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CHAPTER 2. LENDER ELIGIBILITY, APPROVAL AND MONITORING

2-1. BASIC LENDER ELIGIBILITY

- A. To be a coinsuring lender, you must:
- 1) Be a HUD-approved mortgagee under 24 CFR 203.3 through 203.6 (and 203.8(b) for State Housing Finance Agencies). If you are not a HUD-approved mortgagee, you may request approval to be a coinsurer at the same time you request basic approval. (See Handbook 4060.1, Mortgagee Approval Handbook, for how to become a HUD-approved mortgagee.)
  - 2) Meet the requirements of this chapter and 24 CFR 251.102, which outlines the coinsuring lender approval process.
- B. HUD strongly recommends a pre-application meeting to discuss your proposed lender application.
- C. If you are already approved to coinsure under 24 CFR 255, (Section 223(f)), your application for 221(d) coinsurance approval must include the \$5,000 application fee required in paragraph 2-2 A.4 and cover the following:
- 1) Operating procedures and staffing for the new areas and levels of responsibility (e.g., review of construction documents and costs, insurance of advances, inspections, labor standards, cost certifications, etc.). Generally, this would require:
    - a) Complete operating procedures after the point of application acceptance. (See paragraph 2-2 A.3.)
    - b) Staff and resumes pursuant to paragraph 2-3. (See paragraph 2-3 for details on staff requirements.)
  - 2) Opinion of counsel. (See paragraph 2-2 A.1.)
  - 3) Updated information on audit reports (paragraph 2-2 A.5), financial statements (paragraph 2-2 A.2), and corporate background including your organization's multifamily experience in new construction and substantial rehabilitation (paragraph 2-2 A.7).
  - 4) Certifications listed in paragraph 2-2 A.6, specifically citing the Section 221(d) program.
  - 5) Designation of new officials under paragraph 2-2 A.8, if applicable.

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2-2. LENDER APPLICATION PROCEDURE

A. Required exhibits for lender application

- 1) An unqualified written opinion of your counsel that you have the legal authority to participate in the coinsurance program pursuant to Part 251 of Title 24 of the Code of Federal Regulations.
- 2) Latest audited financial statement showing that you have sound capital resources of at least \$1,500,000, including at least \$500,000 in liquid funds.
  - a) Sound capital resources are the excess of the coinsuring lender's assets (minus any valuation allowances) over its liabilities (generally referred to as net worth), plus an allowed letter of credit.
    1. Net worth includes paid-in capital stock surplus, reserves, undistributed earnings and any other unencumbered resources of the coinsuring lender.
    2. A loss reserve set up to cover potential coinsurance losses under the program may be considered a capital item in your computation of sound capital resources.
  - b) Liquid funds are:
    1. Cash or readily convertible assets.
    2. An undrawn, unconditional and irrevocable firm letter of credit of no more than \$500,000 from a supervised financial institution with assets of at least \$100,000,000. Do not count nonacceptable assets as defined in Handbook IG 4000.3 REV, Audit Guide for Audits of HUD-Approved Non-Supervised Mortgagees for Use by Independent Public Accountants,
  - c) If you use a letter of credit, you must submit a signed or conformed copy of it with your application. It must specifically state that it is for the 221(d) coinsurance program.
  - d) You must also certify that you will at all times maintain the basic sound capital resources and an additional \$1 of sound capital resources for each \$300 of outstanding principal debt of mortgages that you coinsure under this program for as long as the coinsured mortgages are outstanding. (See paragraph 2-2 A.6.d.)

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(Required exhibits - con't.)

- (2-2) e) The same basic \$1,500,000 sound capital resources may be used for both the 223(f) and 221(d) coinsurance programs.
1. If you are already approved under 223(f) and a letter of credit covers part of your basic sound capital resources you must amend the letter of credit to include both programs.
  2. The additional amounts required in paragraph d, above, apply cumulatively to all coinsured mortgages under 223(f) and 221(d).

NOTE: The Government National Mortgage Association (GNMA) has separate requirements for securities that it guarantees which are backed by mortgages coinsured under 221(d). Coinsuring lenders seeking to use the GNMA program must also meet GNMA's requirements. The same resources shown for coinsurance approval may be used to meet GNMA's requirements. (See the GNMA Mortgage-Backed Securities Guide.)

- 3) Outline of proposed coinsurance operating procedures and a detailed staffing plan (internal, contract, and contract monitoring), a processing flow chart, and organization chart.

This outline of procedures and detail of your staffing is the basis for preparing the step-by-step operating manual required before HUD conducts the on-site review and must set up an overall framework for program implementation.

- a) Cover all aspects and stages of loan processing from origination through technical processing, loan closings, management analysis, loan approval, management oversight, loan servicing and property disposition.
- b) Show your organization's operating units, identify the staff positions in each, and describe lines of authority and overall accountability covered in paragraph 2-5.
- c) Submit detailed resumes for:
  1. Your principal staff as listed below (internal or contract) with review responsibility or final decision authority pursuant to paragraph 2-3 A:
    - Chief underwriter
    - Chief architect

(Required exhibits - con't.)

- (2-2)                   - Chief cost analyst
- Review appraiser

2. At least one mortgage credit analyst

Resumes must be sufficiently specific as to experience, qualifications and background to show compliance with the requirements of paragraph 2-3 F.

NOTE: Contract staff need not be actually hired at this point, but HUD must be able to review the qualifications for important review positions (chief underwriter, chief architect, chief cost analyst, or review appraiser) even though they are not on-staff personnel.

(See paragraphs 2-3, Lender Staffing, and 2-5, Procedures and Operating Manual, for further details.)

- 4) A lender application fee of \$5,000. This fee is not refundable once HUD determines the application acceptable for Department review.
- 5) The most recent detailed financial audit by an independent certified public accountant or independent public accountant licensed by a State or other political subdivision on or before December 31, 1970. You must supplement the audit with any information HUD requests.
  - a) If the audit is older than 6 months, you must submit a current balance sheet prepared by management, signed and certified by a senior corporate officer of your organization (e.g., treasurer or controller).
  - b) The balance sheet must be for the coinsuring lender-entity only; a consolidated balance sheet is not acceptable.
- 6) Certifications, on corporate letterhead, individually dated and signed by an authorized senior corporate official, that you will:
  - a) Notify HUD promptly in writing any time you change your operating procedures or principal staff after your application is submitted, that all changes will comply with HUD requirements, and that no commitments based on new procedures or a successor's conclusion will be issued before HUD's written approval.

(Required exhibits - con't.)

- (2-2)        b) File with HUD annual audits similar to those required in paragraph 2-2 A.5:
1. When State law requires it, or
  2. If there is no State requirement, within 75 days after your fiscal year end, and
  3. When requested by HUD.

The annual audit reports must comply with HUD Handbook IG 4000.3 REV. They must include a reconciliation schedule from the IPA as to:

- Outstanding principal debt of mortgages you have coinsured under Sections 223(f) and 221(d).
  - Amount of liquid funds available.
  - Sound capital resources.
- c) Allow periodic auditing and review by the Commissioner, the Inspector General, the Comptroller General of the United States and their authorized agents regarding your participation in the coinsurance program and give them access to your financial records.
- d) Maintain sound capital resources required in paragraph 2-2 A.2.
- e) Comply with other requirements as follows:
- "I (we) certify that \_\_\_\_\_ (name of lender) \_\_\_\_\_ will comply with Title VIII of the Civil Rights Act of 1968, as amended, the Equal Credit Opportunity Act, Executive Orders 11063 and 11246, as amended, other applicable Federal laws and all regulations issued pursuant to these authorities in lending, investing of coinsuring funds in real estate mortgages."
- f) Abide by all HUD requirements for operating, prudent underwriting, servicing, management oversight, and property disposition in this program and use all forms, formats and equivalents as required by HUD.
- g) Retain all other legal obligations under this program if you delegate all or part of servicing.

NOTE: For ease of review and later amendment, each certification should be on a separate page,

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(Required exhibits - con't.

- (2-2) 7) Description of your corporation, its history, structure, relationship to any subsidiary, parent or similar entity, and experience in multifamily housing.
- 8) A designation of officials, including original signatures, you authorize to sign commitments, certifications, agreements, and other documents used with loans coinsured under this program. The statement must be dated and provide that the designations will remain in effect until withdrawn and that you will promptly notify HUD of any changes.
- B. Table of Contents for lender application. You must send a narrative application (original and two copies) to HUD, 451 7th Street, SW, Washington, D.C. 20410, Attn: Director, Office of Insured Multifamily Housing Development. Assemble it, with all the required exhibits listed in paragraph 2-2 A, above, in 3-ring, looseleaf binders in these sections:
- 1) Request for approval - and check for \$5,000 to the Department of Housing and Urban Development for application fee. (See paragraph 2-2 A.4.)
  - 2) Financial - audit reports, financial statements, evidence of sound capital resources. (See paragraphs 2-2 A.1 and A.5.)
  - 3) Corporate background and legal opinion to participate. (See paragraphs 2-2 A.1 and A.7.)
  - 4) Procedures - (narrative, organization chart, and processing flow chart) for program administration, loan origination, processing, underwriting, loan approval, legal review, construction loan servicing, inspection, initial and final loan closings, management oversight, loan servicing, and property disposition. (See paragraph 2-5.)
  - 5) Staffing - internal - including designation of chief underwriter contract, contract monitoring. (See paragraph 2-3.)
  - 6) Certifications - (See paragraph 2-2 A.6.)
  - 7) Delegations of authority. (See paragraph 2-2 A.8.)
  - 8) Resumes - staff and contract. (See paragraph 2-3.)
- 2-3. LENDER STAFFING. You must have an organization chart showing the organization under which you will implement the 221(d) coinsurance program. It must specify your operating units and identify the

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(Staffing - con't.)

(2-3) positions and persons filling them in each unit, whether staff or contract personnel. You are fully responsible for all determinations made, whether by staff or contract personnel.

- A. Your staff may be set up in many different ways using internal staff or a combination of internal and contract staff. Regardless of the system you choose, using the requirements of this section, show who has:
- 1) Basic responsibility for a primary task.
  - 2) Review responsibility of the primary task.
  - 3) Final decision authority to approve a loan.
- B. You must employ on your own staff at least one person qualified to oversee all areas of multifamily mortgage financing and development. The title chief underwriter is used in this handbook. You must assign responsibility and control of underwriting decisions to the chief underwriter(s). This person, if qualified pursuant to paragraph 2-3 F and approved by HUD, may also perform other review functions in the coinsurance process (i.e., review appraiser, chief architect, chief cost analyst).
- C. You must clearly define delegations of authority that establish responsibility for each of the above functions and accountability for the program as a whole.
- D. If you propose to use contract staff, you must:
- 1) Ensure that contracts for review services (chief architect, chief cost analyst, review appraiser) are on a continuing retainer basis, (not hired solely for individual case reviews) and perform their review function on all cases processed.  
  
You must provide continuity of review in these areas. Those who perform individual analyses or appraisals, however, may be hired for a single case.
  - 2) Identify those on your staff who will monitor work done under contract.
- E. Resumes:
- 1) All staff and contract personnel must be approved individually by HUD based on detailed resumes (firms will not be approved except for cost estimation firms pursuant to

paragraph 2-5 F).

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(Staffing - con't.)

- (2-3)
- a) Individuals may qualify in more than one functional area and the chief underwriter may perform one or more review functions, if qualified.
  - b) Resumes must clearly show that the person's education, experience and professional qualifications meet the requirements of paragraph F, below for the assigned position.
- 2) If your loan approval process includes referral to a loan committee, board of directors or similar body, provide detailed resumes of their qualifications to perform this function with your written application also.

NOTE: If the loan committee, board, or similar body relies solely on staff recommendations and can in no way influence underwriting conclusions, detailed resumes are not required. However, submit detailed resumes of the members' education, qualifications and experience if they can:

- Approve an application rejected by the chief underwriter
- Modify chief underwriter or staff recommendations
- Increase a mortgage amount
- Modify commitment requirements
- Affect underwriting in any other way

- 3) For attorneys doing coinsurance work, submit certifications (instead of resumes) that they will meet the qualifications of paragraph 2-5 F.14.

F. Staff qualifications. The starred (\*) review positions must be on staff or on retainer (See paragraph 2-3 D). Neither these review positions nor the chief underwriter may perform basic tasks (appraisals, cost analyses, etc.). They may sign processing forms only as required by their review functions or to justify appropriate modifications to the processor's findings. You must employ, directly or by contract:

- \*1) Chief cost analyst. Must be qualified under paragraph 2.a, below, and able to supervise and review cost functions and services.

2) Cost analyst

- a) Must have 3 years experience in general construction cost estimating plus 2 years in the multifamily area.

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(Staffing - con't.)

(2-3) b) Cost estimation firms may be approved.

\*3) Chief architect. Must have the professional qualifications in paragraph 4.a, below, and be able to supervise and review design and inspection services.

4) Architect/engineer. Must be:

- a) Registered in any State or have a degree in architecture or engineering and at least 3 years experience in architectural and engineering analysis of buildings, or
- b) Have at least 6 years experience in architectural and engineering analysis of buildings, with at least 2 years in multifamily buildings. This includes design review and construction inspection.

5) Construction inspector. Must have:

- a) The professional qualifications in paragraph 4 above, or
- b) At least 4 years experience in inspection of building construction with at least one year inspection experience with multifamily elevator buildings.

6) Labor standards specialist

- a) Must understand HUD labor standards and prevailing wage requirements including on-site interviews and construction contract management systems.
- b) Construction inspectors, architects/engineers or other staff may o this, if qualified.

7) Market analyst. (The appraiser may do this.) Must have a background in either market or economic analysis and be able to supply dependable current data on the demand for and marketability of the specific multifamily projects you process.

\*8) Review appraiser. Must have:

- a) Appraiser qualifications of paragraph 9.a, below.

- b) Ability to supervise and review multifamily appraisals.
- c) Broad knowledge of real estate principles, mortgage finance, construction, property management and real estate law.

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(Staffing - con't.)

(2-3) 9) Appraiser

- a) Must have at least 6 years of real estate appraisal experience with at least 3 years appraising multifamily properties.
- b) Membership in a professional appraisal organization is desirable but not required.

10) Mortgage credit analysts. Must have:

- a) At least 3 years of general experience in banking, accounting, finance or commercial lending and 3 years in multifamily mortgage financing.
- b) Ability to analyze corporate financial statements : including, but not limited to, balance sheets, income statements and statements of changes in financial position and to evaluate the credit acceptability of individuals, partnerships and large corporations.
- c) Broad knowledge of lending practices for mortgages and construction loans and the financial structure of large corporations.

11) Management personnel. Must have:

- a) Experience in multifamily housing management.
- b) Ability to: review and determine the acceptability of project management agents and operating procedures; analyze project financial conditions; identify management problems and their causes and work with owners to solve them.
- c) Ability to conduct on-site and desk reviews to ensure acceptable management practices and compliance with the requirements of the regulatory agreement.

12) Loan servicer. Must be experienced in multifamily mortgage loan servicing, including: collections; escrow management; tax and insurance accruals; resolving delinquencies;

negotiating work-out plans, etc.

- 13) Property disposition personnel. Must have experience in the interim management of acquired projects and be able to assist the legal staff in disposition of such projects.

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(Staffing - con't.)

(2-3) 14) Attorney

- a) Must be duly licensed and have at least 2 years experience in multifamily real estate.
- b) Attorneys who render opinions about local real estate law must be licensed in the jurisdiction where the project is located.

G. Identity of interest. Without HUD Headquarters approval and pre-endorsement review of the underwriting for that case, no identity is permitted between:

- 1) Any staff or contract employee and the mortgagor, general contractor who builds or rehabilitates the project, subcontractor, supplier, equipment lessor, design architect or supervisory architect.
- 2) Review positions and staff doing the work to be reviewed (e.g., appraisers, cost firms, etc.) nor may they be employed by the same firm.

See paragraph 4-9 for definition of identity of interest.

#### 2-4. REVIEW OF LENDER'S APPLICATION

- A. Acceptance of application. HUD will notify you in writing whether your application is acceptable for review.
- B. HUD review. Depending on the review findings, HUD will tell you that:
  - 1) Your application is acceptable and HUD will schedule an on-site review of your facilities and operating procedures;
  - 2) Processing is discontinued until you correct the deficiencies listed; or
  - 3) Your application is rejected.

2-5. PROCEDURES AND OPERATING MANUAL REQUIREMENT. After approval of your written application, you must prepare an operating manual with

step-by-step procedures and flow charts covering all aspects of loan processing from origination through endorsement, servicing, and property disposition. It must make specific reference to the "chief underwriter" and staff and executive committees who act on loans. It must be available before HUD will schedule the on-site review and must:

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- (2-5) A. Specify in detail the system in your organization for:
- 1) Administering the coinsurance program in a prudent manner.
  - 2) Underwriting, approving and overseeing coinsured projects.
  - 3) Showing clear accountability for your decisions.
- B. Describe your procedures for considering and approving a loan and spell out your loan approval process in detail (e.g., referral by the chief underwriter to a loan committee, board of directors, etc.). These procedures must show:
- 1) What specific functions will be carried out;
  - 2) Who will perform them; and
  - 3) When they will be done.
- C. Show that you understand Section 221(d) program requirements, including:
- 1) Fair housing and civil rights
  - 2) Davis-Bacon and related requirements
  - 3) Substantial rehabilitation
  - 4) Retirement Service Centers (See Chapter 17)
- You must also have a quality control plan for loan originations and servicing. (See HUD Handbook 4060.1, Mortgage Approval Handbook.)
- D. Need not duplicate HUD handbooks. Cross-references are acceptable as long as they refer to specific required actions or processes (i.e., do not say you will do mortgage credit processing in accordance with HUD Handbook 4470.1; describe instead the basic processing steps such as credit investigations, processing of advances, etc., with cross-references to the individual sections of 4470.1 pertaining to those items).

- E. Be separated by function and relate to your processing flow chart (e.g., valuation, cost, mortgage credit, etc.).
- F. Identify contract sources and include a description of the scope of work required of the contractor.

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2-6. ON-SITE REVIEW BY HUD.

A. When you have submitted the operating manual pursuant to paragraph 2-5 to HUD and all other issues relating to approval of your written application have been resolved, HUD will schedule an on-site review. (HUD may elect not to do another review if it finds your on-site Section 223(f) coinsurance review was recently completed and satisfactory.) HUD will review your:

- 1) Overall operations, corporate officers and organization, internal controls, operating manual, technical staff, and procedures for screening and processing applications for mortgage insurance, underwriting, and closing loans.
- 2) Procedures and ability to review and monitor the performance of outside technical or professional assistance you use in your underwriting.
- 3) Procedures and ability to service mortgages, review and supervise project management, and carry out property disposition.

B. HUD action.

- 1) HUD will issue a deficiency letter for any items found during the on-site review that do not meet program requirements. You are responsible for ensuring prompt correction of these deficiencies.
- 2) Otherwise, HUD will notify you of preliminary approval or rejection as a coinsuring lender. This approval to underwrite is subject to HUD review of the processing of at least your first three applications for loans to be coinsured under the program. (See paragraph 2-7.)

2-7. PRE-ENDORSEMENT REVIEW. At least your first three applications for mortgages to be coinsured under the 221(d) program must be approved by HUD. You may issue firm commitments for these projects conditioned on HUD pre-endorsement approval. After HUD approval and correction of any deficiencies, you may initially close each individual loan and approve the construction start.

To speed up this process, you may submit "demonstration" cases showing that, with your organization, procedures and staff, you can

process applications and do proper underwriting in the coinsurance program.

- These demonstration cases must involve actual properties, appraisals, expense comparables, drawings and specifications, etc., and all documents must be completed as if actual commitments were involved.
- An actual case withdrawn by the mortgagor during processing may continue as a "demonstration" case to meet the pre-endorsement review requirement.

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(Pre-endorsement review - con't.)

(2-7) - Although you may submit regular mortgage insurance cases that have been reviewed by a HUD field office, HUD may determine that these cases are not a sufficient demonstration of your underwriting ability and may require additional pre-endorsement review cases.

NOTE: If any of the cases you use to satisfy this requirement are insurance upon completion, the pre-endorsement review must be completed before construction start.

A. Submit the three cases individually or simultaneously. Package each case separately regardless of the timing. Send three (3) copies with full documentation (send only one copy of the plans and specifications) to:

Department of Housing and Urban Development  
Office of Insured Multifamily Housing Development  
451 7th Street SW  
Washington, D.C. 20410

B. Preparing the package.

- 1) Include all data, worksheets, forms, etc., used in arriving at underwriting decisions. These include, among other things:
  - a) All processing forms
  - b) HUD-2530 clearances
  - c) Copies of appraisals and income and expense analyses
  - d) Market analyses, reports and information
  - e) Financial statements and analyses
  - f) Credit reports and bank and trade references
  - g) Copies of verifications of debt

- h) Engineering and cost studies
  - i) Analyses of construction or rehabilitation requirements.
  - j) Copy of the firm commitment or proposed firm commitment
- 2) Accompany each case with a narrative summary (prepared and signed by the chief underwriter. In the summary:

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(Pre-endorsement review - con't.)

- (2-7)
- a) Analyze the underwriting aspects of the project. Include a discussion of major conclusions reached (e.g., location, development team, rents and expenses, etc.).
  - b) Highlight your significant considerations, positive and negative, in the decision to coinsure the loan under Section 221(d).
  - c) Note any changes or adjustments by the chief underwriter and reasons for them.

C. HUD review. HUD will notify you that:

- 1) HUD's findings differ substantially from yours and:
  - a) The case is unacceptable, or
  - b) You may not initially close the project until the deficiencies are resolved.
- 2) The processing is acceptable (although comments may be made or certain adjustments required or recommended) and, after such adjustments, the mortgage may go to initial closing.

D. After all required cases are acceptable, HUD will grant in writing full underwriting authority. HUD may require review of more than three cases if necessary, but in no event will this authority be granted before three projects are approved. Full coinsuring authority will not be granted until you meet the pre-final endorsement requirements for your first 3 projects in construction.

In the meantime, however, you may process, issue commitments, and initially endorse mortgages for coinsurance. Assuming continued compliance with program requirements, you may finally endorse these cases without further HUD action.

2-8. HUD MONITORING AND CONTROL.

- A. HUD review. Neither HUD Headquarters nor field offices will be involved in your day-to-day review and approval of projects for coinsurance except for certain limited functions not delegated by HUD. (See Chapter 6.) For HUD endorsement of each case, submit the documents required in paragraphs 12-6, 14-6 or 15-9. These documents are only subject to HUD review for completeness before endorsement.
- B. Review of first three projects constructed. The HUD field office with jurisdiction will inspect and review the construction phase of at least your first three projects (nationally) that are constructed.

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(HUD monitoring - con't.)

(2-8) HUD Headquarters will tell the field office which cases to review and notify the coinsuring lender in writing of any deficiencies. The field office will evaluate:

- 1) Initial endorsement
- 2) Construction process and quality of construction monitoring, including:
  - a) Processing of coinsured construction advances and change orders
  - b) Labor standards and prevailing wage requirements and monitoring
- 3) Processing of requests for mortgage increases.
- 4) Adequacy of cost certification review

HUD Headquarters will notify you immediately if the field office finds deficiencies in any area. You need not delay final endorsement until you receive HUD notification on each case. When HUD finds all aspects of closing and construction for (at minimum) the first three projects acceptable, you will be granted full coinsurance authority in writing.

- C. Post-endorsement monitoring. You are subject to monitoring and periodic on-site reviews by HUD to:
  - 1) Ensure adherence to statutory, regulatory and handbook requirements.
  - 2) Evaluate your staffing, program management, internal controls, technical underwriting, closing procedures, mortgage servicing, etc., and to ensure compliance with

applicable requirements and prudent business practices.

- 3) See that underwriting decisions are consistent with HUD's guidelines.
- 4) Ensure that technical processing, construction and project operations are consistent with prudent lending and underwriting practices.
- 5) See that your operating manual is up to date.

D. Reporting. You must send the following to HUD; Attention, Office of Insured Multifamily Housing Development:

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(HUD monitoring - con't.)

- (2-8)
- 1) Annual audits as required by paragraph 2-2 A.6.b. This requirement does not relieve you of responsibility to submit annual audits to the HUD Office of Lender Certification.
  - 2) Prompt notification of any changes in your processing procedures after certification as a coinsurance lender. You must receive HUD approval of these changes before issuing any commitments using these procedures.
  - 3) Prompt notification of contract or staff personnel changes and a detailed resume of the successor. You must receive HUD approval of any successor before issuing commitments based on the successor's conclusions.
- 2-9. AUDITING. You must allow periodic audits and reviews by the Commissioner, the Inspector General, the Comptroller General or their authorized agents in addition to normal HUD monitoring and periodic review. HUD audits will include a financial management review and a review of your quality control plan as required by HUD Handbook 4060.1, Mortgage Approval Handbook.
- 2-10. CAUSES FOR PROBATION, SUSPENSION, OR WITHDRAWAL. The Commissioner or designee may place a lender on probation, suspend, or withdraw coinsurance approval for any of the following:
- A. Neglecting your responsibilities as a prudent lender in program administration, project underwriting, loan servicing, management oversight or property disposition.
  - B. Losing of and failing to replace skilled staff.
  - C. Failing to maintain required sound capital resources, except as

noted in paragraph 2-17.

- D. Failing to perform underwriting, management oversight, loan servicing, or property disposition functions consistent with this handbook, the management handbook, and your approved application and operating manual.
- E. Failing to discharge responsibilities under a regulatory agreement or the contract for coinsurance (as defined in 24 CFR Section 251.2).
- F. Transferring a coinsured mortgage to a lender not approved by HUD.
- G. Failing to segregate and deposit in a designated account(s) (in FDIC, FSLIC, or NCUA institutions) all escrow funds received from mortgagors for, but not limited to: ground rents; taxes; assessments; reserve for replacement; and insurance premiums. (See Handbook 4566.2, paragraph 2-7B, for details.)

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- (2-10) H. Using escrow funds for any purpose other than that for which they are established.
    - I. Payment by you, your employees, agents, or contractors in any insurance transaction of any fee, kickback or other consideration (directly or indirectly) to any person who has received any consideration from another person for services related to such transaction. Compensation may be paid for the actual performance of services as approved by HUD.
    - J. Payment to you of any fee, kickback or other consideration by any party to the transaction other than those fees set out in the Mortgagee's Certificate or otherwise approved by HUD Headquarters.
    - K. Failing to notify HUD, and obtain HUD approval where necessary, of changes in staffing or procedures.
    - L. Submitting a false, fraudulent or incomplete report to HUD or the incurring of a debt to HUD without a satisfactory repayment plan or agreement.
    - M. Failing to pay any amount owed to a holder of securities guaranteed by the Government National Mortgage Association and backed by a coinsured loan.
    - N. A finding by a Federal agency of major noncompliance with any regulation or procedure pursuant to Executive Order 11063, Title VIII of the Civil Rights Act of 1968, or any contractual provision relating to civil rights.
    - O. Any other reason that HUD finds justified under the applicable statutes, regulations, administrative rules and good lending

practice.

- 2-11. PROBATION. The Commissioner or designee may place a lender on probation to evaluate the lender's compliance with coinsurance program requirements. You will be notified in writing and the notice will state the cause, effect and duration of the action. During a probation:
- A. You may issue commitments subject to any conditions required by HUD (e.g., you may be required to submit underwriting processing to HUD before issuing commitments).
  - B. Commitments dated during the probation period and presented to the HUD field office for endorsement must be accompanied by a letter from HUD Headquarters specifically authorizing endorsement. Paragraphs 2-14 A.2 and A.3 apply to amendments during probation.
- 2-12. SUSPENSION OF LENDER APPROVAL. Any suspension imposed by the Commissioner or designee will be in writing. The notice will state the cause, effect and duration of the action. During a suspension, you may not issue any new commitments.

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- 2-13. WITHDRAWAL OF LENDER APPROVAL. Withdrawal is termination of lender approval. Any withdrawal imposed by the Commissioner or designee will be in writing.

The notice will state the cause and effect of the action. Once withdrawal is final, only reapplication as a coinsuring lender pursuant to paragraph 2-2 can restore lender approval (provided the cause of the termination is removed).

- 2-14. EFFECT OF PROBATION, SUSPENSION OR WITHDRAWAL.
- A. Outstanding commitments dated before probation, suspension or withdrawal:
    - 1) Will be endorsed when presented to the HUD field office.
    - 2) May be amended as long as there is no mortgage increase, except from a reduction in the mortgage interest rate. If the commitment must be extended more than 60 days from the original date, HUD Headquarters review is required.
    - 3) May not be reissued, reopened or amended to increase mortgage amounts without HUD approval before issuance.
  - B. Outstanding coinsurance contracts and servicing of existing coinsured mortgages are not affected.
- 2-15. OTHER HUD ACTION. Probation, suspension as a coinsuring lender or withdrawal of coinsurance approval does not affect a lender's

approval as a HUD mortgagee under 24 CFR 203.3 through 203.6 (and 203.8(b) for State Housing Finance Agencies). However, HUD may also take action for serious misconduct or noncompliance with the requirements of the coinsurance program under:

- A. 24 CFR Part 25 (Mortgagee Review Board)
- B. 24 CFR Part 24 (Debarment, Suspension and Ineligibility of Contractors and Grantees; Administrative Sanctions).

2-16. APPEAL OF PROBATION, SUSPENSION OR WITHDRAWAL. Lenders must comply immediately with a probation, suspension or withdrawal notice.

- A. HUD will give the lender the opportunity for a hearing within 10 workdays of receipt of the notice. You may be represented by counsel. HUD will notify you in writing of the result of any hearing within 10 workdays of the hearing and receipt of any materials.
- B. A decision to continue probation, suspension or withdrawal after a hearing is HUD's final action.

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2-17. DEPLETION OF RESERVES. If payment of a coinsurance claim temporarily reduces your sound capital resources below the level required, HUD may allow you a reasonable time (not to exceed six months) to restore them before acting to suspend or withdraw your lender approval. In this case, your authority to coinsure is limited by paragraphs 2-11 A and B.

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