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CHAPTER 1. ADMINISTRATIVE POLICY

- 1-1. SCOPE. Title I of the National Housing Act, as amended, provides programs by which financial institutions, the building and allied industries, and the Federal Government combine in assisting borrowers to make eligible improvements to their property. The guiding principles set forth in this chapter may be interpreted as the general administrative policy of HUD. This statement of policy is presented to clarify questions which may arise and to offer helpful suggestions based on the experience of HUD in its insurance activities with property improvement loans over a period of many years.
- 1-2. RESPONSIBILITIES. The operation of the property improvement program is based on the good faith of all concerned--good faith on the part of the individual borrower who applies for and receives a loan, good faith of the dealer or contractor in carrying out the terms of the contract and rendering proper service to the customer, good faith of financial institutions in acquiring and servicing property improvement loans, and good faith of HUD in carrying out its obligations and responsibilities. Although certain regulatory measures are necessary to accomplish mutual objectives, a large responsibility is placed upon participating lending institutions for the exercise of discretion and prudent practices in carrying out the program.
- 1-3. CONTRACT OF INSURANCE. Under Title I of the National Housing Act as amended, the Assistant Secretary for Housing-Federal Housing Commissioner is authorized and empowered to insure banks, trust companies, personal finance companies, credit unions, mortgage companies, building and loan associations, installment lending companies, and other such financial institutions, which he/she finds to be qualified and approves as eligible for credit insurance against losses which they may sustain as a result of eligible property improvement loans. Application for a property improvement loan contract of insurance shall be submitted on Form FH-21, (see Appendix 1) to the HUD Field Office servicing the area. Following their review, a recommendation will be made and the application referred to Headquarters for a determination of approval or rejection.
- a. Qualifications for a Contract of Insurance. The following institutions are eligible to hold a contract of insurance:
- (1) Financial institutions which have held a contract of insurance and have demonstrated to the Commissioner the

- (1-3) ability to conduct satisfactorily their property improvement loan operations.
- (2) Members of the Federal Reserve System, of the Federal Home Loan Bank System, and institutions whose deposits are insured by the Federal Deposit Insurance Corporation.
- (3) Any Federal, state, or municipal government agency that is or may hereafter be empowered to conduct an installment lending operation.
- (4) Any lending institution not mentioned above may qualify if it meets the following conditions:
- (a) It is a chartered institution or other permanent organization having success ion.
  - (b) It is subject to inspection and supervision by a governmental agency, or if not subject to such inspection, it has sound assets properly proportioned to its liabilities and reflects a net worth of at least \$100,000.
  - (c) If not under acceptable supervision, submission of a detailed audit of its books prepared by an independent public accountant. The IPA must be either a certified public accountant or a public accountant licensed by a regulatory authority of a state or other political subdivision of the United States on or prior to December 31, 1970. To retain approval, the approved lender must file with OMA an audit report each year within 75 days of the close of its fiscal year.
  - (d) Its principal activity is that of lending funds or investing in mortgages, consumer installment notes, or similar advances of credit, and it demonstrates its ability to pass on borrower's credit and to effect collection.
  - (e) It is permitted by statute in the jurisdiction(s) in which it proposes to operate, to make property improvement loans.
  - (f) It has quarters and lending facilities that are in keeping with the accepted facilities of financial institutions making consumer credit loans.

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- (1-3)b. Lender Contract Numbers are assigned by HUD. If, at any time, the lending institution finds it necessary to correspond with HUD, the Lender Contract number must be included.
- (1) Upon acceptance of a financial institution as a HUD approved Title I lender, a contract and an acceptance letter are prepared by HUD and forwarded to the approved lender. It is at this time that the lender is first made aware of his/her 5-digit Contract Number with HUD. It is extremely important that the Contract Number of the insured institution is shown correctly on all documents to HUD, especially documents reporting loan information since that information will be used as direct input for HUD's automated system.
- c. Termination of Contract of Insurance. A contract of insurance may be terminated with respect to any future business at any time, upon five days written notice from the Commissioner, where it appears to the Commissioner that a financial institution is not exercising proper credit judgment, is not taking the steps which may reasonably be considered necessary to safeguard its outstanding loans, or is not exercising proper care in the selection of the dealers from whom it purchases notes. Violations of Equal Credit Opportunity laws and other consumer protection laws, such as: Fair Credit Reporting, Truth-in-Lending, and Holder in Due Course laws, are basis for termination of a contract of insurance. Cancellation of a contract of insurance will in no way adversely affect the insurance reserve on eligible loans already accepted for insurance recordation. In addition all lending institutions are expected to comply with the provisions of Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and all Regulations issued pursuant to these authorities.
- (1) If the insured elects to discontinue making property improvement loans, it may request a termination of the contract of insurance. All insurance reserves earned by such insured as of the date of termination by the Commissioner will remain to its credit until exhausted by the filing of claims for loss. Please note paragraph 1-16(c) concerning future renewal insurance premiums.
- (2) Written notice of the contemplated action must be given to the Commissioner sufficiently in advance of the desired effective date to permit an orderly processing of pending loan reporting manifests.

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1-4. LENDING AREA. A financial institution may make loans only in the trading area usually served by the institution in its normal operations, unless prior approval is received from the Commissioner. A lending institution must be in a position to investigate credit, make spot checks of the improvements being financed, and have its own employees or qualified representatives make personal contact with delinquent borrowers.

1-5. DEALER-CONTRACTORS. Dealer-contractor originated business represents a substantial amount of all improvement loans reported for insurance. The role of the dealer--contractor and salesman is one of prime importance, as they, in effect, represent the lending institution in negotiations with property owners. Therefore, the lender must select carefully the dealer-contractor from whom it purchases notes, and a direct and constant control should be maintained over the business transacted.

a. Irregularities. HUD is aware of the abuses inflicted on consumers by some elements active in the home improvement field. These abuses may include such practices as grossly overstating the merits of the product, faulty workmanship, assuring performance of doubtful attainment, promising cash bonuses on repeat sales in the neighborhood, encouraging trial purchases, cash rebates, inflating the sales price, and not disclosing to the borrower that the note includes allowable financing charges.

1-6. DEALER-CONTRACTOR APPROVAL. HUD does not approve dealer-contractors for participation in the program. This is a responsibility of the lending institution.

a. Dealer-Contractor File. The regulations require the insured institution to have a file on each dealer-contractor containing an application signed and dated by the dealer-contractor.

(1) It is further required that the file contain a signed and dated approval of the dealer-contractor, and supported by information in the file that the dealer-contractor is: reliable; financially responsible; qualified to perform satisfactorily the work to be financed; and equipped to extend proper service to the customer.

(2) The absence of such a file containing a dealer-contractor application approval with supporting

information is a violation of the regulations. Loans

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- (1-6) purchased from such unapproved dealer-contractors do not meet the requirements of the insurance contract and may result in denial of benefits if a loss occurs.
- (3) Where claims for reimbursement are shown to be the result of default because of fraud or faulty performance on the part of the dealer-contractor, the insured may be called upon to furnish the Commissioner with the file containing its approval of the dealer-contractor. Evidence of improper dealer selection or supervision by the lender may result in disciplinary action against the lender.
- b. HUD will not permit lending institutions to use insurance coverage afforded under the program for testing the dependability of dealer-contractors. The lender should have full knowledge of the principals of the firm, the salesmen, and their method of operation. Only a thorough investigation will develop adequate and reliable information upon which the lending institution can make a proper decision.
- c. Approval Procedure. When accepting a dealer application, the lender is required to document the following procedures retain the documentation in the dealer's file.
- (1) Obtain a completed Dealer-Contractor Application, and a current financial statement.
  - (2) Check the HUD Consolidated List of Debarred, Suspended and Ineligible Contractors and Grantees to ascertain if the firm or any of its principals or sales personnel are listed thereon.
  - (3) Order a credit report on the firm and a local retail credit report on each of the principals. (Information on paying habits of the principals on their personal obligations is useful in evaluating the financial stability of the business they operate).
  - (4) Make direct checks on trade and banking references and also with the local HUD Field Office for any adverse experience with dealer-contractor's asking for approval.
  - (5) Inspect the dealer's place of business to determine the permanency and the adequacy of available equipment.

- (6) Obtain copies of brochures, descriptive literature, guarantees, sales contracts, and price lists. Obtain the names of sales personnel and check their names against the consolidated list.

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- (7) Carefully analyze the information developed to determine whether the principals are of good character and the firm is solvent, financially responsible, qualified by experience to do the proposed work, and equipped to give customer proper services.

1-7. SUPERVISION BY LENDING INSTITUTION. Review the contents of the Dealers and Contractors Guide (HUD-30-F) with the approved dealer and supply copies for the sales staff. Caution all dealers on debt consolidation, bonus offers, etc. Inform the dealers that he/she will be responsible for the acts of the sales staff. The following procedures are the minimum requirements for a lender's supervision of dealer-contractors.

- a. When the dealer brings in his/her first loan application, set up a dealer experience record showing at least the volume of loans purchased, transactions rejected, claims filed, and borrower complaints received or irregularities discovered.
- b. Make an inspection of the improvements on the first transaction discounted by a new dealer and interview the borrower prior to disbursement. Thereafter by phone, spot check an average of at least one of every five loans discounted.
- c. Make a inspection of the improvements and interview the borrower in one of every five contracts performed by the dealer wherein the net proceeds of the loans exceed \$3,500.
- d. Require each approved and active dealer to submit an up-to-date financial statement annually.
- e. Supplement the financial statement obtained by up-to-date credit report(s) or direct inquiries to the dealer's supply sources, as considered necessary.
- f. Analyze dealer experience records at least twice yearly. Principal considerations in this analysis must be:
  - (1) The application reject ratio. If in excess of 40 percent, review the rejected applications to determine the dealer's area of operation, the quality of the

paper being presented, etc. An excessive ratio is unprofitable to a lending institution.

- (2) The number and nature of complaints received to ascertain the quality of the dealer's workmanship, past cooperation in satisfying complaints, and tendencies to perpetrate irregularities.
  - (3) Evaluate the dealer's record by comparing the number of loans purchased in relation to those delinquent and on which a claim for loss has to be filed. Excessive delinquency and losses on loans originated by a certain dealer may be the basis for termination of your approval. Your own loss ratio with HUD may be a basis for this comparison.
- g. At least every three months visit the dealer's place of business to observe the condition of the premises, and discuss any problems encountered, and changes in sales personnel.
  - h. The dealer file should indicate the date of all inspections, interviews, spot checks and telephone contacts made by the lender.
- 1-8. LENDERS RESPONSIBILITY FOR SERVICE COMPLAINTS. The lending institution shall be responsible for maintaining a record of all complaints received and entering them on the dealer control record. The procedure for handling complaints for dealer loans are as follows:
- a. Record the date the complaint was received and the nature of the complaint.
  - b. Notify the customer of the efforts being made to have the complaint corrected.
  - c. Notify the dealer of the customer's dissatisfaction and request that any intentions be submitted within 15 days.
  - d. Follow-up the dealer/contractor with a letter within 15 days if there has been no correction made or explanation received.
  - e. Notify the customer that the matter has been concluded and the file is being closed when the complaint has been resolved.

- f. Notify the local HUD office of the dealer's failure or refusal to correct the complaint and send a copy of this notification to the Director, Office of Title I Insured Loans, Washington, DC 20410.

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- g. Notify the local HUD office of any disputes or stalemates regarding the justification of complaints. Ask for their help or assistance in resolving the problem.
  - h. Ask for and await final word from HUD regarding disposition of the matter.
  - i. The complainant should be informed of the possible administrative action by HUD in the event the dealer does not correct the problem.
  - j. The responsibility for reporting violations or irregularities as required in Section 201.5(b) of the Title I Regulations and Chapter 1, paragraph 1-10, of this Handbook should in no way affect the handling of the service complaint.
  - k. Borrower complaints that are ignored or processed with minimal effort may lead to delinquency problems and losses. Lenders are reminded that in purchasing dealer contracts, the liability of resolving complaints is extended to the lender as well as the dealer. Failure to resolve borrower complaints by the lender could jeopardize the insurance benefits. Therefore, it is incumbent upon the lender to put forth every effort towards resolution.
- 1-9. MAINTENANCE OF RECORD ON EACH APPROVED DEALER-CONTRACTOR. As a basis for determining whether continued dealer approval is warranted, the insured institution is required to periodically analyze, not less than once each 90 days, the control record on each dealer-contractor. A suggested control record which an institution may use is supplied by HUD upon request. Whenever an institution has occasion to withdraw approval of a dealer-contractor, the dealer file should clearly indicate the reason for the action, the date, and indicate by whom taken.
- 1-10. REPORTING IRREGULARITIES TO HUD. Material irregularities or unethical practices perpetrated by anyone participating in the program must be immediately reported to HUD. The report may be sent either to the local HUD Field Office or directly to Headquarters in Washington.
- 1-11. TEMPORARY DENIAL. The precautionary measures listing has been abolished and has been superseded by procedures outlined in

Title 24 CFR 24.18, Temporary Denial of Participation. When irregularities or disregard for the statute and regulations on the part of dealer-contractors, or salesmen employed by them are brought to the attention of HUD, lending institutions will be notified. When such notification is received from the Commissioner or his/her authorized agent, the dealer-contractor will be denied the benefits of program participation.

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- (1-11)a. Lending institutions should consult with the local HUD office if a dealer-contractor problem arises when they believe assistance is needed.
- b. Ineligible Persons. A procedure outlined in Title 24, CFR Part 24, has been established under which individuals, companies, or institutions may be barred entirely from further participation in various housing programs. Insured lending institutions will be given appropriate notification of action taken under this procedure.

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