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CHAPTER 5  
COST CERTIFICATION

- 5-1. PROJECTS THAT MUST CERTIFY. Cost certification is required by The National Housing Act and Regulations for all insured multifamily projects, except for projects insured under: Section 213 (Sales Type), Section 213(i) Existing, Section 221(h) Rehabilitation, Section 223(f) Refinance where the mortgage is 70 percent or less of value, Section 235(j), and Section 810(g).
- 5-2. PURPOSE FOR CERTIFICATION is to establish the mortgagor's actual total costs, including contractor's cost, to establish the "maximum insurable mortgage" for final closing.
- 5-3. CERTIFIABLE COSTS are those costs that have been paid in cash or will be paid in cash within 45 days of final closing, except:
- A. Land Value included in the mortgage is certifiable,
  - B. General Overhead is certifiable whether or not paid in cash, and
  - C. BSPRA is cost certifiable whether or not paid in cash, where there is an identity of interest between the mortgagor and contractor.
- 5-4. TYPES OF COST CERTIFICATION.
- A. Standard or "Long Form" Certification is required, except for projects permitted to use the "simplified" cost certification, and for certification of projects insured under Section 207 or Section 232 pursuant to Section 223(f).
  - B. Simplified Certification is restricted to the following:
    - 1. Projects involving 40 or less units of proposed construction or substantial rehabilitation, exclusive of projects insured under Section 207,
    - 2. Section 220(h), improvement loans of \$200,000 or less, and
    - 3. Condominium projects (Section 234), where the project mortgage is to be terminated at completion or final closing with conversion to individual unit ownership.
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- (5-4) C. Section 223(f) Certification is required for all projects insured under Section 207 or Section 232 pursuant to Section 223(f), except that certification is not required for refinance transaction projects, where the mortgage is 70 percent or less of value.
- D. Section 223(f) Supplemental Certification is required for projects identified in paragraph C. above, where completion of repairs is permitted after closing.

5-5. ENTITIES THAT MUST CERTIFY.

- A. Mortgagor must cost certify for all projects, except those exempted by law and regulations. See paragraph 5-1 above for exempted projects.
- B. Contractor must cost certify where:
1. The contractor has an identity of interest with the mortgagor, whether such identity of interest existed before initial closing (for insured advances projects) or issuance of the firm commitment (for insurance upon completion projects), or the identity of interest developed after those dates; and/or
  2. The contractor used the Construction Contract-Cost Plus, Form HUD-92442A, whether or not any identity of interest with the mortgagor existed or came into being.
- C. Subcontractor at any tier, equipment lessor, material supplier, and manufacturer of industrialized housing must cost certify where:
1. The total of all subcontracts, purchases and leases is more than .5 percent of the mortgage, and
  2. An identity of interest exists or comes into being between such subcontractor, equipment lessor, material supplier, or manufacturer of industrialized housing and either:
    - a. The mortgagor, or
    - b. The contractor, where the contractor must cost certify.

- (5-5) 3. Identities of Interest are defined by Handbook 4430.1 REV-1, Appendix 8, Amendment To The Construction Contract To Identify Identities of Interest Between Owner/Contractors/Architect.

5-6. SEQUENCE OF EVENTS.

- A. Notification of Pre-Cost Certification Conference. Require the Mortgage Credit Branch to notify the mortgagee and mortgagor, and the Cost Analyst to notify the contractor when the project is 80 percent complete.
- B. Conduct of Conference is the joint responsibility of the assigned Mortgage Credit and Cost Analysts and should be held before the project is 90 percent complete. See Handbook 4470.1 REV-2, Chapter 11 for detailed instructions.
- C. Cut-off Date Established for computation of the cost certification.
- D. Submission and Approval must occur before final closing, except that the Section 223(f) supplemental cost certification is not required until completion of repairs deferred until after closing.

5-7. CUT-OFF DATE. Refer to Handbook 4470.2 REV-1, Chapter 4, for detailed instructions.

- A. Date For Determining Actual Costs is the date the HUD representative signs the final HUD Representative's Trip Report, Form HUD-5379, provided that the trip report is subsequently endorsed by the Chief Architect. Construction must be complete, except for acceptable items of delayed completion.
  - 1. The mortgagor has the option to include in the cost certification the cost of interest, taxes, insurance, mortgage insurance premiums and finance fees incurred up to 60 days beyond this date. The date selected by the mortgagor is the "cut-off date" for the costs of interest, taxes, mortgage insurance premiums and finance fees.
  - 2. The mortgagor's balance sheet and operating statement date must agree with the selected cut-off date.

- (5-7) B. Administrative Completion Date may be established by the Office Manager for any project where the monthly inspection reports show project work 95 percent or more complete and progress after reaching 95 percent completion is less than 2 percent in any month.
1. The administrative completion date may be used to prevent the unnecessary accumulation of soft costs where there is undue completion delay near the end of construction.
  2. The administrative completion date becomes the effective date for cost certification, except that the cost of interest, taxes, insurance, mortgage insurance premiums and finance fees incurred up to 60 days beyond this date may be included at the option of the mortgagor. See paragraph A.1. above.
- C. Notification Letter. Comply with the following whether the date for determining actual costs is established in accordance with paragraph A. or B. above.
1. Notify the mortgagor, contractor and mortgagee in writing of the date for the determination of actual costs. See Handbook 4470.2 REV-1, paragraph 4-2.B. for the provisions that must be included in the letter.
  2. Distribute copies of the notification letter to the Washington Docket, Field Office Docket, Mortgage Credit File and Closing Attorney's File.
- 5-8. SUBMISSION DATE for cost certification should be within 30 to 45 days after the cut-off date and not less than 30 days before the desired final closing date.
- 5-9. MORTGAGOR'S SUBMISSION. See HUD Handbook 4470.2 REV-1 for detailed instructions.
- A. Required Forms.
1. Form HUD-92330, Mortgagor's Certificate of Actual Cost is required in all cases except for projects insured pursuant to Section 223(f).

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- (5-9) 2. Form FHA-2205A, Mortgagor's Certificate Of Actual Cost (Section 207 Pursuant To Section 223(f)) is required for a project insured under either Section 207 or Section 232 pursuant to Section 223(f). Cost certification is not required for a project insured pursuant to Section 223(f), where it is a refinance transaction and the mortgage is 70 percent or less of value.

B. Supporting Documentation For Standard Certification.

1. Form HUD-92330-A completed by the contractor, subcontractors, equipment lessors, material suppliers and manufacturers of industrialized housing, where such entities must cost certify (see paragraphs 5-5.B. and C. above), except that these entities must submit Form HUD-92330-A(LI), instead of Form HUD-92330-A, for manufactured home parks.
2. Mortgagor's audited balance sheet dated as of the cut-off date.
3. Mortgagor's audited operating statement dated as of the cut-off date, where occupancy occurred before the cut-off date, or the auditor's statement that occupancy did not occur before the cut-off date.
4. Report by an independent Certified Public Accountant or an independent Public Accountant (accountant) including the accountant's opinion of audit (see Handbook I.G. 2000.4, Chapter 6) supporting:
  - a. Form HUD-92330, Mortgagor's Certificate of Actual Cost, including the mortgagor's balance sheet and operating statement,
  - b. Form HUD-92330-A, or Form HUD-92330-A(LI), Contractor's Certificate of Actual Costs, submitted by the contractor.
  - c. Form HUD-92330-A or Form HUD-92330-A(LI), Contractor's Certificate of Actual Costs, submitted by any subcontractor, equipment lessor, materials supplier, or manufacturer of industrialized housing.

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(5-9) C. Supporting Documentation For Simplified Certification is the same as for the standard certification, except:

1. The mortgagor's balance sheet and operating statement need not be audited, and
2. An accountant's supporting report, including accountant's opinion of audit, is not required for Form HUD-92330, Mortgagor's Certificate of Actual Costs, including the mortgagor's balance sheet and operating statement, nor for any Form HUD-92330-A, Contractor's Certificate of Actual Costs, required from the contractor, or any subcontractor, equipment lessor, materials supplier, or manufacturer of industrialized housing.

D. Supporting Documentation For Section 223(f) Certification. Documentation of the type listed for paragraphs B. and C. above is not required in support of the certification or supplemental certification for projects insured pursuant to Section 223(f). See Handbook 4470.1 REV-2, Chapter 19, for detailed instructions for projects insured pursuant to Section 223(f).

5-10. CONTRACTOR'S AND SUBCONTRACTORS' SUBMISSIONS. See paragraphs 5-5.B. and C. for when the contractor, or a subcontractor, equipment lessor, material supplier, or manufacturer of industrialized housing must cost certify, and see Handbooks 4450.1 REV-1, and 4470.2 REV-1 for detailed instructions.

A. Contractor's Certificate of Actual Costs.

1. The contractor must submit Form HUD-92330-A for projects with structures where the contractor must cost certify (see paragraph 5-5.B.). Require a separate Form HUD-92330-A for rehabilitation work and new construction on rehabilitation projects that have both new construction and rehabilitation elements.
2. The contractor must submit Form HUD-92330-A(LI) instead of Form HUD-92330-A, for mobile home parks where the contractor must cost certify.
3. Subcontractors and others (see paragraph 5-5.C.) must submit Form HUD-92330-A for projects with structures, or Form HUD-92330-A(LI) for manufactured home parks, where they must cost certify.

- (5-10)B. Accountant's Report, including accountant's opinion of audit, must support the Contractor's Certificate of Actual Costs submitted by the contractor or any subcontractor, equipment lessor, material supplier, or manufacturer of industrialized housing. See Handbook IG 2000.4 for detailed instructions.
- 5-11. COST CERTIFICATION REVIEW. See Handbooks 4470.1 REV-2, Chapter 11; 4450.1 REV-1, Chapter 6; 4470.2 REV-1; IG 2000.4 and 4480.1 for detailed instructions.
- A. Architecture and Cost must:
1. Review cost certifications where required from the contractor, or any subcontractor, equipment lessor, material supplier or manufacturer of industrialized housing.
  2. Disallow contractor's overhead and profit where the fifty/seventy-five percent rule is violated. For BSPRA projects, only disallow general overhead. See Handbook 4450.1 REV-1, Chapter 6, for detailed information.
  3. Disallow profit and overhead for subcontractors, equipment lessors, material suppliers, and manufacturer's of industrialized housing where:
    - a. There is an undisclosed identity of interest with the mortgagor or contractor and for which HUD did not approve the overhead and profit before the start of work, and/or
    - b. A "paper conduit" arrangement exists. See Handbook 4450.1, Chapters 2 and 6, for detailed information.
  4. Use Form FHA-2331-B, Cost Certification Worksheet, to review the Mortgagor's and/or Contractor's Cost Breakdown, Form HUD-2328.
  5. Complete Form HUD-92331, Summary of Cost Certification Review, and give an opinion on all items of cost claimed on Form HUD-92330-A, and any cost on Form HUD-92330 needing Cost review, e.g. other fees.
- B. Mortgage Credit Examination must determine the maximum insurable mortgage based on actual cost of the completed project by:
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- (5-11)
1. Reviewing Form HUD-92330, Mortgagor's Certificate of Actual Cost,
  2. Completing Form FHA-2331-A, Cost Certification Review Worksheet, including Cost findings reported by the Cost Analyst on Form HUD-92331, and
  3. Computing the maximum insurable mortgage on Form FHA-2580, Maximum Insurable Mortgage, for all projects except those pursuant to Section 223(f).
- C. Director of Housing Development must:
1. Require review staff to:
    - a. Carefully review the certifications for: compliance with applicable criteria, mathematical accuracy of the certifications, and documentation to support the certified amounts for interest, taxes, property insurance, MIP, title and recording, financing fees, legal, organizational and audit fees, offsite costs, and other fees,
    - b. Require supplemental information or cost breakdowns where required for clarification of any part of the certification, and
    - c. Question the existence of any identity of interest subcontractor, equipment lessor, materials supplier, or manufacturer of industrialized housing.
    - d. Attempt to resolve problems by telephone, but where required, send a letter to the mortgagor with copies to its accountant, the mortgagee, and where applicable to the contractor and its accountant within 5 working days of discovery. The letter must identify the deficiencies and required information.
    - e. Advise you of the estimated time to resolve any problems and of resultant delays they may cause in completing certification review.
  2. Require completion of the certification review with tentative disallowance of disputed costs, where resolution of the issues may lead to protracted delays.

- (5-11) 3. Recommend upon your acceptance of the certification reviews, that the Field Office Manager execute Form FHA-2580, Maximum Insurable Mortgage. Forward the original copy of Form FHA-2580 to the mortgagee with an executed copy for the mortgagor. Where tentative disallowance of disputed costs are involved:
- a. Only issue Form FHA-2580 where the combined effect of tentative and firm disallowances will not decrease the mortgage, and
  - b. State in the covering letter of transmittal of Form FHA-2580:
    - 1) The disallowances made and the information required for their resolution,
    - 2) That items tentatively disallowed will have no effect on the maximum insurable mortgage if later approved, but could cause a recomputation of the mortgagor's initial equity investment, and
    - 3) Establish a 30-day deadline for receiving the requested information for the purpose of issuing a revised Form FHA-2580, Maximum Insurable Mortgage.
4. Recommend endorsement of the permanent mortgage in the amount shown on Form FHA-2580 to the Field Office Manager.
5. Where Form FHA-2580 shows a lower mortgage than endorsed at initial closing:
- a. The mortgage must be endorsed at the lower amount, or
  - b. Prepayment required as provided by the Agreement and Certification, Form FHA-3306 or Form FHA-3306A.
  - c. Where the mortgage reduction is less than one month's scheduled principal payment, place it in the project's reserve for replacement account rather than requiring prepayment.

6. Recover from the contractor or surety any excess payments to the contractor shown by the cost certification.

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5-12. DOCUMENT DISTRIBUTION.

A. Form FHA-2580, Maximum Insurable Mortgage.

1. Mortgagee - original and one executed copy.
2. One executed copy to each of the following:  
Closing Attorney, Mortgage Credit Control File,  
Washington Docket, Field Office Docket, Field  
Office Valuation Data Bank.

B. Cost Certification Documents. Original documents filed in the Washington Docket and one copy in the Field Office Docket.

5-13. IG AUDIT. Request the Regional Inspector General for Audit to audit the mortgagor's and/or contractor's books where apparent discrepancies appear to arise from other than inadvertent error, or creditable misinterpretation of applicable criteria. Do not issue Form FHA-2580, Maximum Insurable Mortgage, before completion of an IG audit initiated before its issuance. An audit must also be requested for any indicated fraud or material misrepresentation detected after issuance of Form FHA-2580.

5-14. COST CERTIFICATION INCONTESTABILITY. After HUD approves the certifications, and issues Form FHA-2580, Maximum Insurable Mortgage, they are final and incontestable unless there is fraud or material misrepresentation by the mortgagor, general contractor, or subcontractors.

5-15. POST CLOSING ESCROWS must be set up at final closing to pay all "to be paid in cash items" identified on Form HUD-92330, Mortgagor's Certificate of Actual Cost, and debts to third parties who made the original disbursement for an item listed as paid on Form HUD-92330. See Handbook 4470.1 REV 2.