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CHAPTER 16. HUD FIELD OFFICE DUTIES IN 221(d) COINSURANCE

16-1. DUTIES. Limited to:

- A. Project number. Assign at previous participation clearance.  
(See paragraph 6-9 F.)
- B. Environmental review. Use 24 CFR Part 50 and HUD-4128 or 4128.1  
-See Appendix 19 or 19b. (Lender instructions in paragraph 6-8.)
  - 1) Field offices have full legal responsibility for the environmental review; determining that a project meets environmental standards and requirements; and making a Finding of No Significant Impact (FONSI). However, the lender must provide the necessary information so you can do this.
  - 2) You have 30 days (35 days if the intergovernmental review procedures in paragraph E, below, apply) from receipt to:
    - a) Inspect the site.
    - b) Do the environmental review in the usual manner.
    - c) Complete the Environmental Assessment, including the FONSI and any required changes.
    - d) Notify the lender of approval, that further environmental analysis or procedures are necessary and more time is required (e.g., Section 106 historic preservation agreements, flood plain notification), that a full EIS is necessary, or that the project must be rejected.
- C. Previous participation review. (Lender instructions in paragraph 6-9.) You must:
  - 1) Review Form HUD-2530 for completeness, and forward it to the Previous Participation Review Committee for clearance in the usual manner.
  - 2) Notify the lender of the Committee's decision upon receipt of its findings.
  - 3) Not discuss adverse findings with the lender. Adverse findings may be discussed with the affected applicant only.
- D. Affirmative Fair Housing Marketing (AFHM) Plan. The FHEO staff must follow the standard review and monitoring procedures in Handbook 8025.1 REV-1. You have 30 days from receipt to inform

(Field office duties - con't.)

- (16-1) the lender of approval or that more information or changes to the plan are required. (Lender instructions in paragraph 6-10.)
- 1) The lender conducts pre-occupancy conferences but may request your assistance.
  - 2) All AFHM Plan reporting requirements apply to this program.
  - 3) Refer complaints of discrimination or suspected violations of AFHM Plan requirements to the Compliance Division, Regional Office FHEO.
- E. Intergovernmental review. Follow the standard procedures but notify the lender in writing at various points as described in paragraph 6-11, including the date the 35-day State Review Process begins. (Lender instructions in paragraph 6-11.)
- F. Monitoring housing need. (Lender instructions in paragraph 6-12.) The Economic and Market Analysis staff (EMA) receives the copy of Form HUD-92013 which the lender must submit at least 30 days before issuing a commitment. (The lender may also submit other market data or studies for your information.)

Unless you notify the lender within 30 days (from the date stamped into your office to lender's receipt) that no commitment may be issued (See paragraph 2.b below.), the lender may issue a commitment and go ahead with the project regardless of potential market problems.

- 1) EMA responsibilities: Review the proposed project's impact on the housing market to see that it will not result in market saturation or adversely affect initial absorption or occupancy in other projects.
- 2) Field office manager action:
  - a) If no problems are expected, tell the lender that the project may proceed. This may be sent regular mail.

NOTE: You may also provide the lender with an advisory market opinion within the 30-day review period to assist in the lender's marketability analysis.

- b) If the project will likely upset the area's market balance or adversely affect occupancy in existing projects, notify the lender within the 30-day period that no commitment may be issued unless specifically authorized by HUD Headquarters.
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(Field office duties - con't.)

- (16-1)
1. Send the notification by registered mail (return receipt) so the lender actually receives it within the 30 days.
  2. Notify the Office of Insured Multifamily Housing Development in Headquarters by telephone, with confirming memorandum, after consulting EMA and the housing development director.
  2. Include the recommended action and estimated duration of the action, which may include curtailment of all insurance and coinsurance activity in the market area or more limited actions, such as no increase in the number of:
    - New units for occupancy (i.e., rehabilitation of occupied projects may still be acceptable)
    - Units in specific bedroom size(s)
    - Units in a given market type (e.g., for the elderly)
  3. If Headquarters agrees with the recommendation for curtailed activity in the market area, Headquarters will provide modified procedures to use in future review of projects in that area.

G. Military impacted areas. If your review of housing need finds that a proposed project is in a military impacted area (i.e., where military, atomic energy or space installations substantially affect the housing market), Section 238(c) procedures apply.

- 1) Notify Headquarters (Office of Insured Multifamily Housing Development) immediately.
- 2) Notify the lender in writing within the 30-day market review period that:
  - a) Section 238(c) applies and no commitment may be issued without HUD Headquarters approval.
  - b) Details on how to proceed in this case are available from the Office of Insured Multifamily Housing Development.

H. Labor standards and prevailing wage requirements

- 1) Prevailing wage determinations. Lenders cannot directly request prevailing wage rates from the Department of Labor. Therefore, you must:
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(Field office duties - con't.)

- (16-1)        a) Request wage determinations when lenders ask, or,  
              b) Give lenders current areawide rates on request, if  
                  available.

Provide lenders with applicable wage determinations as soon as possible after receiving the request. Paragraph 6-13 requires lenders to request wage determinations 45 days before the estimated construction start date if there is no areawide rate in effect.

- 2) Labor standards. Day-to-day duties (review of payrolls, wage interviews, etc.) have been delegated to lenders. However, investigation of complaints and ultimate enforcement remain with HUD. You must:
- a) Follow the procedures in Handbook 1344.1 when lenders notify you of labor violations or when HUD monitoring uncovers violations.
- b) Keep adequate records of payroll reviews and wage interviews.
- I. No responsibility for processing. You have no responsibility for reviewing project processing or documents submitted at endorsement except to assure that:
- 1) The cover letter is signed by a senior corporate official and contains the specific representations noted in paragraph 2, below.
- 2) The items required in paragraph 12-6 (initial endorsement), 14-6 (final endorsement), or 15-9 (insurance upon completion) are with the cover letter.
- J. Endorsing the credit instrument. The field office manager (or designee in manager's absence) has authority to endorse the credit instrument after accepting the endorsement package described in paragraph 12-6, 14-6, or 15-9.
- K. Mortgage insurance premium. You must issue an Official Receipt for the initial year MIP from the lender as provided in HUD Handbook 4110.1, Fiscal and ADP Handbook, and 4410.1, Project Fiscal Procedures. However, Part 4 of the receipt, which is otherwise discarded, must be sent to HUD Headquarters with the package. (See paragraph M, below.)
- 1) Insurance of advances. The first year's MIP is 1 percent of the face amount of the mortgage. The HUD share of .65 percent

accompanies the lender's initial endorsement package.

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(Field office duties - con't.)

(16-1) 2) Insurance upon completion. The first year's MIP is .5 percent of the face amount of the mortgage. The HUD share of .4 percent accompanies the lender's endorsement package.

L. Closing memorandum (Form FHA-290 - See Appendix 25.) The Chief Counsel's office must prepare it (or require the lender to prepare it and submit it with its endorsement package - see paragraphs 12-6, 14-6, and 15-9) and:

1) Send the original within 2 workdays of endorsement to: Office of General Counsel, Deputy General Counsel (Operations), Field and Management Operations, HUD Headquarters.

2) Include one copy with the package described in paragraph M, below.

3) Keep a copy for Chief Counsel records.

M. Forwarding endorsement package. You must send the following by pouch mail within 5 workdays of endorsement to HUD Headquarters, Office of Insured Multifamily Housing Development:

1) Cover memorandum and copy of Form FHA-290. (Keep one copy in your files and send one to the Housing Development Division so they have a record of the coinsured projects that actually reach endorsement.)

2) The entire endorsement package prepared by the lender, each page number in the upper right corner with the HUD-assigned project number.

3) Part 4 of MIP receipt.

N. MIDLIS reporting. Mortgage Credit staff has overall responsibility for ensuring accurate data input.

1) Make initial input when the lender submits the Forms HUD-92264 and HUD-92264-A after issuing a firm commitment. (See paragraph 6-5.)

2) Update at initial and final endorsement when the lender's endorsement package is received.

O. Review of lender's first three projects constructed. The field office with jurisdiction must inspect and review the construction phase of at least the lender's first three projects. (Headquarters will tell you which cases to review.)

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(Field office duties - con't.)

(16-1) 1) For each project, evaluate:

- a) Initial endorsement
    - Chief counsel must review the endorsement documents after initial endorsement.
  - b) Construction process and quality of construction monitoring
    - Architecture staff must inspect projects every 2 - 3 months to ensure that project is moving well, overall HUD requirements are being met, and inspecting architects (lender's and mortgagor's) are performing satisfactorily.
    - Notify the Office of Insured Multifamily Housing Development, Coinsurance Branch, by telephone at once if serious construction problems or deficiencies are found.
  - c) Processing of coinsured construction advances and change orders.
    - Mortgage Credit (and Cost, as required, for change orders) must review in normal manner.
  - d) Labor standards and prevailing wage requirements
    - Labor standards staff must review adequacy of lender's performance in reviewing payrolls, conducting wage interviews and other labor standards requirements.
  - e) Adequacy of lender's cost certification review
    - Mortgage Credit and Cost will review in normal manner.
    - Lenders are not required to delay final endorsement until the field office completes cost certification review.
  - f) Final endorsement
    - Chief counsel must review the endorsement documents after final endorsement.
- 2) Reporting. Notify the Coinsurance Branch in Headquarters by telephone if you find serious deficiencies in any area. otherwise:
- a) Submit your findings periodically (at least twice yearly)

as you do inspections or desk reviews of lender processing.

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(Field office duties - con't.)

- (16-1)        b)    Submit a final report after your review of cost certification processing is complete and Chief Counsel has reviewed the final endorsement documents.
- B.    Lender probation, suspension or withdrawal of coinsurance approval. Headquarters will notify you in writing,
- 1)    If a lender has been placed on probation, suspended or has had its coinsurance approval withdrawn.
  - 2)    Of any terms of those actions (e.g., requirement that all cases presented for endorsement be accompanied by a letter from Headquarters specially authorizing endorsement.).

See paragraphs 2-10 through 2-16 for details.

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