
CHAPTER 6. COST CERTIFICATION

- 6-1 COST CERTIFICATION REQUIREMENTS apply to all multifamily mortgage insurance and direct loan programs.
- 6-2 WHO MUST COST CERTIFY
- A. Mortgagor (Borrower).
 - B. General Contractor
 - 1) Who has an identity-of-interest with the mortgagor, or
 - 2) Signs a cost-plus construction contract.
 - C. Subcontractor, equipment lessor, material supplier or manufacturer of industrialized housing.
 - 1) Who has an identity-of-interest with the mortgagor, or
 - 2) An identity-of-interest with the general contractor who must cost certify.
- 6-3 COST CERTIFICATION FORMS are "certificates of actual cost" prepared in accordance with these instructions and Handbook 4470.2, Cost Certification Guide for Mortgagors and Contractors of HUD Insured Multifamily projects.
- A. Form HUD-92330, Mortgagor's Certificate of Actual Cost.
 - B. Form HUD 92330-A, Contractor's Certificate of Actual Cost. Also used by subcontractor, material supplier or manufacturer or industrialized housing, or equipment lessor required to certify cost.
- Note: When a project includes rehabilitation and new construction, a separate Form is required for each with another summarizing the two with a total project cost, including fees.
- 6-4 ADDITIONAL REQUIREMENTS, IDENTITY-OF-INTEREST ENTITIES.
- A. General Contractor
 - 1) The use of persons on the general contractor's payroll to do a trade item will not constitute a subcontract and establish an identity-of-interest.

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- (6-4) 2) For self-owned equipment, the general contractor may certify to the cost of fuel, lubrication, normal expendables for its equipment, maintenance, repair and depreciation or 85 percent of the local lease rates for identical equipment.
- a) The general contractor will certify under the trade item for which the equipment was used, or if used for multiple trades, under general requirements.
 - b) Itemization of the equipment is not required unless needed and requested by the cost analyst to justify apparent excessive amounts.
- B. Subcontractor costs for equipment, owned or leased, are part of its overhead and profit. These costs shall be reflected in the total subcontract and in the prior approval of identity-of-interest entities. A separate certification of the equipment is not required.
- C. Equipment Lessor.
- 1) Attach to Form HUD-92230-A a sheet showing:
 - a) Dates the equipment was acquired.
 - b) Age of equipment at acquisition date.
 - c) Brand names.
 - d) Model numbers.
 - e) Sizes.
 - f) Rates charged.
 - g) Dates and length of time used.
 - 2) Certify:
 - a) The rates charged were not more than the local lease rate obtainable in the area, including any maintenance and repair.
 - b) The time charged was not more than essential for the project.

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- (6-4) 3) Instead of 1 and 2 above, lessor may certify 85 percent of the local lease rates for identical equipment under arms-length (lump-sum) leases. When using this alternative, the lessor agrees:
- a) The cost analyst will be the sole judge of the reasonableness of the time and rates charged, and
 - b) The lessor will be responsible and liable for equipment maintenance and repair expense.

D. Material Supplier

- 1) Attach to Form HUD 92330-A a sheet showing:
 - a) Quantities furnished.
 - b) Sources from which the materials were obtained.
 - c) Unit prices paid to the sources, brand names, model numbers, sizes, lumber grades, etc., as applicable.
- 2) No amount will be included for general requirements (job overhead).

E. Manufacturer of Industrialized Housing. Attached to Form HUD 92330-A a sheet showing:

- 1) Manufacturing costs.
 - a) Labor.
 - b) Materials.
 - c) Sales and any other taxes.
 - d) Factory overhead.
 - e) General overhead and profit.

Note: The manufacturer's accounting system must follow generally accepted accounting procedures which will allow certification of the actual cost of manufacturing by a Certified Public Accountant or Independent Public Accountant. No amount will be included for transportation or work at the project site.

- 2) Transportation costs, factory to project site (if provided by manufacturer).

- (6-4) a) Labor.
- b) Equipment.
- 3) On-site erection costs (if provided by manufacturer).
 - a) Labor.
 - b) Equipment.
 - c) Materials.
 - d) General requirements (job overhead).

Note: There can be no duplication of manufacturing costs, i.e., repair of components damaged in shipment.

- 6-5 ACTUAL COSTS are the total costs of the general contractor for completion of the project.
- A. Include actual amounts paid in cash, or to be paid in cash within 45 days after the date of substantial completion, for labor, material, equipment, subcontract work, general requirements (job overhead), fees and general overhead. Include also amounts as estimated by HUD for any items requiring an escrow.
 - 1) General requirements.
 - a) May include salaries of officers or executives for time at the project site performing nonexecutive duties, but in line with current wage for the duty.
 - b) May include cost of activities not at project site only if charged directly to the project. Proration of a cost is not acceptable.
 - 2) General overhead (2 percent allowance).
 - a) Only the amount on the accepted Schedule of Values, Form FHA 2328, adjusted by the effect of approved change orders.
 - b) Itemization is not required.
 - B. Do not include any kickbacks, rebates, adjustments, discounts, or any other devices which had the effect of reducing actual cost.

6-6 FIFTY/SEVENTY-FIVE PERCENT RULE. Whether or not there is an identity-of-interest, no general contractor's fee (general overhead and profit) will be allowed when:

- A. More than 50 percent of the contract sum in the Construction Contract-Cost Plus, Form HUD-92442-A, is subcontracted to one subcontractor, material supplier or equipment lessor, or
- B. Seventy-five percent or more with three or less subcontractors, material suppliers and equipment lessors.

Note: If two or more subcontractors have common ownership, they are considered as one subcontractor.

C. How to apply Rule:

- 1) The 50 percent rule will apply when division of the amount of the largest subcontract by the contract sum of the construction contract results in more than 50 percent.
- 2) The 75 percent rule will apply when division of the sum of the amounts of the three largest subcontracts by the contract sum of the construction contract results in 75 percent or more.

D. Exceptions to Rule:

- 1) Manufacturers of Industrialized Housing.
- 2) Trade items performed by persons on general contractor's payroll.
- 3) Mobile Home Park program.
- 4) Supplemental Loan Program.
- 5) Rehabilitation programs.
- 6) Title X.

6-7 COST CERTIFICATION PROCEDURES.

A. Pre-cost certification conference.

- 1) When project is no more than 90 percent complete.
 - 2) Cost and mortgage credit staff with:
 - a) Mortgagor.
 - b) Mortgagee.
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- (6-7) c) Contractors.
- d) Accountants.
- 3) Explain and emphasize:
- a) Use of forms and required attachments.
- b) Certification for items of delayed completion.
- c) Necessity for complete documentation.
- d) Careful review by all parties.
- e) Timely submission.
- B. Preliminary review of contractor's cost certification
- 1) Target: Within five working days of receipt.
- 2) If no deficiencies, make cost certification review.
- 3) Any deficiency or additional necessary information
- a) Telephone to resolve and
- b) Send formal request by letter to mortgagor with copies to mortgagee, contractor and accountants.
- C. Tentative disallowances
- 1) Questions not resolved 30 days after letter to the mortgagor.
- a) Advise Director of Housing Development.
- b) Make cost certification review.
- 2) Disallow any cost in question.
- a) Indicate by asterisk (*) tentative disallowances on Form FHA 2331.
- b) Attach memorandum explaining information that will resolve tentative disallowances.
- 3) Do not record project as data unless questions are resolved.

6-8 CONTRACTOR'S COST CERTIFICATION REVIEW. Cost certification review is not an audit. If review indicates possible impropriety,

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(6-8) misrepresentation or fraud, recommend an audit by the Inspector General after completing the review.

A. Forms necessary to make review:

- 1) Form HUD-92330, Mortgagor's Certificate of Actual Cost.
- 2) Form HUD 92330-A, Contractor's Certificate of Actual Cost.
- 3) Forms FHA 3305, 3305-A, 3306 or 3306-A, Agreement and Certification (applicable to project).
- 4) Form HUD-92437, Request for Construction Changes-Project Mortgages (all approved for project).
- 5) Form FHA 2326, Project Cost Estimate (HUD estimate).
- 6) Form FHA 2328, Contractor's and/or Mortgagor's Cost Breakdown.
- 7) Form FHA 2331-B, Cost Certification Review Worksheet.
- 8) Form FHA 2331, Summary of Cost Certification Review.
- 9) Form HUD 5379, Trip Report (all for project).

B. Steps to make review:

- 1) Fifty/Seventy-five percent rule check. (See 6-6) Use Information from "total" and "name of subcontractor or payee" columns of general contractor's certification. If rule applies, disallow general contractor's general overhead and profit. If project was BSPRA, disallow only general overhead.
- 2) Cost Certification Review worksheet preparation.
 - a) Enter all trade line costs from HUD estimate or contractor's schedule of values after adjusting for approved change orders.
 - b) Enter all trade line item costs from general contractor's certification. Take architect's fees from mortgagor's certification.

- c) Complete plus or minus dollar and percentage variance for each trade line item.
- 3) Identity-of-Interest subcontract review. (Subcontractors, equipment lessors, material suppliers, and manufacturer's of industrialized housing, See 2-4.)

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- (6-8)
- a) Examine Agreement and certification and mortgagors certification for subcontract identity-of-interests declared by mortgagor.
 - b) Examine contractor's certification for subcontract identity-of-interests declared by general contractor.
 - c) Review each identified subcontractor's cost certification.
- Note: If not received, make tentative disallowance using HUD estimates.
- 1. No prior approval (see 2-4), disallow subcontract overhead and profit.
 - 2. Prior approval (see 2-4).
 - a. Allow prior approved subcontract overhead and profit, plus or minus the effect of approved change orders. Disallow excess.
- Note: Do not reduce the prior approved subcontract overhead and profit because the certified cost for the work is less than the prior approved maximum subcontract price.
- b. Allow up to the prior approved maximum subcontract amount for work, plus or minus effect of approved change orders. Disallow excess.
- 4) Trade line item review
- a) Use worksheet to compare each trade's actual cost with estimate. Determine allowable amounts.
 - b) Allowable amounts are not limited by the estimates. Analyze differences.
 - 1. Allow actual costs to complete the work in accordance with the construction contract.
 - 2. Allow actual costs due to unusual circumstances:

e.g., subcontractor bankruptcy, code changes requiring replacement of completed work, replacements due to Acts of God.

- c) Question only amounts substantially in excess (see 6-7C).
1. Make tentative disallowances if explanation is not received in 30 days.

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2. Reallocation of monies from one trade item to another may be made only at the written request of the accountant.
 3. Amend worksheet per written explanations or clarifications of accountant.
 - d) Disallow any amount not justified or supported as being part of the contract work.
 - e) Disallow costs for duplication of work due to contractor's error or negligence: e.g., improper placement, failure to protect, noncompliance with contract.
- 5) Summary of Cost Certification Review preparation
- a) Enter all recommended disallowances from steps 1), 3) and 4) above.
 - b) Transcribe offsite cost from mortgagor's certificate of actual cost.
 1. Review itemized breakdown.
 2. Disallow any cost duplication on contractor's certification.
 - c) Complete form and send to Director of Housing Development.
- 6) Property Insurance Schedule, Form HUD-92329. Complete new form using allowed construction costs and send to Director of Housing Development. (See 2-3.)
- 7) Data
- a) Review trade line item costs allowed. Reduce (purge) costs due to unusual circumstances (see 4)b) above) to amount typical for same work under normal conditions.

- b) Enter in data bank as "certified." Remove "2328" for same project.

6-9 LUMP-SUM CONTRACT COST CERTIFICATION

- A. Review mortgagor's certification if requested to do so by mortgage credit.
 - B. Review cost certification of any subcontractor that has identity-of-interest with the mortgagor. (See 2-4.)
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