

Multifamily Seller/Servicer Guide

Chapter 25A

Originating a Targeted Affordable Housing Tax-Exempt Loan under a Forward Commitment

25A.1 Overview of Forward Commitments for Tax-Exempt Loans

a. Availability of Forward Commitments (09/28/18)

This chapter provides the requirements for a Targeted Affordable Housing (TAH) Tax-Exempt Loan (TEL) originated under a Forward Commitment. To be eligible to enter into a Forward Commitment, a Targeted Affordable Housing Seller/Servicer must meet the requirements specified in Section 3.13.

See Exhibit 2, Origination Guidelines for Affordable Products, for additional information about the types of affordability components that are available to Targeted Affordable Housing Seller/Servicers.

The Seller/Servicer and Freddie Mac will both rely on Single Counsel for TELs rather than Seller's counsel for any matters Single Counsel handles for the Seller/Servicer and Freddie Mac. See Section 25.8(a) for a description of services Single Counsel may provide for a TEL transaction. With respect to TELs, all references to Seller's counsel in this Guide should be deemed to refer to Single Counsel.

Because Freddie Mac will purchase a TEL only on a negotiated basis, the underwriting and loan structure requirements may vary from one transaction to another. Freddie Mac reserves the right to apply additional or more stringent requirements to any transaction.

b. Origination Requirements and the Minimum Origination Fee (09/28/18)

Under the TAH TEL Program, the Mortgage must be originated using funds from loan proceeds that are used in the financing of targeted affordable housing. Pursuant to this chapter and the Forward Commitment, Freddie Mac will be obligated to purchase from the Seller a TEL upon the satisfaction of the conditions to purchase set forth herein and in the Commitment. From payments made by the Borrower, the Seller will be obligated to pay to Freddie Mac (or the fiscal agent, if the fiscal agent is the paying agent in the transaction) all principal and interest due on the governmental note.

The Minimum Origination Fee provisions of Section 17.1(f) apply.

c. Eligible Mortgages and Mortgage requirements (12/15/20)

A Mortgage is eligible if it is originated for the purpose of new construction or substantial rehabilitation. However, Preservation Rehabilitation Mortgages are not eligible for Forward Commitments.

The Property must be owned by the Borrower or under contract with the purchase date scheduled to occur within 90 days of interest rate lock.

See the following sections in Chapter 25, Originating a Targeted Affordable Housing Tax-Exempt Loan, for additional requirements:

- Section 25.1(c): Fixed-rate TELs
- Section 25.1(d): Variable-rate TELs
- Section 25.1(e): Combination financing
- Section 25.2: Underwriting Requirements

d. Underwriting and prescreen package requirements (09/28/18)

See the following for information regarding the content of the prescreen and full underwriting packages for Forward Commitments:

- Section 25A.5: Prescreen package
- Section 25A.7: Full underwriting package

Instructions for preparing the prescreen package and the full underwriting package and remitting any required fees to Freddie Mac are found in Chapter 55. Chapter 55 also contains a complete description of Freddie Mac's requirements for each document in an underwriting package, including a description of the required content and whether the document must be certified.

The Seller should plan for a reasonable period for Freddie Mac to process and review the prescreen package and full underwriting package before receipt of the Quote or the Forward Commitment, as appropriate.

e. Freddie Mac's review of construction documentation (09/28/18)

Depending on the qualifications of the construction lender, Freddie Mac will conduct either a standard review or an expedited review of the construction documentation. The type of review will determine when construction documentation must be submitted to Freddie Mac. In a standard review, Freddie Mac will review all construction documentation noted in Section 55.2 and the underwriting checklist, including the property and site description and the summary analysis of the development team's qualifications prepared by the Seller's Chief Architect/Engineer, that must be submitted as part of the full underwriting package.

An expedited review of construction documentation by Freddie Mac will be available for Forward Commitments where the construction lender meets the criteria identified in Section 25A.4. In an expedited review, the Seller submits as part of the full underwriting package

- A preconstruction analysis report, as described in Section 63.3(a)
- A narrative summary, including a property and site description and a summary analysis of the development team's qualifications, that is prepared by the Chief

Architect/Engineer, as outlined in Section 55.2 and the underwriting checklist, Section 1.32 of Exhibit 1.

In an expedited review, the Seller must also deliver the following construction documentation to the Multifamily TAH Underwriter via the Document Management System (DMS) within 90 days after the date of the Forward Commitment:

- Final plans and specifications (stamped and signed)
- Executed construction contract with all exhibits

Section 55.2 lists the items to be submitted as construction documentation in the underwriting package for both a standard review and an expedited review.

25A.2 Description of a Forward Commitment (09/28/18)

A Forward Commitment provides a single source of construction and permanent financing for new construction or substantial rehabilitation of a multifamily Property that qualifies as a Targeted Affordable Housing Product. In this chapter, the term “construction” will include substantial rehabilitation.

A Forward Commitment is executed by the Seller and Freddie Mac. In it Freddie Mac commits to locking the interest rate spread, the amount of the loan and the conditions to its purchase of the TEL; the Seller commits to originating the TEL and purchasing the governmental note when the project is complete and has met the conditions for Conversion. The Property must reach stabilization and meet the additional Conversion criteria set forth in Section 25A.14 before the permanent Mortgage can be originated.

a. Unfunded Forward Commitments (09/28/18)

There is only one type of Forward Commitment for a TEL: an Unfunded Forward Commitment.

In an Unfunded Forward Commitment, Freddie Mac does not purchase the TEL until construction has been completed, the permanent Mortgage is originated and all conditions for Conversion have been satisfied.

b. Defined terms for Forward Commitments (09/28/18)

The Seller should be familiar with the following terms applicable to Forward Commitments, which are defined in the Glossary:

- Construction Loan
- Construction Phase Financing Agreement
- Conversion
- Forward Commitment Maturity Date

25A.3 Forward Commitment Property Inspection (09/28/18)

Freddie Mac requires a Forward Commitment Property Inspection for every Forward Commitment. See Section 8.16 for Freddie Mac's requirements for the Forward Commitment Property Inspection.

25A.4 Construction lender (09/28/18)

The Seller must determine that the construction lender

- Employs an experienced, fully-staffed construction lending department
- Demonstrates sufficient construction lending experience with successful construction lending on projects of similar size and complexity for the relevant type of property
- Will execute a Construction Phase Financing Agreement with Freddie Mac

The construction lender must execute the Construction Phase Financing Agreement at the same time as the TEL closing.

To be eligible for an expedited review of the construction documentation by Freddie Mac, the Seller must confirm that the construction lender meets the following criteria in addition to those identified above.

- A minimum of \$1 billion in deposits, for a regulated regional or national bank, or the equivalent for a life insurance company or its subsidiaries
- A senior unsecured debt rating of BBB or higher by at least two of the following rating agencies: Fitch Ratings, Standard & Poor's Ratings Services or Moody's Investors Service, Inc.

25A.5 Prescreen package (09/28/18)

To initiate a transaction with Freddie Mac, the Seller must send a quote request to Multifamily TAH Production. After receiving the quote request, Freddie Mac will provide an indication price to the Seller. To continue with the transaction after receiving the indication price, the Seller must prepare the prescreen package. Freddie Mac specifies the list of documents that the Seller must include in the prescreen package in Section 1.25 of Exhibit 1.

Chapter 55 contains a complete description of Freddie Mac's requirements for each document in a prescreen package, including a description of the required content. Contact Multifamily TAH Production for instructions for delivering prescreen packages to Freddie Mac.

The prescreen package must be approved and signed by the Seller's TAH Underwriting Supervisor, as described in Section 3.13.

25A.6 Quote

a. Quote (09/28/18)

If the Mortgage presented in the prescreen package appears to meet the requirements of the TAH TEL Forward Commitment Program, Freddie Mac will issue a written Quote and will advise the Seller in writing that Freddie Mac is interested in receiving a full underwriting package. The written Quote will contain the proposed maximum Mortgage amount, indication spread, term, construction period, amortization period (if applicable) and prepayment terms, as well as other Freddie Mac requirements in response to the information contained in the prescreen package.

b. Indication spread (09/28/18)

Freddie Mac bases the indication spread communicated to the Seller on preliminary information about the proposed transaction and, in its sole discretion, Freddie Mac may change the indication spread.

c. Obligations of the parties (09/28/18)

Issuance of a Quote will not obligate the Seller to submit a full underwriting package or obligate Freddie Mac to purchase a TEL with respect to the proposed Mortgage.

25A.7 Full underwriting package (09/28/18)

After Freddie Mac issues a Quote, the Seller may deliver a full underwriting package to Freddie Mac. In conjunction with the delivery of the full underwriting package, the Seller must submit an application fee. Freddie Mac specifies the list of documents that the Seller must include in the full underwriting package sent to Freddie Mac in Section 1.32 of Exhibit 1, which applies to Mortgages originated under the TAH TEL Forward Commitment Program.

Chapter 55 contains a complete description of Freddie Mac's requirements for each document in an underwriting checklist, including a description of the required content and whether the document must be certified. Chapter 55 also contains instructions for delivering underwriting packages to Freddie Mac.

The full underwriting package must be approved and signed by the Seller's TAH Underwriting Supervisor, as described in Section 3.13.

25A.8 Forward Commitment (09/28/18)

The Forward Commitment represents Freddie Mac's offer to purchase a TEL with respect to the proposed Mortgage.

a. Issuance of the Forward Commitment (09/28/18)

After the Seller submits a full underwriting package meeting the requirements of Section 25A.7, Freddie Mac will determine if the Mortgage is acceptable.

If the contemplated Mortgage is acceptable, Freddie Mac will issue a Forward Commitment, which will state

1. The maximum Mortgage amount
2. For a fixed-rate Mortgage, the maximum annual debt service (consisting of interest plus scheduled principal payments plus the sum of the Servicing Spread and the other loan-related fees)
3. The loan term
4. The amortization period
5. The Servicing Spread
6. The maximum Mortgage interest rate
7. All additional conditions that must be satisfied before Freddie Mac will be obligated to purchase the TEL

The Forward Commitment is valid for the period of time stated in the Forward Commitment. If the Seller fails to accept the Forward Commitment offer within that stated time period, the Forward Commitment will automatically expire, and Freddie Mac will not be obligated to purchase the TEL with respect to the Mortgage under any conditions. The Forward Commitment will automatically incorporate by reference the terms set forth in Section 27.3, as applicable.

b. Seller acceptance (09/28/18)

The Seller may accept the Forward Commitment by following the procedures set forth in the Forward Commitment.

The Forward Commitment may require that the Seller provide a specified Commitment Fee. If the Forward Commitment requires a Commitment Fee, the Seller also must ensure that the Multifamily TAH Underwriter receives the Commitment Fee by the close of business on the next Business Day. The Forward Commitment will indicate the conditions under which the Commitment Fee will be refunded to the Seller.

After the Seller executes the Forward Commitment, the Seller may not transfer, assign or otherwise modify the Forward Commitment without Freddie Mac's prior written approval.

25A.9 Freddie Mac's fees (09/28/18)

See Section 25.8 for a description of the applicable legal fees and certification regarding payment of fees and expenses for Single Counsel.

With respect to fees and expenses for Single Counsel at Conversion, the Seller must pay, or must require the Borrower to pay, the legal fees and expenses (based on actual time and hourly rates) of Single Counsel for representing both Freddie Mac and the Seller in connection with the

Conversion of the Mortgage. Such fees and expenses must be paid on or before the Conversion date.

25A.10 Reserved (09/28/18)

25A.11 Construction monitoring (09/28/18)

See Section 19A.12 for Freddie Mac's requirements for construction monitoring.

25A.12 Extending the Forward Commitment

a. General (09/28/18)

Each extension granted by Freddie Mac under the Forward Commitment may be for a period of no more than six months. Freddie Mac will charge a fee based on the length of the extension to hold the original interest rate or spread set forth in the Forward Commitment.

Freddie Mac may grant a second extension that may be no more than six months. Freddie Mac will charge a fee based on the length of the extension to hold the original interest rate or spread set forth in the Forward Commitment.

In connection with any extension, the Seller must confirm to Freddie Mac that

- The Seller has copies of the amendments extending the Construction Loan documents and any approved subordinate financing documentation, including evidence of recordation of all applicable documents, and
- The Seller has taken such other steps and acts as may be necessary or appropriate to perfect and continue the fiscal agent's liens upon and security interest in the Property.

The Borrower is responsible for all fees and costs associated with such extensions, including letter of credit fees, legal fees and recording costs, as applicable.

b. Request for extension (09/28/18)

1. First extension

No later than 30 days prior to the Forward Commitment Maturity Date, the Seller must notify Freddie Mac via email of its request for an extension. The email must specify that the request is for a first extension, and must include the following:

- A synopsis of the deal
- A reason for the extension request
- Projected stabilization timeline

Within three Business Days following Freddie Mac's receipt of the request, Freddie Mac will advise the Seller regarding its approval of the extension and the amount of the fee via an extension approval letter, which may be in the form of a PDF sent via Multifamily DMS.

The term of any letter of credit applicable to the transaction must be extended for the length of the extension plus 60 days.

2. Second or subsequent extension

No later than 30 days prior to the Forward Commitment Maturity Date, as extended, the Seller must notify Freddie Mac via email of its request for an extension. The email must specify that the request is for a second or subsequent extension, and must include the following:

- A synopsis of the deal
- A reason for the extension request
- Projected stabilization timeline

Within seven Business Days following Freddie Mac's receipt of the request, Freddie Mac will advise the Seller regarding its approval of the extension and the amount of the extension fee via an extension approval letter, which may be in the form of a PDF sent via Multifamily DMS.

The terms of any letter of credit applicable to the transaction must be extended for the length of the extension plus 60 days.

25A.13 Complete property inspection (09/28/18)

See Section 19A.14 for Freddie Mac's requirements for the complete property inspection.

25A.14 Conversion criteria and documentation

a. Time limit for meeting conditions for Conversion (09/28/18)

Freddie Mac's Forward Commitment and agreement to purchase the TEL shall terminate and be of no force or effect in the event that the Seller is unable to fully and totally satisfy each and all of the conditions for Conversion on or before the Forward Commitment Maturity Date or extended Forward Commitment Maturity Date, as applicable.

b. Property requirements for Conversion (09/28/18)

In order for Freddie Mac to purchase the TEL, the Property must:

- Be substantially complete in accordance with the final plans and specifications as certified by the architect of record, confirmed by the Architectural Consultant and reviewed by the Seller

- Have had occupancy of at least 85 percent for at least 90 consecutive days
- Have a Debt Coverage Ratio (DCR) that is:
 - Greater than or equal to the minimum DCR for the Mortgage product, and
 - No more than 10 basis points lower than the original underwritten DCR.

c. Other Conversion criteria (09/28/18)

Any special terms or conditions specified in the Forward Commitment and the Construction Phase Financing Agreement must be satisfied. See Section 25A.15(a) and the TAH Bond Conversion and TEL Underwriting Package in Section 1.33 of Exhibit 1 for additional information about the items that must be submitted as part of the Conversion underwriting package.

d. Reserved (09/28/18)

e. Determination of the Mortgage amount (09/28/18)

The Seller must determine, and Freddie Mac must approve, the amount of the Mortgage using the requirements in the Construction Phase Financing Agreement for the Property.

f. Additional mortgage proceeds (09/28/18)

Additional mortgage proceeds may be available for a Property with a current net operating income (NOI) that exceeds the underwritten NOI. Any additional mortgage proceeds must be approved by Freddie Mac after Freddie Mac's full re-underwriting. The additional proceeds will be re-priced as a first mortgage, although Freddie Mac's security for such additional proceeds may be in the form of a subordinate mortgage.

25A.15 TAH TEL Conversion Underwriting Package and Notification of Conversion

a. TAH TEL Underwriting Package and Conversion schedule (09/28/18)

Once the Seller has completed all Conversion due diligence and analysis, the Seller must

- Prepare the TAH TEL Conversion Underwriting Package and submit it to Freddie Mac
- Submit the proposed Conversion schedule to Freddie Mac no later than 45 days prior to the proposed date of the Conversion

Freddie Mac uses the TAH TEL Underwriting Package to determine whether the Property has met the Conversion criteria specified in the Guide. Freddie Mac specifies the list of documents that the Seller must include in the TAH Bond Conversion and TEL Underwriting Package in Section 1.33 of Exhibit 1, which applies to a Mortgage originated under the TAH TEL Forward Commitment Program. Chapter 55 contains a complete description of Freddie Mac's requirements for each document in an underwriting checklist, including a description of the required content and whether the document must be certified. Chapter 55 also contains instructions for delivering underwriting packages to Freddie Mac.

The TAH TEL Conversion Underwriting Package must be approved and signed by the Seller's TAH Underwriting Supervisor, as described in Section 3.13. The TAH TEL Conversion Underwriting Package and the proposed Conversion schedule must be submitted to Freddie Mac no later than 45 days prior to the proposed Conversion date.

After Freddie Mac completes its underwriting and approves the Conversion, Freddie Mac will execute the Conversion Acceptance Letter.

b. Notification of Conversion (09/28/18)

After Freddie Mac has executed the Conversion Acceptance Letter and no later than 15 days prior to the Conversion date, the Seller must notify the following of the date of the Conversion:

- Freddie Mac
- The governmental lender
- The fiscal agent
- The construction lender
- The Borrower

This notification must contain the name, address, telephone number, facsimile number and email address of the escrow agent or title company to be used for originating the permanent Mortgage.

25A.16 Overall responsibilities of parties at Conversion

a. Responsibilities of the Seller (09/28/18)

The Seller is responsible for the Conversion of the Mortgage in accordance with the terms and conditions of the Construction Phase Financing Agreement.

b. Freddie Mac's responsibilities (09/28/18)

Freddie Mac will coordinate with the Seller the delivery of any documents held by Freddie Mac and to be delivered or released at Conversion under the terms of the Construction Phase Financing Agreement.

25A.17 Loan documents (09/28/18)

See Section 25.10 for Freddie Mac's requirements regarding the loan documents.

25A.18 Additional loan document requirements for a fixed-rate TEL (09/28/18)

See Section 25.11 for Freddie Mac's requirements for a fixed-rate TEL.

25A.19 Additional loan document requirements for a variable-rate TEL

a. Loan interest rate (09/28/18)

See Section 25.12(a).

b. Reserved (09/28/18)

c. Reserved (09/28/18)

d. Mandatory prepayment provisions (09/28/18)

See Section 25.12(c).

e. Other provisions (09/28/18)

See Section 25.12(d).

f. Interest rate cap agreement (09/28/18)

See Section 25.12(e).

g. Assignment of interest rate cap agreement (09/28/18)

At Conversion and upon Freddie Mac's purchase of the TEL, the Seller must assign to Freddie Mac its security interest in any interest rate cap agreement, by means of an assignment acceptable to Freddie Mac. The assignment of security interest must permit Freddie Mac, at any time, to demand that the cap provider make payments under the interest rate hedge agreement to the Seller or to Freddie Mac instead of the Borrower or the fiscal agent.

h. Interest computation (09/28/18)

See Section 25.12(g).

i. Monthly payment billing (09/28/18)

See Section 25.12(h).

j. Relationship of Mortgage payment and cap payment (09/28/18)

See Section 25.12(i).

k. Cap provider (09/28/18)

See Section 25.12(j).

25A.20 Freddie Mac’s review and approvals (09/28/18)

a. Prior review of loan documents and structure (09/28/18)

See Section 25.14.

b. Bond counsel opinion (09/28/18)

Prior to purchasing the TEL, Freddie Mac must receive an unqualified opinion, satisfactory to Freddie Mac, from a nationally recognized bond counsel as to:

- The authorization and valid issuance of the tax-exempt governmental note
- The validity of the lien of the funding loan agreement
- The excludability from gross income, for federal income tax purposes, of the interest payable on the governmental note
- Freddie Mac’s right to rely upon the opinion, or alternatively, a reliance letter addressed to Freddie Mac giving Freddie Mac the right to rely upon the opinion of the bond counsel

Freddie Mac or its counsel may require the bond counsel opinion to be submitted at loan closing and again at Conversion.

25A.21 Other requirements for TEL transactions (09/28/18)

See Sections 25.15 through 25.24.

25A.22 Final delivery (09/28/18)

The Seller must deliver the final delivery package at the time and in accordance with the requirements set forth in Chapter 32.