

CHAPTER 8. GUARANTEE FOLLOWING COMPLETION

- *8-1. ASSURANCE OF PERFORMANCE UNDER GUARANTEE. The Construction Contract, Form HUD-92442 or FHA 2442A, contains a guarantee against any defects due to faulty materials or workmanship which appear within a period of one year following completion. The date of completion is defined as the date on which the HUD Representative signs the HUD Representatives' Trip Report, Form HUD 5379, indicating construction is complete subject to acceptable items of delayed completion and which report is subsequently endorsed by the Chief Architect as being the final inspection report. The Area Manager/Service Office Supervisor (AM/SOS) will be careful to avoid any action that might invalidate or limit the contractor's guarantee.
- 8-2. CASH ASSURANCE. If a Completion Assurance Agreement, Form HUD 92450, was used at initial closing, the AM/SOS may, after the Mortgagor's and Contractor's Certificates of Actual Cost, Forms HUD 92330 and HUD 92330A, have been submitted and analyzed, release the escrow funds except for the following:
- (1) An amount equal to the sum paid the general contractor pursuant to a Construction - Contract - Cost Plus less the actual cost of construction as determined in the cost certification which amount shall be refunded to the mortgagor; and
 - (2) An amount equal to 2 1/2 percent of the total amount of the construction contract retained in an escrow for a period of fifteen months from the date of completion.

The 2 1/2 percent escrow shall be held to guarantee against defects in the construction due to faulty materials or workmanship or damage to the mortgaged premises resulting from such defects that become apparent within one year after the date of completion. The contractor's liability for such corrections is not limited by the amount of the escrow. In addition, the funds are to be kept separate from any escrow that may have been provided to assure completion of any incomplete construction items.

- 8-3. OTHER ASSURANCE. If Form FHA 2452, Performance Bond-Dual Obligee, or the American Institute of Architect's Form AIA A311, Performance Bond, were used, no action is required as both instruments remain in effect for two (2) years from the date on which final payment under the construction contract becomes due. As part of this assurance, the surety will be required to perform when the general contractor falls to refund any overpayment to the Owner, a requirement of Article 3, Construction Contract-Cost Plus, Form FHA 2442.

- *8-4. CHRONOLOGY OF MORTGAGE TRANSACTION. At final closing, the AM/SOS will be responsible for the preparation and furnishing of two copies of Form FHA 260, Chronology of Mortgage Transactions, to the Closing Attorney, who will attach it to the Closing Memorandum, Form FHA 290, and promptly send these forms to the Multifamily Insured Servicing

Section of the Office of Finance and Accounting, Headquarters. In addition, a copy of the chronology will be filed in both the Field Office Docket and the Washington Docket. *