

VA MULTIFAMILY TRANSITIONAL HOUSING LOAN GUARANTEE PROGRAM

1. PURPOSE. This Veterans Health Administration (VHA) Handbook establishes procedures for the Department of Veterans Affairs (VA) Multifamily Transitional Housing Loan Guarantee Program, a pilot program to guarantee up to 15 loans or \$100 million for the development of Multifamily Transitional Housing with Supportive Services for homeless and formerly homeless veterans as authorized under Title 38 United States Code (U.S.C.) §§2051, et seq.

2. SUMMARY OF MAJOR CHANGES. This is a new VHA Handbook which defines the parameters and procedures relating to the development and operation of supportive multifamily transitional housing for homeless veterans in geographic areas of greatest need.

3. RELATED ISSUES. VHA Directive 1162 (to be published).

4. RESPONSIBLE OFFICE. The Office of Patient Care Services, Office of Mental Health Services (116E), is responsible for the contents of this Handbook. Questions may be addressed to 202-273-7462.

5. RESCISSIONS. None.

6. RECERTIFICATION. This VHA Handbook is scheduled for recertification on or before the last working day of October 2011.

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1. PURPOSE

This Veterans Health Administration (VHA) Handbook defines the parameters and procedures relating to the development and operation of Multifamily Transitional Housing in geographic areas of greatest need.

2. BACKGROUND

a. In 1998, Congress enacted legislation now codified at Title 38 United States Code (U.S.C.) §§ 2051, et seq., authorizing the Department of Veterans Affairs (VA) to develop a loan guarantee program for the development of multifamily transitional housing for homeless veterans. The program is intended to complement VA's existing homeless programs. During the initial pilot phase, VA has the authority to guarantee a maximum of 15 loans with an aggregate value of \$100 million. These loans are to be financed by the Federal Financing Bank (FFB) and may be used for new construction, the acquisition of existing real estate, the substantial rehabilitation of existing improved real estate, or to refinance an existing program loan.

b. VA administers Federal benefit programs including medical care and research, disability compensation, pensions, insurance, education, training, vocational rehabilitation, home loan assistance, and national cemeteries for veterans and their dependents. Several of its programs are geared toward specific populations including minorities, women, and the homeless.

c. Serving a homeless veteran population of over 200,000, VA's homeless programs constitute the largest integrated network of homeless treatment and assistance services in the country. VA's homeless programs are designed to help these veterans attain self-sufficiency and live as independently as possible; as such, VA offers a multitude of services which can be categorized into five major areas, including:

(1) Aggressive outreach to those veterans living on the streets and in shelters, who otherwise would not seek assistance.

(2) Clinical assessment and referral to needed medical treatment for physical and psychiatric disorders, including substance abuse.

(3) Long-term sheltered transitional assistance, case management, and rehabilitation.

(4) Employment assistance and linkage with available income supports.

(5) Supported transitional and permanent housing.

NOTE: The website at <http://www.va.gov/homeless/page.cfm?pg=2> provides more information on programs and initiatives specifically designed for homeless veterans.

3. SCOPE

a. The FFB, an arm of the United States (U.S.) Treasury must fund the program loans, and VA is to guarantee up to 100 percent of the maximum program loan amount. The maximum program loan amount may not exceed 80 percent of the total development cost of the Project, and due to the economics of the Program, needs to be significantly less in most cases. **NOTE:** *This program is not a grant program and does not fund single-family housing. For information on VA grant and Per Diem programs, visit the website at <http://www.va.gov/homeless/page.cfm?pg=3>.*

b. State or local governments or non-government entities must provide additional funding or substantial property or services for a Project.

c. VA must approve Program Funds as either a combination of construction and permanent guaranteed loans or permanent guaranteed loans. Funds may be used for acquisition of real estate, new construction, the rehabilitation of existing improved real estate, or to refinance an existing loan.

d. Program Funds may include reasonable amounts for financing the acquisition of furniture, equipment, supplies, or materials for the facility or, except in the case of refinance, for supplying the Borrower with working capital for facility operations.

e. The facility may include commercial space, such as space for neighborhood retail services or other commercial activities.

NOTE: *A summary of the legislation authorizing this program can be found on the website at <http://www.va.gov/homeless/page.cfm?pg=8>.*

4. DEFINITIONS

a. **Applicant.** The term “applicant” refers to the sponsor, or its authorized agent, who is applying for a Loan Guarantee under the Program.

b. **Borrower.** A borrower is a single purpose entity that:

- (1) Receives funds in the form of a program loan,
- (2) Has the obligation of repaying the program loan in full with interest,
- (3) Is responsible for satisfying all other requirements of the Program, and
- (4) Maintains continuing control over the Multifamily Transitional Housing Project.

NOTE: *The Borrower must be apprised in full or in part by the sponsor or its authorized agent and must be bankruptcy remote.*

c. **Combination Construction and Permanent Loan.** A combination construction and permanent loan is a type of loan that becomes effective from the date of loan closing (which must occur on or before the date that construction of an eligible multifamily property begins) and

converts to a Permanent Loan upon the earlier of either reaching a pre-specified minimum occupancy level, as determined by the Secretary of Veterans Affairs, or at the end of 24 months from the date of loan closing. Occupancy needs to be stabilized for a period of 90 days prior to conversion to a Permanent Loan; however, in no event must the construction period exceed 24 months.

d. **Construction Loan.** A “construction loan” refers to a short-term or interim loan for financing the cost of construction. A Construction Loan can only be guaranteed under the Program if made as part of a Combination Construction and Permanent Loan.

e. **Debt Service Coverage Ratio (DSCR).** The DSCR is the ratio of a Project’s cash flow available to pay for Project debt to the total amount of debt on the Project.

f. **Department of Veterans Affairs (VA).** VA is the administrator of the Program and the (100 percent) guarantor of Program Funds. This term also includes any VA employee or VA contractor.

g. **Developer.** The developer is the person or entity who arranges for the construction, rehabilitation, or development of a piece of land.

h. **Developer Fee.** The developer fee is the fee a developer receives from preparing raw land for building sites or substantially rehabilitating existing buildings.

i. **Federal Financing Bank (FFB).** FFB is an arm of the U.S. Department of the Treasury authorized to make Program Funds available to Borrowers in accordance with Program requirements, at a rate that captures the premium between Treasury securities and the private sector lending rate, and that fully reflects the risk inherent to a Project when such a rate is to accomplish a broader public policy goal. In no case must this rate be less than a comparable Treasury rate. The FFB is to fund approved-program loans and VA must guarantee 100 percent of each loan.

j. **General Contractor.** The general contractor is the party that performs, or supervises, the construction or development of a property pursuant to the terms of a primary construction contract. The General Contractor may use its own employees for this work or the services of other contractors (subcontractors).

k. **Homeless Individual.** A homeless individual is an individual who lacks a fixed, regular, and adequate nighttime residence; also an individual who has a primary nighttime residence that is:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); or

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. *NOTE: The term "Homeless Individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law.*

l. **Homeless Veteran.** A homeless veteran is a veteran who is a homeless individual.

m. **Loan Guarantee.** A loan guarantee, under the Program, is a pledge by the Secretary of Veterans Affairs, to pay the loss incurred by FFB in the event of a Borrower's default on a Program loan. A loss may be due to either a monetary or non-monetary default.

n. **Multifamily Transitional Housing.** Multifamily Transitional Housing is a supportive housing facility that provides transitional housing to homeless veterans. Multifamily Transitional Housing may be single-room occupancy, but must, at a minimum:

(1) Provide Supportive Services at the facility site with the goal of assisting residents in becoming self-sufficient;

(2) Require each resident veteran to seek to obtain and maintain employment;

(3) Charge a reasonable fee for occupying a unit; and

(4) Maintain strict guidelines regarding sobriety as a condition of residency.

o. **Northeast Program Evaluation Center (NEPEC).** NEPEC conducts program evaluations in six broad categories:

(1) Specialized treatment programs for homeless veterans;

(2) Specialized programs for treatment of veterans with Post-traumatic Stress Disorder (PTSD);

(3) Assertive community treatment for veterans with severe mental illness;

(4) Compensated Work Therapy (CWT);

(5) Residential Rehabilitation and Treatment Programs; and

(6) Performance assessment of quality, cost, and outcomes of standard general VA mental health programs through the National Mental Health Program Performance Monitoring System.

p. **Permanent Loan.** A permanent loan is a long-term loan on a property. In those instances where the Borrower has elected to obtain a Combination Construction and Permanent Loan, the Construction Loan must, without any further action taken by VA or Borrower, automatically and immediately convert to Permanent Loan status upon the earlier occurrence of one of the following:

(1) VA's determination that the Project has met an acceptable minimum level of occupancy, or

(2) Twenty-four months pass from the date of loan closing, or

(3) In no event, must the loan convert to permanent later than 24 months from the date of loan closing.

q. **Program.** The VA Multifamily Transitional Housing Loan Guarantee Program is established under 38 U.S.C., and Chapter 20, subchapter VI, and is implemented by VA.

r. **Program Funds.** Program funds are loaned to the Borrower by FFB and guaranteed by VA for the purposes of the Program.

s. **Project.** A Project is under the auspices of one or more sponsors for the development, financing, construction (including renovation or rehabilitation), operation, and management of Multifamily Transitional Housing, authorized by, approved and conducted under the Program.

t. **Resident.** A resident is a homeless veteran who is currently residing in Multifamily Transitional Housing provided under the Program. Residents may also include veterans who are not homeless and homeless individuals who are not veterans, if VA in its sole discretion, has determined that the transitional housing needs of homeless veterans in the Project area have been met and that the housing needs of any such veteran or homeless individual can be met in a manner compatible with Program requirements.

u. **Secretary of Veterans Affairs (the Secretary).** The Secretary of Veterans Affairs is an officer of the United States. This term includes any VA employee or VA contractor authorized to act on behalf of the Secretary.

v. **Single Purpose Entity.** A single purpose entity is a corporation, partnership or Limited Liability Company (LLC) that is bankruptcy remote and created by, or under, the authority of the laws of a state, territory, or U.S. possession for the sole purpose of owning a Multifamily Transitional Housing facility. Approval of whether the Single-Purpose Entity meets the requirements of the Program is subject to the discretion of the Secretary of Veterans Affairs.

w. **Single Room Occupancy (SRO).** An SRO is a residential unit for occupancy by one person, which need not, but may, contain food preparation or sanitary facilities, or both.

x. **Sober.** Sober refers to when a person's body is free of alcohol or controlled substances, unless such substances are being used under the direction of a physician.

y. **Sponsor.** A sponsor is an artificial person or legal entity that is:

(1) Created by or under the authority of the laws of a State, territory, or possession of the U.S.,

(2) Comprised of officers, members, managers, partners, and/or shareholders who are U.S. Citizens or permanent legal residents,

(3) Responsible for the coordination of the Project's financing and construction and, through the Borrower, has the primary responsibility for a Project's long-term operation and management, including the coordination and implementation of a supportive services program.

NOTE: A Project must have one or more sponsors.

z. **Supportive Housing Facility.** A supportive housing facility is a facility that assists homeless individuals to transition from homelessness to permanent housing by providing short-term housing (generally not to exceed 24 months) and supportive services. A supportive housing facility may also be referred to as "Facility" in this Handbook.

aa. **Supportive Services.** Supportive services are services that may be designated by the sponsor that address the needs of homeless veterans to be served by the facility and to provide appropriate services or to assist such persons in obtaining appropriate services. Supportive Services include:

- (1) Conducting outreach activities;
- (2) Providing food, nutritional counseling, counseling, health care, mental health treatment, alcohol and other substance abuse services, and case management services;
- (3) Where applicable, establishing and operating child care services for dependents of residents;
- (4) Providing supervision and security arrangements for the protection of residents and for homeless veterans using the services;
- (5) Providing assistance in obtaining permanent housing;
- (6) Providing education, employment counseling, and job training;
- (7) Establishing and operating an employment assistance program;
- (8) Providing assistance in obtaining other Federal, State, and local assistance available for facility Residents, including mental health benefits, employment counseling, veterans' benefits, medical assistance, and income support assistance such as supplemental security income benefits, temporary assistance to needy Families, general assistance, food stamps, etc.; and
- (9) Providing housing assistance, legal assistance, advocacy, transportation, and other services essential for achieving and maintaining independent living. Inpatient acute hospital care does not qualify as a supportive service.

bb. **Veteran.** A veteran is a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable (38 U.S.C. §§ 101(2)).

NOTE: A complete list of definitions can be found in the Program Manual on the program at <http://www.va.gov/homeless/page.cfm?pg=8>. The Program Manual is subject to regular updates.

5. OBJECTIVES

a. The Program has multiple objectives to maximize the likelihood of a Project's long-term success.

b. The objectives are:

(1) To increase the number of community beds for homeless veterans nationally.

(2) To help homeless veterans transition to permanent housing by providing Supportive Services, and by requiring that the Residents take personal responsibility to remain sober, maintain employment, and pay a monthly rent.

(3) To determine whether a Federal loan guarantee program is an effective tool for facilitating the development of transitional supportive housing for homeless veterans.

6. PROGRAM TERMS AND FEES

a. Program Terms

(1) **Loan Guarantee Amount.** VA guarantees 100 percent of the unpaid principal balance and accrued interest due but unpaid on the program loan. The original Program loan amount may equal up to 80 percent of total Project costs. *NOTE: It is anticipated that in most cases, the guarantee is to cover significantly less than 80 percent of the total Project cost.*

(2) **Financing.** FFB must provide either permanent financing or a combination of construction and permanent financing which may include reasonable amounts for the acquisition of furniture, equipment, supplies, or materials for the facility or, except in cases of a refinance, for supplying the Borrower with working capital relative to the facility.

(3) **Permanent Loans**

(a) Permanent Loan terms are usually for 30 to 35 years, and may be for up to 40 years where VA determines it is both necessary and appropriate for the Project. A Permanent Loan must not exceed 40 years and must be based on VA's credit underwriting assessment.

(b) If the intended term is greater than 30 years, the Project must have a 25 percent useful life remaining upon the expiration of the loan term.

(c) A Permanent Loan may be obtained independent of a Construction Loan.

(4) **Maximum Permanent Loan Interest Rate**

(a) The interest rate to the Borrower is the applicable Treasury rate plus a spread that captures the liquidity premium between Treasury securities and the private sector lending rate.

(b) The rate must fully reflect the risk inherent to a Project when such a rate accomplishes a broader policy goal.

(c) In no case is the interest rate to be less than a comparable Treasury rate.

(d) The applicable Treasury rate must be consistent with the term of the loan.

(e) For terms not readily discernable from the Treasury curve, FFB establishes a rate with a comparable term.

(5) **Construction Loan Term.** A Construction Loan may be guaranteed only if it is part of a Combination Construction and Permanent Loan.

(a) The construction period may not exceed 24 months from the date of loan closing.

(b) The Borrower is eligible to defer principal and interest payments during the construction period, subject to the Secretary of Veterans Affairs approval.

NOTE: Details relating to Construction Loans can be found on the website at <http://www.va.gov/homeless/page.cfm?pg=8>.

(6) **Construction Interest Rate**

(a) During the construction period, the interest rate is set at the time of each disbursement of Program Funds.

(b) The disbursement of Program Funds (amount and timing) is governed by the draw schedule established between the Borrower and VA.

(c) Where the draw schedule identifies multiple disbursements, the interest rate on each disbursement is determined by the interest rate environment at the time of that disbursement.

(d) The Borrower has the ability to purchase an interest rate cap from FFB to help mitigate the variability of market interest rates.

(e) Pricing and terms for interest rate caps are established by FFB and documented in the note purchase agreement. *NOTE: The note purchase agreement is part of the loan closing documents and is discussed in greater detail in the Program Manual found on the Program website.*

(f) VA must convert the guarantee on a Construction Loan to a guarantee on a Permanent Loan once the underwriting and lease-up assumptions indicated in the application and commitment letter have been met. Notwithstanding anything to the contrary, a Construction

Loan must convert to a Permanent Loan no later than the second anniversary date of the loan closing.

(g) Borrowers under the Program have the option of capitalizing on the interest during the construction period.

(7) **Loan Repayment.** Borrowers are responsible for repaying loans.

(a) Under the loan documents the Borrower is required to make semi-annual payments on the loan to FFB.

(b) In order to ensure the loan payments are made timely and in the required amount, as a condition of the Loan Guarantee, VA requires that the Borrower make payment on a monthly basis equal to one sixth of the amount due on a semi-annual basis.

(8) **DSCR.** The minimum DSCR must be 1.10. VA in its sole discretion may require a higher debt service coverage ratio. DSCRs above 1.15 are preferred.

(9) **Prepayment Options.** Recipients of Loan Guarantee commitments have two prepayment options, one of which must be selected by the Borrower at the time the funds are drawn. The prepayment option selected for the first draw must be the same prepayment selection for all future draws. Prepayment may not result in a substantial change in the use of the facility, unless VA determines that the facility is no longer needed. **NOTE:** *Details on the Prepayment Options can be found on the website at <http://www.va.gov/homeless/page.cfm?pg=8>.*

(10) **Refinancing.** Borrowers on existing Program loans may be offered refinancing privileges at costs and on terms that are consistent with the prepayment privileges offered by FFB provided that, in VA's determination, the facility continues to meet VA Program requirements.

(11) **Insurance.** Borrowers must maintain adequate insurance to protect against financial loss due to property damage, principal and/or employee dishonesty or error, and any personal injuries that may occur on the property. **NOTE:** *Specific Insurance requirements can be found on the website at <http://www.va.gov/homeless/page.cfm?pg=8>.*

(12) **Reserves**

(a) Construction Contingency Reserve

1. To ensure that a project is completed in accordance with the plans and terms of the Program loan, the Secretary of Veterans Affairs may require that the Borrower establish a construction contingency reserve at loan closing as a preventative measure for any shortfalls which may arise due to change orders or unforeseen circumstances during the construction period.

2. The amount of the construction contingency reserve must be determined by the Secretary of Veterans Affairs during the underwriting process.

3. The construction contingency reserve must remain in effect until the Secretary of Veterans Affairs deems the Project complete.

(b) Operating Reserve

1. Borrowers are required to build up operating reserves sufficient to cover a minimum of six months operating expenses.

2. The required reserve levels are calculated on an individual Project basis, based on potential cash flow shortfalls.

3. Operating reserve requirements are dependent on loan characteristics, such as loan-to-value (LTV) and loan term.

(c) Replacement Reserve

1. Replacement Reserves are required to increase the probability that a Borrower has sufficient funds available for capital expenditures on the properties that are secured by the program loan.

2. Typical replacement reserve requirements are approximately \$200 - \$400 per unit, but VA must evaluate the actual amount necessary for such purpose on an individual Project basis. *NOTE: Specific details pertaining to how reserves are to be calculated can be found in the Program Manual at <http://www.va.gov/homeless/page.cfm?pg=8>.*

(d) Taxes and Insurance Reserve

1. The Borrower must make a monthly payment to the tax and insurance reserve equal to one twelfth of the actual or expected yearly charge for taxes and insurance for the Project.

2. During the initial months of the program loan term, a monthly amount exceeding one twelfth of the annual charge for an item may be required of the Borrower if an initial deposit is not made to the reserve account.

(e) Lease-Up Reserve

1. Construction and rehabilitation loans may require a lease-up reserve account that would be maintained until VA determines that occupancy is sustained within the facility.

2. Lease-up reserve requirements vary according to individual Projects and the specific development needs during the underwriting phase.

(f) Repair Reserve. VA must determine the need for a repair reserve at the time of loan underwriting. *NOTE: Greater detail regarding the reserve requirements can be found on the website at <http://www.va.gov/homeless/page.cfm?pg=8>.*

(g) A Borrower may be required to fund all or none of the preceding noted reserves in addition to any other reserve the Secretary of Veterans Affairs may deem necessary, appropriate, and consistent with prudent lending practices.

(13) **Financial Reporting.** The Borrower is required to certify and submit specific financial information for the Project, the Borrower, and the sponsor to VA on a monthly, quarterly, and annual basis. The required information enables VA to monitor the condition of the Project and the Borrower's ability to support the Project debt. **NOTE:** *Specific details outlining the reporting requirements can be found on the website at <http://www.va.gov/homeless/page.cfm?pg=8>.*

b. Program Fees

(1) **Late Fee.** If any monthly installment payment is not received by the Secretary of Veterans Affairs prior to the 11th calendar day after the payment is due (without regard to any applicable cure and/or notice period), the Borrower must pay to the Secretary without demand the amount of the unpaid monthly installment plus an amount equal to the lesser of:

(a) Four percent of such unpaid sum, or

(b) The maximum amount permitted by applicable law to defray the expenses incurred by the Secretary of Veterans Affairs in handling and processing such delinquent payment.

(2) **Assumption Fee.** The Assumption Fee is a non-refundable review fee in the amount of \$3,000 and includes a transfer fee equal to one percent of the outstanding indebtedness due immediately prior to the transfer of the property or ownership interests in the property. **NOTE:** *Additional information about assumptions and the assumption process can be found at <http://www.va.gov/homeless/page.cfm?pg=8>.*

(3) **FFB Administration Fee.** The FFB administration fee is equal to one-eighth of 1 percent per annum of the unpaid principal balance on each advance.

(a) The fee is separate from and different than the interest rate although computed in the same manner as accrued interest is computed.

(b) The fee shall be due at the same time that accrued interest is due to FFB on the note.

NOTE: *Details on the fee can be found in the loan closing documents.*

7. PROGRAM RESTRICTIONS

a. **Program Restrictions.** Program restrictions include the following:

(1) The Program loan must be superior to all other indebtedness. No additional indebtedness can be obtained without the Secretary of Veterans Affairs advance written consent.

(2) The Loan Guarantee applies only to funds lent by FFB under this Program.

(3) The Program loan amount may not exceed 80 percent of the total Project cost.

(3) When refinancing a Program loan, Program Funds may not be used to fund a Developer Fee or for supplying the Borrower with working capital relative to the Project.

(4) Disbursement of a Developer Fee must be structured to provide an incentive to the Developer to complete and lease up the facility as planned. Disbursement of the Developer Fee must be tied to the Developer's completion of certain milestones as specified by the Secretary of Veterans Affairs, with a 10 percent holdback until, at a minimum, 3 months of stabilized occupancy occurs.

(5) This Program does not fund single family housing.

b. Legal Requirements

(1) Projects funded under this Program must comply with all applicable Federal, State, and local laws. *NOTE: Specific laws requiring compliance can be found on the website at <http://www.va.gov/homeless/page.cfm?pg=8>.*

(2) Sponsors and Borrowers must have the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability to carry out the assumptions represented in the application.

(3) Sponsors and Borrowers must self-certify their compliance with certain laws, rules, and regulations. *NOTE: The form Certification can be found on the website at <http://www.va.gov/homeless/page.cfm?pg=8>.*

(4) It is the responsibility of sponsors and Borrowers, in conjunction with their legal counsel, to ensure that they are in compliance with all appropriate Federal, State, and local laws.

8. VA RESPONSIBILITIES

The responsibilities of VA include:

a. Identifying target geographic locations with the greatest need for Multifamily Transitional Housing.

b. Informing the public about the availability of funds and establishing the application process.

c. Underwriting Program loans.

d. Approving Program Loan Guarantee applications.

e. Servicing Program loans or oversight of a third-party loan servicer contracted to service the loan portfolio.

f. Monitoring Projects for compliance with Program statutes, regulations, and rules.

(1) VA must be responsible for performing annual physical inspections of the facilities funded under the Program.

(2) VA must conduct regular financial reviews of the facilities in accordance with the loan documents. *NOTE: Details relating to the financial reviews can be found in the Program Manual and in the Program loan documents.*

(3) VA is responsible for reviewing the Supportive Services program at each facility on a regular basis to determine that the Supportive Services program is meeting the needs of homeless veterans. *NOTE: If VA determines the Supportive Services Program is not acceptable, VA may recommend changes.*

g. Exercising fund control over program and non-program funds in projects that include construction, renovation, or rehabilitation.

h. Processing and paying any Loan Guarantee payments to FFB.

i. Evaluating the economic feasibility of offering a program loan to community and faith-based sponsors who are to provide high quality Multifamily Transitional Housing.

(1) Data must be collected using NEPEC Form D and Form X. Pilot sites are to be monitored and evaluated. NEPEC is responsible for this task. Monitoring protocols and training are available to assist in these efforts.

(2) NEPEC is the office of primary responsibility for any questions concerning program evaluation.

NOTE: Additional detail on VA Responsibilities and Loan Guarantee payments can be found on the website at <http://www1.va.gov/homeless/page.cfm?pg=8>.

9. APPLICATION PROCESS

a. VA must have sole discretion to make guarantees under the Program.

b. VA must use a two-stage evaluation process that includes two sets of evaluation criteria per stage.

c. VA invites those Projects that meet stage one requirements to submit stage two applications.

(1) Stage One Application Evaluation

(a) Stage One Eligibility Criteria. Eligibility criteria assess whether an application can meet the requirements outlined in the Program authorizing legislation, 38 U.S.C. §§ 2051-2054, et seq.

An application must satisfy all of the Stage One eligibility criteria in order to advance to consideration under the Stage One feasibility criteria. Stage One eligibility requirements are as follows:

1. The application must be complete and on time.
2. Applicant sponsors must:
 - a. Certify that it is an artificial person or legal entity that is:
 - (1) Created by or under the authority of the laws of a State, territory, or possession of the United States,
 - (2) Comprised of officers, members, managers, partners, and/or shareholders who are U.S. Citizens or permanent legal residents,
 - (3) Responsible for the coordination of the Project's financing and construction and, through the Borrower, has the primary responsibility for a Project's long-term operation and management, including the coordination and implementation of a Supportive Services program.
 - b. Agree to establish, before loan closing, a Single Asset Entity to serve as the Borrower.
 - c. Certify that it is able to, and intends to, maintain and operate the Project in accordance with Program objectives and requirements identified in the authorizing legislation, in this Handbook, and in any other applicable rules, regulations, and Program guidelines.
 - d. Be in compliance with all legal and regulatory requirements and not be in default with respect to any VA program or any Federal debt.
 - e. Commit to run the proposed facility as Multifamily Transitional Housing for a period of 20 years from the date of loan closing or until the loan pays off, whichever is longer, or until such time as VA determines the transitional housing for homeless veterans is no longer necessary in the particular location. In no event is the facility to be used for something other than Multifamily Transitional Housing so long as any portion of the FFB note remains outstanding.
 - f. Provide on-site Supportive Services with the goal of assisting the residents in becoming self-sufficient.
 - g. Require each resident to seek to obtain and maintain employment.
 - h. Charge a reasonable residential occupancy fee, not to exceed 30 percent of a resident's gross monthly income.
 - i. Maintain strict guidelines regarding sobriety as a condition of residency.

j. Seek funding, or the substantial provision of property or services, by a State or local government or a nongovernmental entity. Such funding or assistance is in addition to the contemplated Program Funds.

(b) Principals. In addition to the sponsor, its principals and the development team members and their principals must meet the following requirements:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.

2. Have not within a 3-year period preceding this application, been:

a. Convicted of, or had a civil judgment rendered against them for commission of fraud or an offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction.

b. In violation of Federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

c. Convicted of a commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

3. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local), with the commission of any of the offenses enumerated in the immediately preceding paragraph; and

4. Have not within a 3-year period preceding the Application had one or more public transactions (Federal, State, or local) terminated for cause or default.

5. Must not have any outstanding VA audit findings of concern or they are to be considered ineligible. No organization may receive assistance that has an outstanding obligation to VA that is in arrears, or for which a payment schedule has not been agreed to, or whose response to an audit is overdue or unsatisfactory.

(c) Project

1. The proposed Project must be for an allowable purpose.

2. The Project must meet one of the following criteria as applicable:

a. Charge the minimum rent required by the subsidy program if the Project has a rent subsidy, and

b. Charge rents that when combined with other sources of Project revenue allow the Projects to cover operating costs and debt service, if the Project does not have a rent subsidy. Sponsors must demonstrate that such rents are affordable to the intended Residents.

3. Eligible support by a State or local government or a nongovernmental entity includes but is not limited to:

a. Commitment of development funds such as low-income housing tax credits, Community Development Block Grants (CDBG), HOME Investment Partnerships Program for Community Housing Development Organizations, and the Federal Home Loan Bank's Affordable Housing Program funds.

b. Commitment of rent or operating subsidies.

c. Commitment of Supportive Services funding.

d. Donations that reduce total development costs, including: land, leasehold interests, labor, buildings, infrastructure or site improvements, services, furnishings, and other items included in the development budget, or the provision of these at below-market cost.

e. Donation of operating services, or the provision of these at below-market cost.

f. Donation of Supportive Services, or the provision of these at below-market cost.

g. Significant local or State government fee or tax waivers.

h. Private financing such as bank loans, capital contributions, or donations.

(2) Stage One Feasibility Criteria

(a) Stage One Feasibility Criteria. Feasibility criteria set minimum standards for financial and practical viability, development team and service provider capacity, and appropriateness of the Supportive Services plan. A proposed Project must satisfy all feasibility criteria in order to advance to consideration under Stage two. Stage One feasibility criteria are as follows:

1. The development team has a proven track record in Supportive Housing Facility development and operation.

2. At a minimum, the development team includes a sponsor and an architect.

3. The sponsor must coordinate the Project's financing and construction and is to have primary responsibility for its long-term operation and management, including the coordination and implementation of a Supportive Services Program.

4. Sponsors who lack experience developing affordable supportive housing facilities must retain a development consultant with affordable Supportive Housing Facility development expertise.

5. The core development team is in place.

6. The sponsor and/or sponsor's development consultant has a sufficient development track record.

7. The sponsor, or its development consultant, must have completed and placed in service at least one currently operating affordable Supportive Housing Facility of comparable or larger size.

8. If the sponsor seeks a VA Construction Loan Guarantee, the sponsor or development consultant must have experience managing construction.

9. VA must rate proposals relative to others based on the number of facilities sponsors have placed in service and are successfully operating, with facilities in service for more than 3 years receiving greater preference than those in service for 3 years or fewer.

10. To receive consideration for facilities in existence for more than 3 years from the filing deadline for the application, the sponsor must submit a certification from a certified public accountant that the facilities have maintained a positive cash flow for the year in which each development's last financial statement has been prepared (must be no earlier than 1 year prior to application deadline) and demonstrate funded reserves.

11. Sponsors who retain a development consultant must provide track record information for both themselves and the consultant.

12. VA must also consider in its evaluation whether any of the sponsor's facilities, or those of its consultant, has defaulted within 2 years of being placed in service, and whether any of the sponsor's facilities did not complete construction because of cost overruns or other factors directly within the control of the sponsor or its consultant.

13. The sponsor has a demonstrated track record of working constructively with local and/or State governments to develop housing. Evidence may include securing government housing-related funding (including tax credits), property donation, reduction or dismissal of liens on property to be developed as affordable housing, and tax relief.

14. The sponsor demonstrates the financial capacity to undertake development and operation of the Project.

15. The sponsor demonstrates stability in the composition of its board (if applicable) and staff.

16. The architect has local experience designing affordable housing communities.

17. The sponsor has successfully managed at least one Supportive Housing Facility of similar or larger size during the last 5 years or, if management is contracted, the property management firm has successfully managed at least two supportive housing facilities during the last 5 years, one of which is of comparable or larger size.

18. The Supportive Services plan is appropriate for the target population.

19. The sponsor has conducted a needs assessment that identifies the need of homeless veterans in the community and estimated the demand for a Project. The needs assessment is to reflect the findings of the most recent VA CHALENG report. *NOTE: VA is to use the CHALENG findings to evaluate the needs assessment. To access this report electronically, go to www.va.gov/homeless/page.cfm?pg=17.*

(b) Supportive Services Plan. The Supportive Services Plan addresses needs identified in the needs assessment and includes a comprehensive, realistic strategy to foster self-sufficiency in the residents. The plan must:

1. Identify an ongoing outreach plan for identifying and screening potential Residents that ensure the facility is fully occupied.

2. Discuss how residents are to be involved in making facility decisions that affect their lives, including how they are to be involved in selecting Supportive Services, establishing individuals' goals, and developing plans to achieve these goals so that they achieve greater self-determination.

3. Include an employment program designed to help the Residents attain long-term employment once they leave the facility.

4. Clearly identify how Residents are to attain and transition to permanent housing.

5. Identify which Supportive Services are to be provided on-site and off-site, as well as who is going to provide them.

6. Include a realistic budget and a strategy for obtaining funding.

7. Include a realistic staffing plan that identifies staff qualification requirements.

8. Identify how Residents are to be provided with necessary follow-up services to help them achieve stability when transferred to permanent housing.

9. Identify how the service needs of Residents are to be assessed on an ongoing basis.

10. Discuss how Residents are to be assisted in assimilating into the community through access to neighborhood facilities, activities, and services.

11. Discuss how and when the progress of Residents toward meeting their individual goals is to be monitored and evaluated.

12. Discuss how and when the effectiveness of the overall Project in achieving its goals is to be evaluated and how program modifications are to be made based on those evaluations.

13. Discuss how the proposed Project is to be implemented in a timely fashion.

(c) Supportive Services Provider. The Supportive Services Provider must:

1. Have the resources and experience to implement the Supportive Services plan.
2. Have experience operating a services plan of size and scope similar to the plan being proposed, with maximum operating efficiencies.
3. Demonstrate the ability to obtain government program or private subsidy funds for services for homeless and/or other special-needs populations.
4. Demonstrate ability in other fundraising activities to ensure continued organization operations with relative fiscal stability.
5. Exhibit stability in the composition of its board and its staff.
6. Demonstrate ability in assessing and monitoring the housing and relevant Supportive Services needs of homeless veterans and/or other special needs populations.
7. Ensure a financial model is viable.
8. Ensure the sources and uses budget presented in the Application appears adequate to implement the development of the Project.
9. Ensure the uses budget includes reasonable preliminary estimates for potential environmental remediation and geotechnical work.
10. Ensure the development sources are at least equal to uses.
11. Ensure that rents are affordable to the target population. VA expects that Residents are to be charged no more than 30 percent of a Resident's gross income.
12. Ensure the operating budget adequately covers costs and includes adequate replacement reserves.
13. Ensure the Supportive Services budget is adequate for the proposed Supportive Services plan.
14. Ensure the Applicant's financing model reflects the requirements of the terms of the Program.
15. Ensure all key trending, income, expense, and vacancy assumptions are realistic and justified.
16. Ensure the disbursement of the Developer Fee is structured so that the Project is able to be completed and leased up as planned.

17. At a minimum, ensure disbursement of the Developer Fee is tied to a Developer's completion of Project milestones.

18. Ensure that ten percent of the Fee is held until the Project reaches a stabilized occupancy for a period of 3 months.

19. Make sure the market supports the proposed development program.

20. Make sure that the Borrower has a comprehensive market study conducted by a disinterested third party.

21. Make sure that the report demonstrates that the proposed number and type of units meet an existing and identified need, and can be readily absorbed by the existing need for multifamily housing in the local area if and when homelessness among veterans is no longer a problem.

(2) Stage Two Application Evaluation. VA must evaluate all feasible Stage Two Applications and make a decision to issue a loan commitment based on a number of factors.

(a) VA must give greatest consideration to the sponsor's capacity to develop and implement the program, the sponsor's ability to ensure repayment of the loan, and the sponsor's readiness to proceed.

(b) VA reserves the right not to issue any loan guarantees.

(c) The Stage Two Application evaluation criteria are as follows:

1. The proposal demonstrates strong repayment ability.

2. VA must prioritize those proposals that represent the least risk of default to the Federal government.

3. VA must evaluate a number of factors, including the following, to assess repayment ability:

a. The sponsor shows strong financial capacity through net worth.

b. The sponsor has a strong track record of timely debt repayment.

c. The Project funding sources include a large amount of equity (through sponsor contributions, tax credits, grants, etc.) and cash-flow-based debt.

d. The Project shows a prolonged debt service coverage ratio in excess of 1.10.

e. The sponsor demonstrates a readiness to proceed.

f. Proposals that are closer to start of construction must receive priority.

g. Proposals that do not include construction and do not require public reviews or approvals are to be evaluated only on the extent to which they have secured financing commitments.

h. Alternative Funding is in place.

i. VA must prioritize proposals with the greatest share of alternative funding in place.

j. Award letters signed by the awarding entity, authority, and/or institution, indicating rate and term, and that the commitment is not subject to any condition outside the control of the Developer, must be the only acceptable evidence to receive consideration under this criterion.

k. Construction financing is in place.

l. VA must prioritize proposals with the greatest share of construction financing in place.

m. Award letters signed by the awarding entity, authority, and/or institution, indicating rate and term and that the commitment is not subject to any condition outside the control of the Developer, must be the only acceptable evidence to receive consideration under this criterion.

n. All necessary public reviews and approvals are complete except building permits. The sponsor must provide written evidence from appropriate officials.

o. Applications must be reviewed as they are received.

p. Loan Guarantees must be awarded on a first-come, first-served basis in accordance with the methodology noted above until all program Loan Guarantees or program funds have been awarded.

(d) The sponsor must inform VA of any changes to the information submitted at stage one, and VA must review the changes for impact on the feasibility of the Project. ***NOTE:** Changes that maintain or improve the feasibility of the Project under Stage One feasibility criteria are encouraged; however, any changes that make the Project infeasible under Stage One feasibility criteria must disqualify the application from further consideration.*

(3) Stage Two Feasibility Criteria. VA must review Stage Two applications for feasibility based on a number of factors.

1. A facility must satisfy all stage two feasibility criteria to be considered for funding.

2. Stage Two feasibility criteria are as follows:

(a) The sponsor has site control.

(b) The sponsor must provide evidence that it has and is to maintain control of the property for which the VA loan guarantee is requested through the anticipated loan closing date.

(c) Acceptable forms of site control may be any one of the following:

- (1) Deed or other proof of ownership;
- (2) Executed contract of sale;
- (3) Executed capital lease agreement; and
- (4) Executed option to purchase or lease.

d. The sponsor has secured commitments for funding or the substantial provision of property or services by a State or local government or a non-governmental entity.

e. The site is suitable for the proposed Project, and the Project complies with all applicable laws and codes.

f. The proposed Project has all required zoning approvals needed by State and local authorities.

g. The proposed Project complies with all applicable Federal, State and local codes, laws, ordinances, zoning requirements, and health and safety standards.

h. The site has utilities and infrastructure that are adequate for the needs of the Project and that meet all local building and zoning requirements.

i. Soil and geological conditions are suitable for the type of construction proposed.

j. The site layout adequately addresses environmental issues.

k. The Project's design is appropriate for the tenant population, site characteristics, and the neighborhood.

l. The design features secure, well-designed unit interiors.

m. The design features security and crime prevention measures, which may include but are not limited to strategically placed fencing, keyless entry systems, and security cameras.

n. The Project's design provides adequate space for the Supportive Services program. The design must consider space needs for case management of Residents, meeting and/or classroom space for service and program provision, and integrated community living space.

o. The Project's construction cost is reasonable and construction budget is realistic and cost-efficient, based on local norms. The construction budget must include adequate funding to address all identified and reasonable foreseeable environmental geotechnical issues.

p. The Project provides ready access to transportation. The sponsor must demonstrate fulfillment of at least one of the following three criteria:

(1) A Project is located within reasonable distance of public transportation such as a bus or subway stop.

(2) A Project provides regular shuttle service to and from public transportation, either directly or through a partnership with a Supportive Service provider.

(3) In areas without adequate public transportation, the sponsor must provide a plan for how Residents are able to meet their transportation needs and have ready access to services provided in the local community.

(b) Property Management Plan. The property management plan is comprehensive and workable.

1. The sponsor must submit a plan for managing the Project that defines the roles and responsibilities among the sponsor, Borrower, property manager and Supportive Service provider in addition to any other key players involved in Project operations.

2. The plan must be workable for performing the functions of property, financial, and resident management.

3. VA must assess proposals relative to each other based on length of property management experience and number of affordable housing properties managed.

4. Properties managed for more than three years must receive greater preference than properties managed for 3 years or fewer.

5. The proposed Project increases the supply of transitional housing available to homeless veterans. *NOTE: VA is to assess proposals based on the number of new beds for homeless veterans, prioritizing those with the greatest number of new beds.*

(c) Supportive Services Plan. The Supportive Services plan includes coordination with other homeless and veterans service groups.

1. VA must prioritize Projects whose sponsors most clearly demonstrate that they have coordinated with Federal, State, local, private, and other entities serving homeless individuals in the planning and operation of Supportive Services.

2. Sponsors are required to demonstrate that they have coordinated with the VA medical care facility of jurisdiction and VA Regional Offices of jurisdiction in their area.

3. Higher priority is to be given to those sponsors who can demonstrate that they are part of an ongoing community-wide planning process that is designed to share information on available resources and reduce duplication among programs that serve homeless veterans;

4. Sponsors must prove that they have consulted directly with other providers regarding coordination of services for Residents.

5. In assessing the strength of the sponsor's coordination with other veterans and homeless groups, VA is to give greatest priority to those proposals that have the greatest portion of their Supportive Services program in place, either through partnership or funding commitments.

6. Sponsors who wish to receive points under this criterion must submit documentation of Supportive Service resources.

10. CONSTRUCTION PROCESS

a. Pre-Construction

(1) **Initial Review.** The initial review of the construction budget, plans, and specifications for the Project occurs 1 to 2 months before the Program loan closing date. This review differs from the underwriting in that it is a technical review of key aspects of Project construction.

(a) The plans and specifications for the Project must be satisfactory to VA and, to the extent required by applicable law, must have been approved by all official bodies.

(b) The Project must be completed in accordance with the plans and specifications except for changes made pursuant to a change order approved in writing in advance by the Secretary of Veterans Affairs and in compliance with all governmental requirements, and any restrictive covenants applicable thereto, and within the boundaries of the mortgaged property.

(c) VA must review all authorizations, certificates, and permits required by any official body for the Project and any other evidence that the anticipated use of the property complies with all applicable zoning ordinances, regulations, and restrictive covenants affecting the property and all other governmental requirements.

(2) **Pre-Construction Meeting**

(a) After the Program loan settlement, and prior to the start of construction, a pre-construction conference must be held on the Project site or at another specified location (if the Project site is undeveloped land).

(b) Participants of the pre-construction meeting need to include, but not necessarily be limited to, the sponsor, Borrower and/or Developer, the architect, the General Contractor, VA, and any other subordinate lenders or their representatives.

(3) **Funds Control.** Because VA is to be the senior lender on the Project, but not the only source of financing for the Project, it is highly likely that Program Funds will not be drawn on until the Project construction is well underway. For that reason, VA reserves the right to maintain fund control for the entire Project or to dual track fund control under certain circumstances to ensure that Program Funds are incorporated into the Project at the appropriate time and are sufficient to complete the Project.

(4) **Critical Path Method.** VA requires that the General Contractor supply a critical path method (CPM) schedule to the Secretary of Veterans Affairs for the Secretary's approval. A CPM schedule is a computerized scheduling methodology used on complex Projects which identifies the critical path to completing a specified Project or sub-Project. The CPM schedule must identify the various work activities and milestones, time-versus-activity relationships, the interrelationship of various activities, the dependencies of activities on one another, the critical activities that control Project duration, and the sequence in which work and/or milestones are to be accomplished. The General Contractor must submit an updated CPM schedule with each draw request.

NOTE: A sample form CPM satisfactory to the Secretary of Veterans Affairs can be found on the VA website at the following address: <http://www.va.gov/homeless/page.cfm?pg=8>.

b. **Developer Fee.** A reasonable Developer Fee is an allowable use of program proceeds except in the case of refinancing loans.

(1) When Program Funds are used to pay a Developer Fee, the fee may not exceed 12 percent of total development costs, not including the Developer Fee, hard or soft cost contingencies, tax credit syndication-related costs, and operating and escrow reserve accounts.

(2) When refinancing program loans, proceeds may not be used to fund a Developer Fee. Development consultant fees are included in the Developer Fee cap.

(3) Disbursement of the Developer Fee must be structured to provide an incentive to the developer to complete and lease up the facility as planned.

(4) VA recommends that disbursement be tied to completion of the specific Project milestones outlined at the loan closing.

(5) No more than 80 percent of the total fee needs to be disbursed prior to completion of construction. VA requires a 10 percent retainer be held by the lender until after the loan stabilization period (i.e., stabilized occupancy of greater than or equal to 85 percent for at least 90 days).

c. **Construction Draw Process**

(1) **Draw Form**

(a) The Borrower submits the draw request with any required change order on the standardized American Institute of Architects (AIA) Document G702-1992, Application and Certificate for Payment, with supporting documentation.

(b) Documentation includes, but is not limited to invoices, lien waivers and receipts, advance request identified under the note purchase agreement. *NOTE: The Advance Request Form and the Note Purchase Agreement can be found in the loan closing documents.*

(c) Detailed invoices and or lien waivers must support all expenditures in addition to the updated CPM, as necessary.

(d) The draw request must be attached to the Advance Request Form and submitted to VA for approval.

(e) For draw requests not requiring Program Funds, VA approval or non-objection is still required.

NOTE: *Specific procedures for draw requests not requiring Program Funds can be found in the Program Manual, found on the VA Web site at <http://www.va.gov/homeless/page.cfm?pg=8>.*

(2) Draw Process

(a) The disbursement of funds (amount and timing) is governed by the draw schedule established between the Borrower and VA.

(b) Loan disbursements are generally prearranged and are based upon either a standard payment plan that calls for fixed payments at the end of specified stages of construction, or a progress payment plan, which is usually based on monthly disbursements up to a stated percentage of value with a stated percentage held back until the Project is completed.

(c) Under each plan, a percentage of the loan is usually retained until a notice of completion has been filed and the stipulated period under which liens may be filed has lapsed.

(3) **Inspections.** Prior to the approval and payment of a draw, VA must prepare a site inspection report.

(4) **Disbursements.** Disbursements must be properly authorized by VA and supported by an inspection.

(a) Receipted bills of work performed and materials furnished, and lien waivers must be submitted by the General Contractor at the time of each draw request and when construction is completed and before final disbursement.

(b) VA must approve funding up to the agreed upon budgeted line item amount, but is not to approve more funding than the value of the construction completed to date.

(c) Construction funds are released on a draw-by-draw basis, to the person(s) to whom the Borrower is obligated to make payment, or to a title company, if required by the State.

(d) VA requires a retainage of not less than 10 percent be withheld on all interim advances to the contractor until the work with respect to the Project has been completed by the contractor.

(e) Prior to the final Construction Loan advance, the General Contractor must have delivered to the Borrower:

1. A complete release of liens signed by the contractor, all subcontractors and/or material suppliers as the case may be, evidencing payment of all workers and material individuals.

2. Evidence that all necessary approvals and permits (state and local) have been obtained by the Borrower.

(5) Change Orders

(a) The change order must disclose the increase in cost and time, and include a description of the need for the change order.

(b) The Borrower, Project architect, and the General Contractor must sign all proposed change orders.

(c) Approval of the change order is subject to a demonstrated need for the change, and the availability of sufficient construction contingency funds in the development budget.

(d) All change orders in excess of \$10,000 individually, or \$25,000 in aggregate, must be reviewed and approved by VA.

***NOTE:** Further details regarding Construction Loans can be found on the website at <http://www.va.gov/homeless/page.cfm?pg=8> or within the form loan documents.*