question 17:

Page 39, b. 1. ii.:

Does the requirement for “inspection of the building... for green, energy and universal design visitability features to ensure that any features replaced during maintenance are comparable or updated per the function of the original feature” require a “Home Energy Rater” or someone who has been comparably trained?

Answer:

No; green and energy features being replaced, e.g. appliances, paint, flooring, do not require verification by a Home Energy Rater. These items must be replaced by items comparable or updated per the original function of the feature, and can be verified by the Servicer.

The Universal Design features that are replaced during maintenance must adhere to the specifications as stated in the version of the Universal Design and Visitability Manual (the Manual) that is currently effective and incorporated by reference at the time of replacement.

Question 18:

Page 44, IV. c.:

Will there be a requirement in the loan documents for the owner to provide copies to the Servicer of the completed Part II of Form 8609 submitted to the IRS? If not, how will the Servicer be assured of receiving this information from the owner?

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Answer:

Please see answer to Question 8.

Question 19:

Page 48:

Are the E&O insurance requirements the same as in the current contract 2004-07-01-003?

Answer:

Yes.