

FISCAL INSTRUCTIONS

1. ASSIGNMENT OF FHA CASE NUMBERS. The assignment of FHA case numbers for firm commitments pertaining to mortgages where assistance payments will be made will follow the procedures outlined in Chapter 54 of Reference (1) of the Foreword. The following section of the Act suffix codes will be assigned to identify the home mortgage programs under Section 235:

Section Of Act	ADP Section Of Act Suffix Code	ADP Section Of Act Suffix Code If Pursuant To 223(e)
235(i)	235	335
235(j)(4)	216	316
233/235(i)	208	308
233/235(j)(4)	209	309
233/237/235(i)	211	311
233/237/235(j)(4)	212	312
237/235(i)	201	301
237/235(j)(4)	217	317
* 235(i)(REV)	265	365 *

- a. Section 235(j)(4) Cases. The release of individual properties from the lien of a blanket mortgage which was insured under Section 235(j) (1) will not require any reporting under these procedures, either when the firm commitment under Section 235(j) (4) is issued, or when the individual mortgage is insured. Firm obligations for assistance payments will have been established from previous reporting of the 235(j)(1) transaction under procedures in the Section 235(j) handbook, Reference (2).
- b. Department of Agriculture Cases. Any Section 235(i) cases presented for insurance endorsement after issuance of a commitment under an agreement with the Secretary of Agriculture will not require any reporting under these procedures. While FHA case numbers will be assigned by the field office when the cases are presented for insurance endorsement, all Agriculture-initiated cases will have firm obligations for assistance payments established under special arrangements with that Department. Details concerning processing of these cases are contained in a separate handbook, Reference (3).

(1) (1) After the transaction has been closed by and between the mortgagor and mortgagee and the mortgage proceeds have been disbursed for the account of the homeowner, the Farmers Home Administration county supervisor will no longer participate in the transaction, unless there is a deficiency in the closing exhibits which requires correction and is brought to the attention of Farmers Home Administration, or unless there is a complaint from the homeowner relating to construction. The

mortgagee will submit to the local field office the normal package of closing papers and after insurance endorsement occurs the case will be an insured mortgage transaction in every respect and without any distinction as having been initiated under these procedures. Any omissions or errors in the closing exhibits will be called to the attention of the lender in the usual manner.

- (2) Since, prior to submission of the closing papers, the field office normally will not have had any previous knowledge of the transaction, an FHA case number will not have been assigned. Even if there have been some contacts, for purposes of seeking and furnishing information, between the lender and/or county supervisor and the field office representative, an FHA case number is not to be assigned to these transactions until after mortgage proceeds have been disbursed and the mortgage is ready to be insured.
- (3) The only difference in the assignment of a case number for a case initiated by the Department of Agriculture and one processed under regular field office procedures is in the assignment of the section of the Act suffix code. For agriculture-initiated cases the section of the Act suffix code to be assigned and shown on FHA Form 700-1 is "235;" whereas, for cases processed under regular field office procedures the section of the Act suffix code applicable to the section under which the application was submitted, i.e., 203, 220, 221, etc., must be used and subsequently transferred to section 235(i) when it has been determined that the mortgagor is eligible to receive assistance payments. See paragraph 2.b.(1).

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- (1) (4) In completing FHA Form 700-1, show program identification code "35" and fee code "80," no fee due.
 - (5) When preparing FHA Form 700-8, commitment issued, the amount of the commitment must be the same as the mortgage amount. The "date commitment expires" is to be a date three months in the future in order to avoid ADP rejects. In instances where a commitment has been extended by the Farmers Home Administration the "date commitment expires" is to be a date three months subsequent to the extension date granted as shown in the letter of extension. Extension letters are to be included with closing papers when the mortgage is submitted to the field office for insurance endorsement.
 - (6) In completing Forms 9100-2 and 9100-3, the processing copies of the mortgage insurance certificate, show

program code "35." Program code 35 is the only means available to identify the transaction in the insurance-in-force ADP records as having been initiated under this program. Extra care must be taken to see that this important part of processing is not overlooked.

- (7) Immediately after the mortgage has been insured, as evidenced by execution of the insurance endorsement on the reverse of the mortgage insurance certificate, it will be returned to the lender in the customary manner. The lender must then identify all of the documents in the transaction by placing the entire FHA case number on each one.
- (8) The following items must be forwarded to headquarters together with similar documents produced in regular case processing, and addressed and submitted under regularly-prescribed procedures:
 - (a) FHA Form 2800, Mortgagee's Application for Property Appraisal and Commitment.
 - (b) FHA Form 2900, Mortgagee's Application for Mortgagor's Approval and Commitment.

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- (1)
 - (c) FHA Form 700-1, Application.
 - (d) FHA Form 700-8, Commitment.
 - (e) Form 9100-2, processing copy of the mortgage insurance certificate.
 - (f) Case binder assembled in accordance with existing instructions.
 - (9) Assistance payments and the monthly handling charge for these homeowners will be billed to HUD together with all other assistance payments and handling charges due for the month. Assistance payments for these mortgages will be computed on the same basis as all other mortgages insured under section 235(i). Full particulars concerning computation of assistance payments are included in Reference (4).
- c. Mortgage Assistance Payment Certificate. For families holding membership in a cooperative association that are qualified to have assistance payments made in their behalf under the provisions of section 235(d) of the Act, and who qualify under 235(b) of the Act, separate case numbers are not assigned. These cases are identified by using the section 213 project number, followed by the unit number, e.g., 012-23001-Unit 7. Assistance payments for these

transactions must be reported under the procedures outlined herein.

- (1) Upon approval of the mortgagee's application to have assistance payments made in these cases, the field office will execute and issue FHA Form No. 3130, Mortgage Assistance Payment Certificate. A copy of the form is included in this handbook as Appendix 16. The issuance of this certificate is the evidence of an assistance payment contract between the mortgagee and HUD, as set forth in section 235.310(b) of the regulations, and it firmly commits HUD to make assistance payments as set forth in the certificate. It may be executed only by the same officials that have been delegated the authority to issue home mortgage commitments.

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2. FEE AND OTHER ADP CODES. Application fees for mortgages to be insured under section 235(i) are the same as those for mortgages insured under section 203, except for those initiated by the Department of Agriculture. Therefore, the fee codes shown in 63-1(e) of Reference (1) and on FHA Form No. 2641(f) will be used when completing FHA Forms 700 for section 235(i) cases. Also, the type of construction codes shown in 63-1(c) and Form 2641(f) will be used, as applicable, for section 235(i) cases.
 - a. Fees for Cases Initiated by the Department of Agriculture. With respect to those transactions initiated by the Department of Agriculture, the Farmers Home Administration county supervisor will charge the prospective homeowner an application fee, which will be the same as the Housing and Urban Development-Federal Housing Administration's (HUD-FHA) fee; i.e. \$40 for existing construction or substantial rehabilitation; \$50 for proposed construction. These fees will be paid by the prospective homeowner to the county supervisor and retained by the Farmers Home Administration as partial reimbursement for administrative expenses connected with operation of this program. Fees for these cases are not received by the mortgagee, nor will the mortgagee be billed on the monthly fee billing statement. The fee code to be inserted on FHA Form 700-1 for these cases is "80," no fee due.

Commitment extension fees will not be charged on these cases by HUD-FHA. The Secretary of Agriculture will determine whether extension fees will be charged on cases processed by the Farmers Home Administration.
 - b. Applications. An application for a conditional commitment may not be submitted under section 235(i). In every instance an application for a conditional commitment must be submitted under another eligible section of Title II, and subsequently

transferred to section 235(i) when it has been determined that the mortgagor is eligible to receive assistance payments. Therefore, in preparing FHA Form 700-1 for these transactions, the section of the Act suffix code may never be shown as "235." Instead, the section of the Act suffix code for the section of the Act under which the application for conditional commitment was submitted

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(2) will be shown on FHA Form 700-1.

- (1) When it has been determined that the transaction qualifies in every respect for a firm commitment under section 235(i), FHA Form 700-2 will be prepared showing a transfer to section 235(i). Form 2900, the mortgage insurance certificate including Forms 9100-2 and 9100-3, and the note and mortgage must always show one of the 235 section of the Act suffix codes as indicated in the instructions under paragraph 1.

NOTE: The instructions in 2.b. and 2.b.(1) above do not apply to cases initiated by the Department of Agriculture. See Paragraphs 1.b.(3) and 1.b.(4).

- c. Conversion of Cases in Process. Outstanding commitments which are converted to firm commitments under section 235(i) will require the submission of FHA Form 700-2 in accordance with outstanding instructions. Thereafter in all respects the case will be treated as a section 235(i) case in accordance with the instructions in this handbook. If an outstanding commitment, previously issued without regard to the section 235 program, is to be amended to permit its conversion to section 235(i), the case will be treated in all respects as if the commitment had originally been issued subject to conversion to section 235(i) and the procedures in this handbook will be followed.
- d. ADP Program Identification Codes. The following program identification codes will be entered on the copies of the mortgage insurance certificate for transactions under the regular section 235(i) program:

	Code	Explanation
(1)	07	public housing properties sold by Federal, State, or local governments or agencies thereof
(2)	08	properties located in redevelopment or urban renewal areas
(3)	19	properties located in model city area
(4)	20	properties located in model city area in urban renewal area

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- (5) 21 properties located in periphery of model city area
 - (6) 22 properties located in periphery of model city area
in urban renewal area
 - (7) 23 family unit in condominium
 - (8) 24 family unit in condominium in urban renewal area
 - (9) 25 family unit in condominium in model city area
 - (10) 26 family unit in condominium in model city area in
urban renewal area
 - (11) 27 family unit in condominium in periphery of model
city area
 - (12) 28 family unit in condominium in periphery of model
city area in urban renewal area
 - (13) 35 cases originated by department of agriculture
 - (14) 00 all cases not in program codes shown above

- 3. APPROPRIATIONS AND REPORTING - GENERAL. The Act provides, in part, under section 235(h), that "...The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts...".
 - a. Executing Contracts. With respect to executing contracts for assistance payments and reporting such contractual obligations, it is important to note the provisions of the Anti-Deficiency Act, 31 U.S.C. 665, which provides in pertinent part:

"No officer or employee of the United States shall make or authorize an expenditure from or create or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor shall any such officer or employee involve the Government in any contract or other obligation, for the payment of money for any purpose, in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law."
 - b. Accurate Records. The above quoted provision of the Anti-Deficiency Act imposes the requirement to maintain an accurate record of all contractual obligations.

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- 4. ALLOCATION OF CONTRACT AUTHORITY. The Director, Subsidized Housing Programs (D/SHP), will allocate contract authority to the Regional Administrator on Form HUD-185, Regional Fund and Contract Authority Assignment, for distribution to field offices within the regional office jurisdiction. Field office directors will receive their allocation of contract authority from the Regional Administrator on Form HUD-185.1, Regional Fund and Contract Authority Sub-Assignment. See Reference (5).
 - a. Numbering Allocations. Contract authority allocations to Regional Administrators are numbered for control purposes.

The numbers are assigned in sequence and therefore the allocations to any one office will not necessarily have numbers in sequence.

- b. Allocations of Contract Authority for Regular Programs. A block allocation of contract authority will be made by the central office to each regional office for regular programs on Form HUD-185. Each field office will receive its share of the block allocation for regular programs from the regional office on Form HUD-185.1. Contract authority allocations for special purpose programs other than Operation Breakthrough and Military Housing will be included in the allocations for regular programs. Separate allocations of contract authority will be made for Operation Breakthrough and Military Housing in accordance with the provisions of paragraph c. below.
- c. Allocations of Contract Authority for Special Purpose Programs. Allocations of contract authority for Operation Breakthrough and Military Housing will be made by the central office when it receives notice from the field office director that he approved a reservation request for one of the special purpose programs. The regional office will receive the special purpose allocation from the central office on Form HUD-185, and the field office will receive the allocation from the regional office on Form HUD-185.1.
- d. Contract Authority Allocated to Field Office. Field office directors are responsible for assuring that reservations and firm obligations of contract authority do not exceed the

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amount of contract authority allocations actually received on Form HUD-185.1.

- e. Transfers of Contract Authority. The withdrawal of contract authority from the regional office or the transfer of contract authority between regional offices will be accomplished by the D/SHP issuing an increase/decrease allocation on Form HUD-185 to the gaining and losing regional offices. The Regional Administrator can transfer contract authority between field offices within the region by issuing a decrease assignment to the losing office on Form HUD-185.1 and an increase assignment to the gaining office on Form HUD-185.1. A copy of all Forms HUD-185.1 initiated by the Regional Budget Officer is to be forwarded to the Director, Subsidized Housing Programs, Attn: Financial Services, Washington, D. C. 20411, and to the Comptroller, Attn: Accounting Division, Washington, D. C. 20412.
- f. Recapture of Contract Authority. When there is a recapture of regular contract authority because of expired reservations, commitment expiration, or decreases in

reservations or firm obligations, the allocation will revert to the director's allocation unless withdrawn on Form HUD-185.1. When there is a recapture of special purpose contract authority or for some other reason the allocations are not expended, the allocations will revert to the central office when the purpose for which the allocation was made has not been accomplished. Withdrawal notice will be on Form HUD-185 for the regional office and Form 185.1 for the field office.

5. PRELIMINARY RESERVATION OF CONTRACT AUTHORITY. If a builder or seller wants to be certain that contract authority will be available, he should submit a request to the field office director for a preliminary reservation of contract authority. If contract authority is available, it will be reserved. A preliminary reservation of contract authority is an advance commitment that contract authority will be available for assistance payments when homes are sold to families who qualify for this assistance. A builder does not have to request that contract authority be reserved; however, if a preliminary reservation is not requested, there is no assurance that

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- (5) contract authority will be available when he sells completed units to eligible families. The fiscal procedures pertaining to a preliminary reservation apply only to those cases when the builder or seller, working with and through the field office, wants to be certain that contract authority will be available when needed.
 - a. Form to Use. When a preliminary reservation of contract authority is desired, the builder or seller must submit a request on FHA Form 3122 to the field office director. A preliminary reservation may only be requested for proposed construction or substantial rehabilitation cases involving five or more dwellings or units with respect to those cases when it is proposed that the commitment will be converted to section 235. Requests may not be made for four or less dwellings.
 - (1) Before an approved subdivision report is issued, or before the feasibility letter is issued in the case of a condominium, or before a formal application for a commitment is submitted for proposed construction involving five or more dwellings when the builder or seller wants an advance commitment of contract authority, a preliminary reservation must be requested and obtained from the field office director.
 - (2) The amount of the preliminary reservation requested should apply to the number of dwellings or units which are estimated will be sold to families who qualify for assistance payments under section 235(b). For example, if a subdivision of 100

single-family homes is planned and the builder estimates that 25 of them will be sold to families who qualify for assistance payments under section 235(b), then contract authority may be reserved to cover annual assistance payments for 25 units. At this point in processing, it is not possible or necessary to identify the specific properties on which the commitment may be converted to section 235.

- b. Applications for Section 235 Assistance. Applications for section 235 assistance arise in four basic ways as described below:

- (5) (1) Builder applications under sections 203; 220(d)(3)(A); 221(d)(2); or 234 for five or more units for new construction or for substantial rehabilitation with ultimate sale to an eligible purchaser and conversion of the conditional commitment to a section 235 firm commitment. In these transactions, when the builder, developer, or other party at interest wants an advance commitment of contract authority, such interested party to the transaction completes, signs, and delivers to the field office a Form 3122, Request for Preliminary Reservation of Contract Authority for Conditional Commitments.
- (a) If the request is approved, either for the amount requested or for an amount determined by the director, the director or his designee will reserve the contract authority and indicate such reservation by signing the reservation panel on Form 3122 and delivering the original to the party requesting the reservation. Reservations will be numbered sequentially from -1 up, by type. Special purpose reservations will be so identified and will be sequentially numbered from -1 up. The office will maintain a master file containing the first copy of each section 235(i) "regular" reservation; and a separate master file by type of special purpose contract authority, maintaining therein a copy of each reservation issued. Thus, an office might have seven or more files of preliminary reservations for section 235(i); e.g., "Regular;" "Model Cities;" "Military Housing;" "Substantial Rehabilitation;" "State and Local;" "Breakthrough;" and "Others." Each file would contain reservations sequentially numbered from -1 up within that file.
- (b) Each reservation must be based upon a standard amount per unit, as determined by headquarters for current needs. See Appendix 17.
- (c) The effect of the issuance of a reservation by the director or his designee is a commitment by the

- (5) the transaction has been reserved. Appendixes 2 and 3 show preliminary reservations for "regular" transactions. Appendix 4 shows a preliminary reservation under a special purpose contract authority allocation.
- (d) Each preliminary reservation issued must be recorded on a separate Form 3123, Record of Section 235(i) Preliminary Reservations. The purpose of Form 3123 is (1) to record all preliminary reservations issued; (2) to record the cancellation of all preliminary reservations; and (3) to record section 235 firm commitments issued pursuant to that reservation. Appendixes 5 and 6 show Forms 3123 for a regular reservation. Appendix 7 shows a Form 3123 for a special purpose reservation.
- (2) The second manner in applying for section 235 assistance is through applications for conditional commitments for new or proposed construction or substantial rehabilitation involving four or less requests (units). These are cases when, typically, a small builder wants assurance that section 235 contract authority will be available when construction or rehabilitation is completed, the property has been sold to an eligible purchaser, and a request is submitted by the lender to convert the conditional commitment to a firm commitment.
- (a) These transactions will involve the issuance of a "convertible commitment" under section 203; 220(d)(3)(A); 221(d)(2) or 234. The legend "Convertible to Section 235(i)" is placed on the conditional commitment. A convertible commitment, when issued, represents a binding obligation on the Government to execute the assistance payment contract (by insuring the mortgage) provided all HUD requirements are met.
- (b) Each convertible commitment, when issued, must be recorded on Form 3124, Record of Contract Authority Obligated for Assistance Payments, using the

standard amount.

- (c) Convertible commitments will be charged to contract authority made available for regular transactions or special purpose transactions, as appropriate. A Form 3124 is a running record of all firm commitments and convertible commitments. Separate records are

maintained on Form 3124 for regular transactions and for special purpose transactions. Appendix 11 illustrates a Form 3124 for regular cases, and Appendix 12 illustrates one maintained for military housing cases.

- (3) The third manner in applying for section 235 assistance is when the lender submits a request for conversion of an outstanding conditional commitment to a firm commitment under section 235 when there has been no reservation or obligation of contract authority. If a section 235 firm commitment is issued, it is posted on Form 3124 when issued as a firm obligation of contract authority.
- (4) The fourth manner in applying for section 235 assistance is when the lender submits a concurrent application for a conditional and a firm commitment under section 235 involving new or proposed construction, substantial rehabilitation, or existing construction. When committed, these transactions represent a firm obligation and are posted when issued on Form 3124.

NOTE: Firm commitments issued in the name of an operative builder may be "convertible" so that contract authority will be available if closed in the name of a qualified owner-occupant.

6. AMOUNT OF ANNUAL ASSISTANCE PAYMENT TO RESERVE OR OBLIGATE. For purposes of obtaining a preliminary reservation of contract authority and establishing firm obligations, all assistance payments for home mortgages will be computed on a standard amount per individual property or unit. Form 3119 has been developed which shows the amount to reserve or obligate for various numbers of mortgages, computed at the standard amount.

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- (6) See Appendix 17. The chart shows the number of mortgages sequentially from 1-up through 100; thereafter, the number of mortgages are shown in increments of 5. Use of the chart will avoid duplication of effort in making calculations and will help prevent arithmetical errors. The contract authority to be reserved or obligated is always full annual amounts as shown on Form 3119 regardless of the contemplated date of first payment to principal and interest under the mortgage.
 - a. Changes in Amount to Reserve or Obligate. Because of gradual increases (or decreases) in the average section 235 commitment amount, it may become necessary to change the standard amount to reserve or obligate from time to time. Field office directors will be advised of any change in the standard amount and the effective date of the change. At the same time, revised copies of FHA Form 3119 will be provided. All actions reported on and after the effective date of any change must be based on the new

standard amount against section 235 contract authority previously made available to the field office.

b. Implementation. Upon receipt of instructions advising of a change in the standard amount and the effective date, the reservation, obligation or cancellation of contract authority will require careful attention with respect to FHA Forms 3122, 3123, 3124, 3138, and 3127 as follows:

- (1) Form 3122 - All preliminary reservations of contract authority issued by the field office on and after the effective date must show the total amount reserved at the new rate for each case approved for section 235 assistance.
- (2) Form 3123 - The record of section 235(i) preliminary reservations must be posted with the new standard amount with respect to all firm commitments issued pursuant to the reservation on and after the effective date. This will be accomplished by entering in column (C) the new standard amount for each unit canceled on and after the effective date. This applies to all open items on Forms 3123, notwithstanding that reservations issued prior to the effective date were computed at a different standard amount.

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- (6) (3) Form 3124 - The record of contract authority obligated for all convertible commitments and all section 235 firm commitments issued on and after the effective date must be entered in the appropriate column at the new standard amount for each case. Since the new standard amount will be applicable to all open cases on Form 3124, the new standard amount must be used in reporting the cancellation of any firm obligation on and after the effective date of the change.
 - (4) Form 3138 - The report on status of reservations and obligations for the month ending prior to the effective date will be prepared in accordance with outstanding instructions at the old standard amount for each section 235(i) and 235(j) case. The Form 3138 report for the month beginning with the effective date is to be adjusted to provide for the new standard reservation and obligation amount. The following instructions required to accomplish the adjustment refer to section 235(i) cases only; no adjustment is to be made for any amounts applicable to section 235(j) transactions.

PRELIMINARY RESERVATIONS

- (a) Line (4) - In the "mortgages" column, enter the

number of cases shown for the previous month on line (8); multiply by the new standard amount each section 235(i) case (only) to arrive at the new opening balance of preliminary reservations. (Since the Form 3138 report includes 235(i) and 235(j) cases, the gross amount must include a dollar amount for any 235(j) cases that were included in the closing balance on line (8) of the previous report.)

- (b) Line (5) - Compute all section 235(i) reservations issued during the month at the new standard amount per case.
- (c) Line (7) - Compute the cancellation of section 235(i) reservations during the month at the new standard amount per case.

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- (6) (d) Line (7a) - Compute the conversions of reservations to firm obligations during the month at the new standard amount per case.
 - (e) Line (8) - The outstanding balance of preliminary reservations must equal line (6) less line (7b). In addition, the "amount" column must equal the sum of the new standard amount per case multiplied by the number of section 235(i) cases shown in the "mortgages" column, plus any section 235(j) reserved contract authority. Double check the calculations on line (8).

FIRM OBLIGATIONS

- (f) Line (9a) - The balance of mortgages and units for section 235(i) entered on line (13) of Form 3138 for the month ending prior to the effective date are to be entered on this line, the date (last day of the month) is also to be entered on this line; multiply by the old standard amount, each section 235(i) case to arrive at the permanent balance of firm obligations. The number of mortgages and units and the amount entered on this line for section 235(i) cases will not be changed, and the same figures will be reported on each monthly report thereafter.
- (g) Line (9b) - Record on line (9b) of Form 3138 prepared for the month beginning with the effective date, only the outstanding balances of firm obligations for section 235(j) since the outstanding balances of firm obligations for section 235(i) will be recorded on line (9a) as the permanent balance of firm obligations. Commencing with the next monthly report and for

each month thereafter the entries recorded on line (13) of Form 3138 will include cumulative firm obligations for section 235(j) and the cumulative firm obligations for section 235(i) since the effective date of change.

- (h) Line (10) - Compute all firm obligations (4 or less units) made during the month at the new standard amount per case.
 - (i) Line (10a) - Compute all firm obligations converted from preliminary reservations (5 or more units) during the month at the new standard amount per case.
 - (j) Line (12) - Compute the cancellation of section 235(i) obligations during the month at the new standard amount per case.
 - (k) Line (13) - The outstanding balance of firm obligations must equal line (11) less line (12). In addition, the "amount" column must equal the sum of the new standard amount per case multiplied by the number of section 235(i) cases shown in the "mortgages" column, plus any section 235(j) obligated contract authority. Double check the calculations on line (13).
- (5) Form 3127 - The monthly report of contract authority obligated for the month beginning with the effective date of the new standard amount, must have all calculations for section 235(i) cases computed at the new standard amount per case.

7. RECORD OF PRELIMINARY RESERVATIONS FOR PROPOSED CONSTRUCTION CASES. At the time a preliminary reservation of contract authority is approved, the initial entries must be made on FHA Form 3123, Record of Section 235(i) Preliminary Reservations. This form is included in this handbook as Appendix 5.
- a. Entries on Form 3123. In panel 1, enter the name and address of the sponsor and location or name of the subdivision. The reservation number will be entered in panel 2. In panel 3, indicate by checking the appropriate box whether the contract authority reservation is for a regular or special purpose program. If it is for a special purpose program, show the particular kind of program involved such as "Model Cities," "Military Housing," etc. The total

- (7) number of cases; the number of cases estimated to be eligible for assistance payments; and the amount of preliminary reservation issued are to be shown in panels 4, 5, and 6, respectively. The date the reservation is issued; the date it is reported on Form 3127; and the date it expires are shown in panels 7, 8, and 9, respectively. If it is necessary to extend the date the reservation expires, that date will be entered in panel 10. Entries on Form 3123 are from Form 3122.

NOTE: No amounts for the annual handling charge are to be recorded on Form 3123; all amounts are exclusive of handling charges. The amount entered in panel 6 of Form 3123 is obtained from the certification panel of Form 3122.

- (1) Once the preliminary reservation is approved, the subdivision report may be issued, or the Feasibility Letter may be issued for a section 234(c) condominium, or conditional commitments may be issued and normal field office processing followed.
- (2) Upon receipt from the lender of FHA Forms 2800, Application for Commitment, entries will be made in column (A) from "1" up for the total number of units earmarked for assistance payments. If, for example, it is estimated that in a proposed subdivision of 100 dwellings, 25 dwellings will be sold to families who qualify for assistance payments under section 235, it will be necessary to use 25 lines on Form 3123. This is the initial identification of commitments to be converted to section 235. Since it is not possible to determine which particular dwellings will be sold under section 235 procedures, no attempt should be made to identify these 25 units with any particular commitments, lot numbers, or property addresses. The purposes of the unit designation are (a) to keep a record so that the preliminary reservation may be canceled and at the same time a firm obligation set up on the books of account when the commitment is transferred to section 235, and (b) to provide information as to the necessity to record firm obligations for any cases in

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- (7) excess of the number for which a preliminary reservation of contract authority was obtained. Any commitment conversions to section 235 in excess of the number for which a preliminary reservation was received must be reported promptly on the monthly report and on Form 3138 as a firm obligation. See paragraph 10.
- (3) Upon receipt of Form 2900, Mortgagee's Application for Mortgagor's Approval and Commitment, and upon issuance

of a firm commitment under section 235, the section 235 case number will be entered in column (B) of Form 3123. Section 235 case numbers will be entered on the form in order as the firm commitments are issued.

- (4) In panel 6, the amount of contract authority preliminarily reserved will be entered. This will be the standard amount per case as shown on Form 3119, Appendix 17. Irrespective of the amount and term of the firm commitment, the amount of preliminary reservation to be canceled must be exactly the same amount that was established or as adjusted due to a change in the standard amount.
- (5) At the end of the reporting month, the amount of preliminary reservation to be canceled must be totaled from column (C) and reported on the monthly report, Form 3127. (See Appendix 8.) The date on which the cancellation was recorded is entered in column (D).
- (6) Concurrently, for each case when the commitment was converted to section 235 and the preliminary reservation canceled on the monthly report, the initial entry of the section 235 case number must be made on FHA Form 3124, Record of Contract Authority Obligated for Assistance Payments Under Section 235. Detail concerning the entries required on Form 3124 and the flow of information with respect to firm obligations are set forth in paragraph 8.
- (7) All preliminary reservations of contract authority must be canceled. They are canceled by entries on the monthly report when
 - an application is not submitted,

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-application is withdrawn,
-a firm commitment is issued under section 235,
-a firm commitment is issued under another insuring section.

- (8) In those cases that do not result in issuing firm commitments under section 235(i) when a preliminary reservation of contract authority was received, the reservation must be canceled when it is determined that firm commitments under section 235 will not be issued. This can only be determined when all the cases in the group have been sold.
- (9) Field offices are solely responsible for assuring that all preliminary reservations of contract authority are timely canceled by appropriate entries on the monthly report.
- (10) Careful adherence to these procedures for recording

all prescribed entries on Form 3123 will permit field office supervisory personnel, as well as inspection and audit teams, to readily determine that preliminary reservations of contract authority are being obtained when needed, promptly and accurately canceled when required, and that totals transferred to the monthly report are complete and accurate.

NOTE: Any cancellation of a preliminary reservation which does not result in issuance of a commitment has the effect of adding back contract authority available to the office for other transactions.

8. RECORD OF CONTRACT AUTHORITY OBLIGATED FOR ASSISTANCE PAYMENTS UNDER SECTION 235(b). Form 3124, Record of Contract Authority Obligated for Assistance Payments Under Section 235(b), is a running record of all firm obligations under section 235. The form is illustrated as Appendix 11 for regular contract authority and as Appendix 12 for special purpose contract authority allocations.
- a. Maintaining the Record. This record must be maintained by individual case number for the following types of transactions:

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- (8) (1) All conditional commitments issued under another insuring section which may be converted to firm commitments under section 235 (see paragraph 5.b.(2)(a));
- (2) All firm commitments issued under section 235 whether pursuant to a preliminary reservation or otherwise; and
- (3) All cases when a Form 3130, Mortgage Assistance Payment Certificate, is issued on behalf of a family holding membership in a cooperative association.

In category (1) above, if a preliminary reservation of contract authority was obtained it must be canceled on the monthly report. In categories (2) and (3) above, a preliminary reservation of contract authority was not obtained, and therefore must not be canceled.

- b. Amount to Obligate. In recording contract authority obligated, a standard amount will be established for each commitment or mortgage assistance payment certificate as computed on Form 3119, Appendix 17.
- c. Classes of Transactions. Separate Form 3124 control sheets must be maintained for regular section 235(i) cases and those cases when assistance payments will be made for a family holding membership in a cooperative association. Also included in this category are proposed construction or

substantial rehabilitation cases involving four or less dwellings which are committed under another section but will be converted to section 235.

- d. Cancellation of Firm Obligations. For those proposed construction cases involving four or less units committed under another section of the Act, when the commitment is marked "Convertible to Section 235," the case numbers entered in column (1) of Form 3124 will have a section of the Act suffix code other than 235, e.g., 203, 221, etc. When the commitments for these cases are converted to section 235, the 3-digit suffix code will be changed. If the commitment is not converted to section 235, but the mortgage is endorsed for insurance under any other section of the Act, or if the commitment expires or is canceled,

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- (8) then the firm obligation must be canceled on the monthly report and the date of the cancellation entered in column (5).
 - e. Monthly Review of Form 3124. Each month Form 3124 must be reviewed to determine that any cases under sections other than 235 which have been endorsed for insurance, or when the commitments have expired or been canceled are reported for cancellation of the firm obligation previously established. Every case number on Form 3124 that is not section 235 (except for 235(d) cooperative cases on which Forms 3130 were issued) must eventually be converted to section 235 and the mortgage endorsed under that section, or the firm obligation must be canceled. Cancellation results in a recovery to the field office of the contract authority obligated for that case.
 - f. "Regular" and "Exception" Income. Form 3124 provides for entering separately the amount of firm obligation applicable to proposed and existing construction. Columns 2(a) and 2(b) under proposed construction; and columns 3(a) and 3(b) under existing construction provide for a further separation of these amounts for those families having regular limit income (not more than 135 percent of public housing limits) and those having exception limit income (more than 135 percent of public housing limits but not in excess of 90 percent of section 221(d)(3) BMIR limits). By posting the standard amount of the firm obligation for each case in the appropriate column, the development of totals for preparation of the monthly report will be facilitated.

NOTE: When a conditional convertible commitment is issued, it is to be reported under the "regular" income category; however, if the firm commitment is for an "exception" income mortgagor, it will be necessary to report a cancellation on Form 3127 of the obligation for the regular income and report a new obligation under the exception income category.

- (1) There is a statutory limitation that only 20 percent of the contract authority may be used for exception income families. Allocations of contract authority to directors will not indicate any break as to amounts

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- (8) that may be used for regular and for exception income families. Each director is fully responsible for determining that not more than 20 percent of the total contract authority made available to him is utilized for exception income families, unless permission to exceed the limit is received in writing from the Director, Subsidized Housing Programs. When construction cost levels and income limits indicate that a major portion of section 235(i) commitments will be in the 20 percent category, the director shall obtain prior clearance from the Director, Subsidized Housing Programs.

- (2) Exception income transactions may effectively be monitored by a monthly review of Forms 3124. These forms reflect a running record of all section 235 firm commitments (from preliminary reservations and conversions from conditionals) and all convertible commitments. Not more than 20 percent of all contract authority made available to the office may be used for exception limit families. When entries in columns 2(b) or 3(b), which are the exception limit cases, reach an average of six cases per Form 3124, the matter should be called to the director's personal attention, since the 20 percent limit is being closely approached.

- (3) When the 20 percent statutory limit has been reached on a national basis, all directors will be notified that the statutory limit has been reached. When this occurs, no additional commitments may be issued for exception income families.

- g. Assistance Payments for Cooperative Members and Mortgage Assumptions. Under the provisions of section 235(b)(2) and 235(c) of the Act, certain homeowners in special categories are eligible to have assistance payments made in their behalf which do not involve a new insured mortgage transaction and do not require the assignment of a new section 235(i) case number. There are four such special categories, which are described below.

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- (8) (1) Member of a Cooperative Association-If the cooperative association of which the family is a

member operates a housing project financed with a section 213 mortgage; if the construction or substantial rehabilitation was completed within two years prior to the filing of the application for assistance payments; and if the dwelling unit has had no previous occupant other than the family for which assistance payments are being requested, assistance payments may be made on behalf of such cooperative member. After field office approval, Form 3130, Mortgage Assistance Payment Certificate, is to be issued to the mortgagee. The transaction is treated as proposed construction. An FHA case number is not assigned; the project number and unit number are shown on Form 3130, e.g., 012-23001-Unit 7. A preliminary reservation of contract authority is not required. When Form 3130 is issued, it is reported as a firm obligation of contract authority.

- (2) Cooperative Member - Subsequent Owner - If the initial cooperative member who has had assistance payments made on his behalf transfers his cooperative membership and occupancy rights to another person, and if the mortgagee files application for such payments, and the cooperative member qualifies, payments may be made on behalf of such new cooperative member. The assistance payment will be made under the assistance payment contract evidenced by Form 3130, Mortgage Assistance Payment Certificate, which was issued in connection with the original transaction. The assistance payment contract on behalf of the new transferee cooperative member will be evidenced by returning to the mortgagee a copy of FHA Form 3100, Application for Homeownership Assistance Under Section 235 of the National Housing Act, marked to indicate HUD's approval of the new cooperative member. This transaction is regarded as a continuation of the original assistance payment contract, since a new insured mortgage is not involved. A preliminary reservation of contract authority is not required; a firm obligation of contract authority is not reported,

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- (8) and the transaction is not to be recorded on Form 3124 or included in any totals on the monthly report or Form 3138.
- (3) Cooperative Member, Existing Cooperative Project - Assistance payments may be made on behalf of a family which is a member of a cooperative association which operates an existing cooperative project and meets prescribed HUD standards. To have assistance payments made on behalf of such families, the cooperative member must qualify as a displaced family or a family which includes five or more minor persons, or a family occupying low-rent public housing. Assistance payments may be made on behalf of the cooperative member only after issuance of

a mortgage assistance payment certificate to the mortgagee. The related mortgage must have been insured under section 213. The FHA project number and the unit number will be shown on Form 3130, Mortgage Assistance Payment Certificate. A preliminary reservation of contract authority is not required. When Form 3130 is issued, it is reported as a firm obligation of contract authority. For purposes of obligating contract authority this type of transaction will be treated as an existing construction transaction except pursuant to special instructions which may be issued by the Comptroller. See paragraph h.(1) hereafter.

- (4) Assumption of Mortgage Insured Under Subsection 235(i) or 235(j) (4) - Assistance payments may be made on behalf of a qualified home owner who assumes a mortgage which was insured under subsection 235(i) or 235(j)(4), if assistance payments have been made on behalf of the previous owner. The assistance payment will be made under the assistance payment contract evidenced by the mortgage insurance certificate which was issued when the individual mortgage was insured. The assistance payment contract on behalf of the assuming mortgagor will be evidenced by returning to the mortgagee a copy of FHA Form 3100, Application for Homeownership Assistance Under Section 235 of the National Housing Act, marked to indicate HUD's approval of the new mortgagor. This transaction is regarded as a continuation

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- (8) of the original assistance payment contract, since a new insured mortgage is not involved. A preliminary reservation of contract authority is not required; a firm obligation of contract authority is not reported, and the transaction is not to be recorded on Form 3124 or included in any totals on the monthly report or Form 3138.

- h. Special Exceptions to Limitation on Existing Construction. A prescribed portion of section 235 contract authority may be used for assistance payments to enable any family meeting the income and asset requirements to buy an existing dwelling or unit in an existing project or membership in an existing cooperative. The term "existing" as used here refers to an existing dwelling or unit without need for substantial rehabilitation. Allocations of contract authority to directors will not indicate any break as to amounts that may be used for existing construction; however, each director is fully responsible for determining that the limitations are not exceeded in his office.

NOTE: If a director reaches the prescribed limitation for existing construction transactions, he may request authority from the Director, Subsidized

Housing Programs to exceed the statutory percentage limitation. If the prescribed limitation has not been reached on a national level, as discussed in (2) below, the authority will be granted by letter.

- (1) Computation of the Statutory Limitation - The applicable statutory limitation on existing construction applies to all convertible commitments and all section 235 firm commitments issued during the particular fiscal year. The dollar limitation available to each field office for existing construction cases is the applicable percent of the new contract authority allocation made available to the field office. The new contract authority allocation is the amount shown in the last column of HUD Form 185.1 reduced by the sum of the amounts shown in line (14) of all Forms 3138 as of June 30.

- (a) For example, assume that HUD 185.1 showed

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- (8) an allocation of \$1,597,018; the amount on line (14) of Form 3138 as of June 30 was \$402,192; and the statutory limitation is 30 percent (administratively reduced to 20% to meet program requirements). The limitation on existing construction is 20 percent of \$1,194,826, the new contract authority, or \$238,965.20. If the field office receives a special purpose contract authority allocation, the 20 percent limitation applies to the total combined new contract authority allocated to the office for both regular and special purpose programs. The 20 percent limitation may be exceeded either for the special purpose allocation or for the regular allocation, provided the total contract authority obligated for all existing construction cases does not exceed 20 percent of the combined allocation of new contract authority made available to the office.

- (2) Notice to Field Office Directors - If and when the percentage limitation for existing construction throughout the United States for a given year is reached, the Comptroller will advise all field office directors to charge existing construction for certain types of cases as indicated in (3) below to contract authority made available for proposed construction. This will only be on the basis of total nation-wide percentages. The fact that one or more field offices may exhaust the amounts made available to them by directive for existing construction will not warrant or permit charging these cases to proposed construction until instructions are received authorizing all field offices to follow this procedure. It must be on a

nation-wide basis.

- (3) Eligible Exceptions - The type of cases which come under the special rule discussed above are as follows:
- (a) An existing single-family dwelling or a family unit in an existing condominium or cooperative project which is to be occupied by one of the following:

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- (8) A family displaced by urban renewal or other governmental action or by a major disaster;
- A family moving from low-rent public housing; or
- A family with five or more minor children under 21 years of age living in the house-hold.
- (b) A dwelling unit released from a multifamily mortgage insured under section 236 or released from the mortgage on a project receiving federal rent supplement assistance.
- (c) A dwelling unit in a cooperative when the initial cooperative member receiving assistance payments under section 235 transfers his membership to a new cooperative member who satisfies the section 235 eligibility requirements.
- (d) An existing dwelling or a family unit in a condominium project when assistance payments have been made on behalf of the previous owner pursuant to an individual mortgage insured under section 235(j)(4)(B).
- (e) A one-family unit in a condominium project, which is released from a multifamily project, on which the construction or substantial rehabilitation was completed within two years prior to the date of the application for 235 assistance. The family unit must have had no occupant previous to the 235 mortgagor.

NOTE: When existing dwellings or family units in cooperative or condominium projects are involved, the cooperative must be currently (or have been previously) financed with a section 213 project mortgage and the condominium, if it is more than 11 units, must be currently (or have been previously) financed with a HUD-FHA insured mortgage.

- (8) i. Accumulating Data on Forms 3124. In accumulating data from Forms 3124 for entry of totals on the monthly report, it will be necessary to total amounts in four classes.
- (1) Classes of Totals - The four classes of totals are as follows:
 - (a) One summary total for all proposed construction, regular limit income cases, (column 2(a));
 - (b) One summary total for all proposed construction, exception limit income cases, (column 2(b));
 - (c) One summary total for all existing construction, regular limit income cases (column 3(a)); and
 - (d) One summary total for all existing construction, exception limit income cases, (column 3(b)).
 - (2) Transcribing Information to Monthly Report - Each monthly report must have recorded thereon the amount of the firm obligations relating to all firm commitments issued under section 235, and all conditional commitments for proposed construction or substantial rehabilitation of four or less dwellings which are convertible to section 235. When the required amounts are totaled and transcribed from Form 3124 to the monthly report, the date that they were included in the monthly report is entered in column (4) of Form 3124. By recording these dates in column (4) and carefully maintaining Form 3124 in the manner prescribed above, all firm obligations will be promptly reported, no case will be reported more than once, and no case will be omitted.
 - (3) Further Entries on Form 3124 - If the commitment for any case entered on this form is canceled, expires, or is not converted to section 235(i) and endorsed, or if for any other reason the case does not lead to insurance of the mortgage, the amount of the firm obligation established for the case, or as adjusted due to a change in the standard amount, must be reported on

the monthly report as a cancellation of a firm commitment in order that the amount of contract authority obligated may be released for use in another transaction. The date

that such amount is reported canceled on the monthly report shall be entered in column (5) of the form. The section of the Act suffix code of the case number shown in column (1) of form 3124 for convertible commitments shall be changed when the commitment is actually converted to Section 235.

4. Reporting Categories - Commitment expirations, cancellations, and non-conversions to Section 235 must be reported for the same category as the firm obligation was established. That is, if the firm obligation was recorded as a Section 235(i) proposed construction, regular limit income, then the commitment expiration or cancellation must be reported in the same category. Therefore, commitment expirations and cancellations must be totaled as to number of cases and amount of firm obligation to be canceled into the following categories:

- (a) Proposed construction, regular limit income;
- (b) Proposed construction, exception limit income;
- (c) Existing construction, regular limit income; and
- (d) Existing construction, exception limit income.

9. MONTHLY REPORT OF CONTRACT AUTHORITY OBLIGATED. The monthly report shall be prepared on Form 3127 to cover the period from the first workday of the month through the last workday of the month. The original and one copy of the report shall be mailed to the Office of Finance and Accounting, Attention: General and Subsidiary Ledger Division in the special envelopes provided, no later than the close of business on the last workday of the month. Negative reports are required unless the conditions described in paragraph 11 have been met. Form 3138 must accompany the report. See paragraph 10. *

- a. Preparation of the Report. The report requires care in its

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- (9) preparation since it is the basic source document used by the Comptroller to record preliminary reservations issued, to record preliminary reservations canceled by the office, to record firm obligations on the books of account, and to cancel firm obligations of contract authority. The total amounts reported by all field offices on the monthly report, representing net contractual obligations entered into for section 235 housing throughout the United States, must be charged against amounts authorized in appropriation Acts for assistance payments. The information furnished is not based on cumulative reporting. The report requires information concerning transactions that occurred during the month, but not for a prior period. Once a case has been reported in a particular category, it is not again reported in that category. Typically, a preliminary reservation of contract

authority will be issued and included in the totals on the monthly report as a preliminary reservation issued. The next time the case is reflected in the totals on the monthly report, the preliminary reservation will be canceled and at the same time it will be recorded as a firm obligation. If the case is closed as an insured mortgage transaction under section 235, it will not again be included on the monthly report. If it is not closed as an insured mortgage under section 235, the firm obligation must be canceled.

b. Summary of Reporting Actions. The following summary of reporting actions is designed as a guide in preparing the monthly report.

(1) Report the issuance of a preliminary reservation of contract authority on Form 3122 for all proposed construction or substantial rehabilitation cases involving five or more dwellings or units with respect to those cases when it is proposed that the commitment will be converted to section 235, if the builder wants an advance commitment that assistance will be available.

(2) Cancel the preliminary reservation of contract authority on a case by case basis

(a) When the application is not submitted;

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(9) (b) When the application is withdrawn;

(c) When the application is rejected and the mortgage will not be insured under section 235; or

(d) When a firm commitment is issued under section 235. In this instance, cancel the amount applicable to the firm commitment issued.

(3) Report a firm obligation of contract authority

(a) When a firm commitment is issued under section 235;

(b) When a conditional commitment is issued for construction or substantial rehabilitation of four or less dwellings under another section of the Act convertible to section 235. (These commitments are marked "Convertible to Section 235.");

(c) When a firm commitment is issued under section 235 for any existing or proposed construction transaction; or

(d) When a mortgage assistance payment certificate is

issued on behalf of a cooperative member under section 235(d) of the Act.

- (4) Report a cancellation of a firm obligation of contract authority
 - (a) When a commitment expires or is canceled;
 - (b) When a commitment will not be converted to section 235; or
 - (c) When a firm commitment under section 235 does not lead to insurance endorsement and a firm commitment is reissued under another insuring section.

c. Report Categories. The monthly report consists of two

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- (9) basic categories - proposed construction and existing construction, each category of which is broken as to regular income and exception income. Part A of the report is for use in reporting regular contract authority allocations. Parts B, C, and D are for reporting special purpose programs included in the block allocations for regular programs (Model Cities, Substantial Rehabilitation, State and Local, and others) and the two special purpose contract authority allocations (Operation Breakthrough and Military Housing). One part is used for each type of special purpose program, e.g., Part B would be used for Model Cities transactions, Part C would be used for Operation Breakthrough transactions, etc.

Since a separate FHA Form 3138 must be prepared for each of the two special purpose contract authority allocation (Operation Breakthrough and Military Housing), these two programs should be reported last on FHA Form 3127, or together on a separate FHA Form 3127, if there is no more space on the FHA Form 3127 used for reporting regular contract authority allocations. See Appendixes 19 and 21.

- (1) Within the two basic categories, the form has four reporting sections as follows:
 - Section I - Preliminary Reservations Issued.
 - Section II - Preliminary Reservations Canceled.
 - Section III - Firm Obligations.
 - Section IV - Cancellation or Reduction of Firm Obligations.
- (2) Under the above sections, broken as to regular and exception income categories, there are the following

breaks:

Section 235(i);

Section 235(j);

(9) (Total all 235);

Section 236; and

Section 236 non-insured.

Information concerning entries on the monthly report for section 235(j) transactions is contained in the fiscal part of Reference (2). The entries on the monthly report for section 236 transactions are described in the fiscal part of Reference (6).

d. Monthly Report - Section I. Section I of the report pertains to preliminary reservations which have been issued on Form 3122 that month. The source of the information for reporting preliminary reservations issued is from Form 3123, Record of Preliminary Reservations. Panel 5 (number of cases) and panel 6 (amount, based on the standard amount per unit) are used. When all Forms 3123 for reservations issued for the month are totaled, the entry on the monthly report is made. The date of the monthly report is shown in panel 8 of Form 3123. Forms 3123 are shown in Appendixes 5, 6, and 7. Forms 3127 are shown in Appendixes 8 and 13.

(1) Income Category for Preliminary Reservations - It is to be noted that spaces under columns (4) through (9) of Form 3127 have been shaded for section 235(i) cases. Since family income limit categories may not be determined at the conditional commitment stage, all preliminary reservations are set up as regular limit income cases and the cancellation of the preliminary reservation must be exactly as the preliminary reservation was established. If the mortgagor has income which falls within the exception limit category, the firm obligation will be reported in this special category.

e. Monthly Report - Section II. Section II of the report pertains only to cancellations of preliminary reservations which have been issued on Form 3122. The "feeder" report for this part of the report is from FHA Form 3123. Column

(9) (C) shows the amount of preliminary reservation canceled, and the date of the monthly report on which

it is canceled is entered in column (D). Under Section II of the report, for section 235(i) cases, enter in column (2) the number of cases on which the preliminary reservation is to be canceled and in column (3) enter the amount that was previously reserved in Section I. It is important to remember that, without exception, all preliminary reservations of contract authority must be canceled if it is determined that an application will not be submitted; when an application is withdrawn or rejected; when a firm commitment is issued under section 235 in those cases when a preliminary reservation was established; when the preliminary reservation is canceled by the field office because conditional commitments were not issued or construction was not started within the time limits set forth on Form 3122 (as may have been extended in writing by the field office); or in any case when it is determined that a firm commitment under section 235 will not be issued when a preliminary reservation of contract authority was issued. (Conditional commitments for proposed construction involving four or less units may not have a preliminary reservation of contract authority and consequently no cancellation action is required in connection with these transactions.)

NOTE: Failure to timely cancel a preliminary reservation of contract authority results in freezing contract authority which should be made available for program operation. Directors and field office supervisory personnel must be continually alert to see that all cancellations are reported in accordance with the foregoing procedures. (When a preliminary reservation is canceled outright because of failure to meet the time requirements, it adds back to the contract authority available to the office.)

- f. Monthly Report - Section III. Section III of the report pertains to the establishment of firm obligations by reason of any firm commitment issued under section 235, irrespective of whether it was pursuant to a preliminary reservation, or was converted from a conditional (but not convertible) commitment; and any conditional commitment

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- (9) which is convertible to section 235(i), and is so marked on the commitment. These convertible commitments are reported as firm obligations when issued; they are not again reported when they are converted to firm section 235 commitments. The "feeder" report for this part of the monthly report is Form 3124. Forms 3124 are shown in Appendixes 11 and 12. All firm obligations will be for standard amounts obtained from Form 3119.

- (1) Income Categories The total number of cases and total annual assistance payments must be developed from Forms 3124 for the following categories:

Regular limit income, proposed construction - from column 2(a).

Regular limit income, existing construction - from column 3(a).

Exception limit income, proposed construction - from column 2(b).

Exception limit income, existing construction - from column 3(b).

These totals will be entered on the appropriate lines and under the appropriate construction and income categories on Form 3127. The date the firm obligation is reported will be entered in column 4 of Form 3124.

- g. Monthly Report - Section IV. Section IV of the report requires entries to cancel any firm commitment issued under section 235 and any convertible commitment which expires or is canceled; and any convertible commitment which is not converted to a firm commitment under section 235 for any reason. The "feeder" report for this part of the monthly report is from column 5 of Form 3124. Since the cancellation of firm obligations must be reported for the same category as the firm obligation was established, these must be totaled as to number of cases and standard amount of obligation for proposed construction, regular income from column 2(a); existing construction, regular income from column 3(a);

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proposed construction, exception income from column 2(b); and existing construction, exception income from column 3(b).

- h. Approval of Director. After all entries have been made in the report as prescribed, the form shall be signed by the employee who prepared it and then it shall be approved by the Director or his designee. The original and one copy shall be mailed to the Office of Finance and Accounting, Attention: General and Subsidiary Ledger Division in the special envelope provided no later than the close of business on the last workday of the month, and a copy will be retained in the field office files. *
10. FORM 3138, STATUS OF RESERVATIONS AND OBLIGATIONS. This form must be prepared each month in conjunction with the Form 3127 monthly report. A single Form 3138 shall be prepared for all

regular contract authority allocations including those special purpose programs included in the block allocations for regular programs on Form HUD-185.1 (Substantial Rehabilitation, State and Local, and others). A separate Form 3138 must be prepared for each of the two special purpose contract authority allocations (Operation Breakthrough and Military Housing). See Appendix 20 for a complete Form 3138 for a regular contract authority allocation and Appendix 22 for a complete Form 3138 for a special purpose contract authority allocation.

- a. Purpose of the Form. Form 3138 is designed to furnish the field office director and his/her staff, the Assistant Regional Administrator for Housing, and the Director, Program Support Staff, Insured and Direct Loan Programs, Headquarters with current information about the remaining units and dollars that may be reserved and obligated. In addition, it provides information as to the manner in which contract authority has been encumbered, e.g., preliminary reservations and firm obligations. By reference to previous Forms 3138, it shows the overall progress being made in converting preliminary reservations to firm obligations.
- b. Distribution of Form 3138. The original of Form 3138 shall be stapled to the original and one copy of the Form 3127, and shall be sent to the Office of Finance and Accounting, Attention: General and Subsidiary Ledger Division; a copy shall be sent concurrently to the Assistant Regional Administrator for Housing and to the Director, Program Support Staff, Insured and Direct Loan Programs, Headquarters. *

The field office shall maintain a copy of each Form 3138 in a master file in the office, setting up one master file for each regular contract authority allocation and each special purpose contract authority allocation.

- c. Controls to Prevent Over-Obligation. In order to prevent over-obligation of contract authority, the Director and key staff personnel must be continually alert as to remaining balances of available contract authority. Under no circumstances may preliminary reservations or convertible commitments be issued if such issuance would result in obligating more than the remaining balance of available contract authority. For this reason, when the outstanding balance of available contract authority for any allocation reaches the point when it is 10% or less of the original contract authority, the Form 3138 report shall be prepared on a daily basis. Daily preparation shall be made, using Forms 3123 and 3124 in the same manner as when preparing the monthly report. Unless required by special instructions to the contrary, the daily Forms 3138 shall not be distributed outside the field office; only the monthly form prepared in conjunction with the Form 3127

monthly report, shall be distributed. When contract authority has reached the 10% limit, each Director shall issue special instructions to commitment appraisers to avoid issuing convertible commitments which, if issued, would result in exceeding the remaining balance of contract authority.

- d. Completed Forms 3138. Appendixes 9 and 14 show completed Forms 3138 for regular contract authority allocations; Appendixes 10 and 15 show completed Forms 3138 for special purpose contract authority allocations. Since the amount of contract authority allocated to field office Directors will not necessarily always be divisible by the standard amount per unit, the number of units are not shown on lines 1, 2, 3, and 15 of Form 3138.

- *11. NEGATIVE REPORTS. Form 3127 and Form 3138 will not be required from an Area or Insuring Office for the original Section 235 program provided there are no outstanding preliminary reservations of contract authority, and where all cases for which a firm obligation is outstanding (as indicated on Form 3124) have been endorsed for insurance. If these conditions have been met, the Area or Insuring Office Director shall so certify on the next monthly Form 3138 submitted to the Office of Finance and Accounting. Appendix 31 is a specimen, showing such certification. Upon receipt of this certification, the Office of Finance *

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- * and Accounting will no longer require submission of Forms 3127 and 3138 from that office. This procedure applies only to the Original Section 235 program and does not apply to the Revised Section 235 program. *

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- 12. REVIEW AND APPROVAL OF FORM 3100. The review and approval of Form 3100 are extremely important functions. The approval of Form 3100 serves as a basis for making payment from appropriated funds after the mortgage has been insured. A copy of the form is shown in Appendix 1.

- a. Frequently Recurring Errors. Special care must be exercised to avoid two frequently recurring errors. The first type is mathematical, which reflects a lack of attention to pertinent detail. The second type occurs when the field office staff erroneously treats welfare or other payments on behalf of minors as earnings of the minor and deducts it from total family income to arrive at the adjusted annual income. When these types of errors result in an overpayment of assistance payments authorized by appropriation Acts, it leaves HUD with no alternative but to require repayment of the amount involved. As a result

of this action, the homeowner is in default under the mortgage because of the overpaid assistance payments, and at the same time his/her regular monthly mortgage payments are increased because of improper treatment of income by the field office. The homeowner may not be able to make his/her share of the new (adjusted) monthly payment after recomputing the assistance payment correctly, thus leading to the probable loss of his/her home. The mortgagor's inability to make a correctly computed monthly payment would have been disclosed during mortgage credit processing

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- (12) if the adjusted annual income had been properly computed.
- (1) Income last 12 months includes all income received by all members of the family during the last 12 months. Current income reflects the income status of all members of the family at the time of application. Expected income next 12 months represents the anticipated income for each individual for the next year. Total annual income is the greater of total current income (b) or total expected income for the next 12 months (c). A statement explaining the differences between the total expected income for the next 12 months and either total income last 12 months or total current income, above or below, must be attached to all Forms 3100 submitted for approval.
 - (2) In determining effective income on Form 2900-2, all income of mortgagors, co-makers or endorsers residing in the mortgaged property, which appears on Form 3100 after deducting temporary income but before deducting the 5% and allowance for minors, shall be recognized as effective income. This has the effect of allowing as effective income all stable welfare payments, alimony, child support, VA and Social Security benefits received by the adult persons who reside in the property and assume a liability for repayment of the mortgage debt.
 - (3) The Act states that only earnings of minors shall be excluded from income in determining eligibility under section 235. Welfare, Social Security and other payments made on behalf of minors are not considered as income of the minors, but as income of the person to whom paid.
 - (4) Care used in the reporting of income will avoid creating a hardship situation for the mortgagor and the difficult adjustment problems created for

both HUD and mortgagees.

- (5) If at the time of insurance endorsement information is available in the file that the

originally-estimated mortgage payment has been reduced by the lender to the extent that 20 percent of the mortgagor's adjusted monthly income is sufficient to make complete monthly mortgage payments, the mortgagee will be advised that the mortgage will be insured under section 235 in accordance with the firm commitment. However, since the mortgagor is ineligible to have assistance payments made on his behalf, the mortgagee will be advised that no assistance payments or handling charges will be made by HUD in connection with the mortgage and that Form 3114, Notice of Termination, Suspension, or Reinstatement of Assistance Payment Contract, should be submitted to Washington in accordance with outstanding instructions. In these unusual cases, endorsement for insurance under section 235 does not constitute execution of the contract of assistance payments. No entries or fiscal reporting on Forms 3127 or 3138 are to be made, since the contract authority which has been obligated will be recovered on the basis of the information reported by the mortgagee on Form 3114.

13. PROCESSING INSTRUCTIONS FOR SECTION 235(i) TRANSACTIONS WHEN CONTRACT AUTHORITY HAS BEEN EXHAUSTED. In any case when a preliminary reservation has been requested and approved, or when a convertible commitment has been issued, or when a firm commitment has been issued under section 235, contract authority will have been reserved or obligated, as appropriate. The exhaustion of contract authority will not affect such transactions. A reservation of contract authority is a commitment by the Government that the contract authority for the transaction has been reserved. Convertible and section 235 firm commitments represent a binding obligation on the Government to execute the assistance payment contract, provided all HUD requirements are met. The procedures outlined below apply prospectively to transactions initiated after contract authority has been exhausted. These procedures do not apply retroactively to transactions when contract authority has been reserved or obligated.
- a. Requests for Preliminary Reservations. When the field office has knowledge that section 235(i) contract authority is no longer available, the mortgagee and sponsor shall be advised

(13) accordingly. If the mortgagee and sponsor want HUD processing to continue under section 203, 221(d)(3)(A), 221(d)(2) or 234, as appropriate, processing is to be continued. In such case, the mortgagee must be advised in writing that section 235(i) contract authority is not available and that the conditional commitment, if issued, may not be converted to section 235 unless additional contract authority is subsequently made available.

(1) If in any instance an office, contrary to outstanding procedures, has accepted applications for commitments for proposed construction involving five or more units pending approval of a request for a preliminary reservation, the director must furnish the Director, Office of Field Support, with the facts in the case and request authority to grant a fee credit for the application fees pursuant to the authority contained in section 200.52a(f) of the HUD-FHA regulations. Upon receipt of such authority, the application may be rejected and fee credits allowed the mortgagee, to be reflected on a subsequent fee billing statement.

b. Applications for Conditional Commitments Involving Four or Less Units Convertible to Section 235(i). When there is no more contract authority available, the director should issue instructions to his staff to reject, prior to preliminary examination, all applications for conditional commitments involving four or less units which are to be convertible to section 235(i). By rejecting applications prior to the preliminary examination, FHA case numbers will not be assigned to the applications, fee billings will not result, and consequently subsequent fee credits will not be required.

(1) When returning the application to the mortgagee, the lender should be advised that the application may be resubmitted, but that section 235(i) contract authority has been temporarily exhausted and consequently the commitments, if issued, will not be convertible to section 235(i) unless additional contract authority is subsequently made available.

(13) (2) In the event an application is inadvertently placed in process after the allocation has been exhausted, the application must be formally rejected and a fee credit allowed for the application fees. See Reference (1).

- c. Applications for Firm Commitments Under Section 235 for New or Proposed Construction or Substantial Rehabilitation. When the section 235(i) contract authority has been exhausted, applications for firm commitments under section 235(i) are to be rejected prior to preliminary examination. If an application is inadvertently accepted for processing, a fee credit is to be allowed under the provisions of Chapter 34 of Reference (1).
- d. Requests for Conversion of Outstanding Conditional Commitments (Not Convertible) to Section 235(i). When the section 235(i) contract authority has been exhausted, requests for conversion of outstanding conditional commitments to firm commitments under section 235(i) may not be accepted for processing. The submission shall be returned to the mortgagee with a letter stating that section 235 contract authority has been temporarily exhausted and the commitment may not be converted to section 235(i).
- e. Additional Contract Authority. After additional contract authority has been made available, mortgagees should be advised that previously submitted and new applications for commitments involving assistance payments may be resubmitted and will be processed on a "first-received first-processed" basis.

* 14. SECTION 235 REVISED

- a. General. HUD Regulations (24 CFR 235), dated January 6, 1976, authorized the revitalization of the Section 235 program with certain revisions. The revised program will be limited to new and substantially rehabilitated single-family homes and condominium units. Instructions in this paragraph cover the fiscal requirements of the Revised Section 235 program and are patterned after the fiscal requirements in other paragraphs of this Handbook for the original Section 235 program. Under the Revised Section 235 program, separate allocations of contract authority are made to Area/Insuring Offices for use as follows: 75% for units located in "Metro Areas" and 25% for units located in "Non-Metro Areas." For the purpose of this program, "Metro Areas" shall be as defined by OMB Circular 46. Area and Insuring Office Directors are responsible for assuring that reservations and firm obligations of contract authority do not exceed the amounts of the separate allocations of contract authority received for units located in "Metro and Non-Metro Areas." In some instances, the Revised Section 235 fiscal requirements are the same as the original Section 235 fiscal requirements. In other instances, an existing requirement may not apply in its entirety or it may not apply at all. The following subparagraphs cover the same general topics that are covered in other paragraphs of this Handbook. When existing procedures

apply to the Revised Section 235 program, that fact is mentioned. When the Revised Section 235 procedure varies from that in another paragraph, the variation is explained.

In order to distinguish between the old and the new Section 235, all references made to the new Section 235 program shall be made as "Revised Section 235."

There shall be absolutely no commingling of the old and the new records prepared in connection with these two programs. Keep all files, records, and reports separate. Also, keep in mind the necessity of indicating "Metro" assistance or "Non-Metro" assistance on all reporting forms as shown in Appendices 24 through 30.

- b. Assignment of FHA Case Number. Paragraph 1 has been changed to show the ADP Section of the Act Suffix Codes "265 and 365" that will be used to identify mortgages insured under the provisions of the Revised Section 235 program. These codes shall be used as prescribed in paragraph 1. ALL PREVIOUS SECTION OF THE ACT SUFFIX CODES APPLICABLE TO THE SECTION 235 PROGRAM ARE OBSOLETE AND SHALL NOT BE USED TO CARRY OUT THE MORTGAGE INSURANCE ACTIVITIES UNDER THE REVISED SECTION 235 PROGRAM. Paragraphs 1a, 1b, and 1c are not applicable to the Revised Section 235(i) program. *

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- * c. Fee and Other ADP Codes. Paragraph 2, except for the instructions pertaining to applications initiated by the Department of Agriculture, is applicable to the revised Section 235 program. The reference to section of the Act code "235" in this paragraph shall be construed to mean section of the Act code "265." Applications for mortgage insurance continue to originate under another insuring section of Title II, making it necessary to report the section of the Act code applicable to that insuring section on FHA Form 700-1 for purposes of fee billing. When it is determined that the transaction is eligible for issuance of a firm commitment under the revised Section 235 program, the change in the insuring sections shall be reported on FHA Form 700-2. The section of the Act code reported on Form 700-2 shall be "265 or 365," whichever code is applicable.
 - d. Appropriations and Reporting - General. Paragraph 3 is applicable to the Revised Section 235 program.
 - e. Allocation of Contract Authority. Paragraph 4 as it pertains to regular programs applies to the Revised 235 program.
 - f. Preliminary Reservation of Contract Authority. Contract authority for the Revised 235 program shall be reserved in

the same manner as prescribed for the regular Section 235 program in paragraph 5, except for the special handling necessary to maintain controls for separate reporting of reservations used to fund units located in "Metro and Non-Metro Areas." (See Appendices 24 through 30.) It is extremely important that forms used to request the reservation of contract authority be clearly identified in the heading as the "Metro" or "Non-Metro" notations as stated above. Also, the amount to be reserved for each Revised Section 235 mortgage is in Appendix 23.

In the event a reservation of contract authority has not been converted to an obligation six months after issuance, it shall be considered void and recaptured for reuse. However, a reservation may be extended for an additional six months period upon request from the builder, provided construction or rehabilitation has begun. The field office shall establish new and separate files to maintain reservations issued under Revised Section 235 in addition to starting a new sequential numbering pattern for assignment to each new reservation.

- g. Amount of Annual Assistance Payment to Reserve or Obligate. Paragraph 6 applies to the Revised Section 235 program except that the amount to reserve or obligate shall be taken from the table in Appendix 23 instead of from Form 3119. *

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- * h. Record of Preliminary Reservations for Proposed Construction Cases. Paragraph 7 applies to the Revised Section 235 program, except that references to Appendices 5, 8, and 17 shall be read as references to Appendices 25, 27, and 23, respectively.
 - i. Record of Contract Authority Obligated for Assistance Payments Under Section 235(b). Paragraph 8 applies to Revised Section 235 except:
 - (1) Amount to Obligate. Obtain the amount to obligate from Appendix 23 instead of from Appendix 17.
 - (2) Classes of Transactions. A separate Form 3124 shall be maintained for Revised Section 235.
 - (3) Assistance Payments for Cooperative Members and Mortgage Assumptions. Paragraph 8g does not apply to Revised Section 235. HOMEOWNER ASSISTANCE UNDER THE REVISED SECTION 235 PROGRAM IS NOT AVAILABLE TO MEMBERS OF A COOPERATIVE OR TO ASSUMPTORS OF MORTGAGES INSURED UNDER THE REVISED SECTION 235 PROGRAM.
 - (4) Special Exceptions to Limitation on Existing Construction. Revised Section 235 contract authority is not available to subsidize existing construction.

(5) Accumulating Data on Forms 3124. Of the four classes of amounts obligated, only column 3(a) applies to Revised Section 235.

- j. Monthly Report of Contract Authority Obligated. A separate Form 3127 shall be used for Revised Section 235. The words "Revised Section 235" shall be written in the heading of this report and all entries made on the Section 235(i) line. Part B of this form shall be used to report contract authority obligated in "Non-Metro" area.
- k. FHA Form 3138, Status of Reservations and Obligations. A separate Form 3138 shall be prepared for Revised Section 235 each month. Care must be taken not to commingle reservations and obligations for Revised Section 235 with those of other 235 programs. See Appendices 29 and 30 for a completed Form 3138 for Revised Section 235. Other provisions in paragraph 10 apply to Revised Section 235. *

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- * 1. Earmarking Section 235(i) Contract Authority. The provisions in paragraph 11 were cancelled by HPMC Notice 73-45, dated October 18, 1973, and shall, also not be applied to Revised Section 235.
 - m. Review and Approval of Forms 3100. The provisions in paragraph 12 also apply to Revised Section 235.
 - n. Processing Instructions for Section 235(i) Transactions when Contract Authority has been Exhausted. The provisions of paragraph 13 also apply to Revised Section 235. *