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CHAPTER 5. OPERATING PROCEDURES

- 5-1. LENDER AUTHORITY. An approved coinsurance lender has full authority and responsibility for all underwriting activities, with the exception of the previous participation function, to be performed in connection with project mortgages to be insured pursuant to this program.
- 5-2. REQUIRED FORMS AND FORMATS. In processing mortgage applications under the Section 223(f) coinsurance program, certain HUD processing forms and formats must be utilized without modification. Other HUD forms and formats are considered optional, that is to say the lender may use the HUD form or it may use its own form as long as the information gathered and the decision-making processes are substantially the same as those required by the HUD form. A more detailed description of HUD forms and instruction regarding their use is set forth in Reference 14 of the Foreword.
- a. HUD forms required to be utilized.
- (1) HUD-92013, Application - Project Mortgage Insurance (Appendix 2)
  - (2) HUD-2530, Previous Participation Certificate (Appendix 23)
  - (3) HUD-92264, Rental Housing - Project Income Analysis and Appraisal (Appendix 24)
  - (4) HUD-92264A, Supplement to Project Analysis (Appendix 27)
  - (5) FHA-2205A, Mortgagor's Certificate of Actual Cost (Appendix 11)
  - (6) Management Agent Certification (Appendix 8)
  - (7) Management Agent Profile Questionnaire (Appendix 5)
  - (8) Apartment Unit Vacancy and Tenant Turnover Report (Appendix 6)
  - (9) Tenants Accounts Receivable and Delinquent Analysis Report (Appendix 7)
- b. HUD forms which may be used or modified, or for which the lender may substitute its own form provided that the intent of the HUD form is met.
- (1) HUD-92273, Estimate of Market Rent by Comparison (Appendix 25)

- (5-2)      (2) HUD-92274, Operating Expense Analysis Worksheet  
              (Appendix 26)
  - (3) FHA-2417, Personal Financial and Credit Statement  
              (Appendix 3)
  - (4) Format - Rent Formula for Existing Rental Housing  
                  Under Section 223(f) (Appendix 19)
  - c. In closing mortgage transactions under this program, certain HUD legal forms are also required. These are discussed in Chapter 12 and are listed in Appendix 29.
  - d. Certain additional Management forms and formats are required in connection with the on-going management oversight of the project. These are discussed in Chapter 10 of this handbook.
- 5-3. OPERATING PROCEDURES. The lender is expected to have established operating procedures relative to the Section 223(f) coinsurance program. An operating manual must be developed and maintained setting forth internal organizational operating and underwriting procedures and identifying the position (and person where possible) responsible for each step of the processing function. Sufficient detail must be provided to assure compliance with the requirements of the program. This manual will be reviewed by HUD as a part of its on-site review of the lender.
- a. The handbook should be separated by function and, where work is to be performed by outside parties under contract, identify the in-house person responsible for monitoring, reviewing and accepting the work performed by the contract source.
  - b. Contract sources should be identified to the extent possible and a copy of the contract format, as well as a description of the contracted function, should be provided within the manual content.
- 5-4. PREVIOUS PARTICIPATION REVIEW PROCEDURES. Each Principal, as defined herein, must file a Form HUD-2530 (available from local HUD office) with the lender at the time of initial application or immediately when the person or firm first become associated with the project if such participation begins at a later date. The project number will be assigned by the HUD field office at the time the certificate is cleared.
- a. The purpose of this procedure is to provide a source of information relating to a Principal's previous participation in HUD programs in all jurisdictions as an aid in the

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- (5-4) evaluation of the mortgage insurance risk of a proposed project. Such information is also useful to the lender in instances where approval of a new venture should be accompanied or preceded by corrective action on an existing project involving the same participants. Approval of a proposal under these procedures is limited to the consideration of the previous participation of the Principals. It in no way amends or deletes other outstanding administrative and underwriting instructions as to project acceptability, credit capability, financial capacity, competency, etc., and in no way implies HUD's approval of these matters.
- b. A Previous Participation Certificate, Form HUD-2530, must be executed and filed by every person and organization planning to participate as a Principal in a multifamily project or obtain an interest in an existing project. Such persons and organizations are required to disclose their past participation in all HUD programs (except HUD home mortgage programs) and the nature of their interest in the proposed project.
- c. The term Principal, as used in these procedures, includes:
- (1) Sponsors and owners of the project.
  - (2) General contractors.
  - (3) Project managers and management agents.
  - (4) Packagers, consultants and other persons or organizations engaged to furnish advisory services in connection with the financing, construction or operation of a project, or to select and negotiate contracts with contractors, architects, attorneys or managing agents, or to secure financing or to meet HUD requirements.
  - (5) Architects and attorneys who have any interest in the project other than an arms-length fee arrangement for architectural or legal services to be rendered.
- d. An organization which participates as one of the principals specified above must file as follows:
- (1) If a Principal is a profit motivated corporation, the Certificate must be executed on behalf of the corporation and by its principal officers, directors, and each stockholder having 10% or more interest in the corporation. If the corporation is wholly or partially owned by

- (5-4) another corporation, a Certificate must also be filed by the parent organization, its officers, directors, and stockholders having 10% or more interest. Where a corporation is publicly held or unusually large and it would be unreasonable to require filing by all officers, directors and stockholders, this requirement may be modified by the lender with prior HUD consent.
- (2) If the Principal is a non-profit corporation, the Certificate must be executed on behalf of the corporation and by the head of the organization (the head of the local unit if it is a national organization) and the officers who will represent the organization.
- (3) If the Principal is a partnership, the Certificate must show the partnership name and must be executed by each general partner and each limited partner with 25 percent or more interest. (Reference 24 CFR, 200.212.)
- (4) If the Principal is a trust or other similar entity, the Certificate must be executed on behalf of the entity and by each trustee, and by any individual holding at least a 25 percent beneficial interest.
- e. The Certificate must reflect the following:
- (1) The name and location of the proposed project and the number of units and the proposed mortgage amount must be shown.
- (2) All HUD projects in which the Principal has previously participated must be identified by name, location, and project number, and the nature of his participation in each project must be disclosed. If a Principal participated as an owner, the percentage of ownership must be shown.
- (a) Where an organization is a Principal in the proposed project, previous projects in which the corporate officers, directors and stockholders or partners participated must be shown, as well as those in which the organization participated.
- (b) The column headed "Name of Principal" should be used to identify the certifying Principal who participated in the listed project, when more than one person executes the form.

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- (5-4) (3) The Certificate must show whether previous projects are or ever have been in default or subject to mortgage relief. A history of default or mortgage relief may seriously affect the determination of the feasibility of the proposed project, therefore the Principal may attach an explanation addressing the circumstances of the default or relief, if desired. If the Principal's participation has terminated and he does not know whether there has been a default or mortgage relief (e.g., a general contractor) the principal may enter "Unknown, Terminated (Date)." However, if the mortgage was in default or subject to relief during the principal's participation it should be noted and an explanation attached.
- (4) A Principal who has previously filed a Certificate in any HUD Field Office may identify such Certificate on the face of the new submission, attach a copy, and list only additional projects and additional information on the new Certificate.
- (5) Each Principal must sign the Certificate and type or print his name under the signature, together with the type of participation he will have in the proposed project. If the principal will be an owner of the project the percentage of ownership must be shown. The Certificate must also show the date of execution, the Social Security number of individual Principals and the Employer Identification number, if the principal is an organization.
- (6) If subparagraph c(1) applies to the project manager or other Principal, a certificate must be filed by such Principal as soon as selected.
- (7) If one or more additional or substitute Principals will participate in a project previously approved under these procedures, a Certificate must be filed by the new Principals together with a statement giving the names and types of interest of all of the Principals whose participation in the project was previously approved. The previously approved Principals should not execute the new Certificate unless the lender wants a current review of their participation.
- (8) The following participants are not considered Principals under these procedures and need not execute a Certificate:

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- (a) Stockholders having less than 10% interest in a corporation.
  - (b) Limited partners having less than 25 percent interest in the partnership.
  - (c) Attorneys and architects having only an arms-length fee arrangement for legal or architectural services to be rendered.
  - (d) Minor corporate officers.
  - (e) Sub-contractors.

f. Action by the Lender.

- (1) Upon receipt of a Previous Participation Certificate, Form HUD-2530, the form should be reviewed carefully to determine that it has been completed in all respects. Particular attention should be given to the following:
  - (a) All copies must be clear and legible.
  - (b) The project number must be shown for each previous project listed. If the number is not available, so indicate on the form.
  - (c) The certifying Principal's type of participation and the percentage of ownership, where applicable, must be shown for each listed project.
  - (d) The Certificate must be executed by every Principal who will participate in the proposed project. If the Certificate involves only substitute or additional Principals, a statement relating to Principals who were previously approved must be attached (see paragraph 5-4e(7)).
  - (e) The name of the Principal and his/her participation in the proposed project must be typed or printed under each signature and the Social Security or Employer's Identification Number must be shown.
  - (f) If the Certificate refers to a previously filed Certificate a copy of the Certificate must be attached.

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- (5-4) (g) If a proposed Principal is known to be suspended

or debarred by HUD, or is known to have violated applicable civil rights laws, advise him/her that the project will not be approved with respect to his/her participation.

- (h) Caution Principals that every project in which they have previously participated as a Principal must be listed, and the default and mortgage relief history of each listed project must be disclosed unless they have a master Certificate on file with HUD. A Certificate which fails to provide complete disclosure will be returned to the lender without approval and may subject the Principal to prosecution for violation of Section 1010 of Title 18, United States Code.
- (2) The lender should retain a copy of each Form HUD-2530 for its project file and forward the original copy to the HUD office having multifamily jurisdiction in the area in which the project is located. A cover letter should accompany the Certificate explaining that it is being submitted in connection with the coinsurance program and requesting immediate clearance. In the cover letter the lender should indicate the projected date it expects to issue a commitment in connection with the project.
  - (a) In the event that the lender has not received word from HUD regarding the clearance or rejection of the principals for participation prior to issuance of a commitment, a condition must be provided in the commitment to the effect that clearance must be received prior to endorsement.
  - (b) If one or more of the Principals is found unacceptable, withdrawal of such parties may resolve the matter presuming that a determination can be made that the remaining principals can successfully proceed with the project.
  - (c) In the event a project is disapproved under these procedures the lender should notify the Principals who executed the Certificate of the disapproval. Persons and organizations who did not execute the Certificate are not Principals and should not be notified. Only the Principals whose previous participation is found unacceptable should be advised of the basis for their disapproval.

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- (d) If a project is disapproved because of the participation of one or more Principals, new Principals may be substituted; however, a Previous Participation Certificate must be filed for each substitute.
- (e) A Principal whose previous participation has been found unacceptable may request reconsideration of the proposal by the Multifamily Participation Review Committee. Such request must be accompanied by a statement in writing fully setting forth appropriate grounds for approval of the project with respect to his/her previous participation. Exhibits may be submitted with the statement. Oral argument will not be heard by the Committee. Requests for reconsideration should be submitted by the rejected principal to:

Executive Secretary, Multifamily Participation  
Review Committee  
Room 5150  
451 Seventh Street, S.W.  
Washington, D.C. 20410

- (f) Numbering by local HUD office. The HUD office must assign a project number to each project at the time the Form 2530 is submitted to Headquarters for 2530 clearance. No input to the MIDLIS system is required of the Area Office at this time.
- (1) The first number will be the three-digit office code number of the local HUD office endorsing the credit instrument.
- (2) The second set of numbers will be the project number. Project numbers for 223(f) coinsurance will begin in each office with the five-digit number 10501 and proceed sequentially to the number 10999. Each HUD office shall maintain a numbering log to assure that 223(f) coinsured loans are numbered sequentially and that no duplication occurs. For example, the first case endorsed in the New York Office would be 012-10501. Where an office is dealing with more than one coinsurance lender, the loans will be numbered sequentially, notwithstanding that the lender may be different from case to case.

- (5-4) (3) The alpha suffix to be assigned to each 223(f) coinsured loan will depend upon whether the project is a refinance transaction or a purchase transaction.
- (a) If ownership of the project is changing hands, the project is presumed to be a purchase transaction and the suffix will therefore be "PUR," indicating purchase.
  - (b) If the existing mortgage is being refinanced for the present owner without ownership of the project changing, the alpha suffix will be "REF," indicating refinance.
  - (c) It is not imperative that the alpha suffix be present for 2530 clearance purposes. If it is not available at this time, it can be added at the time of endorsement.

5-5. FEES AND CHARGES. There are maximum fees and charges which can be collected by the lender in connection with the coinsurance program.

- a. The lender may collect from the mortgagor an application fee and service charge to reimburse itself for the cost of processing an application, inspecting the project and closing the mortgage transaction. However, in no event may the amount of such fees exceed the following:
  - (1) An application and processing fee not to exceed \$3.00 per \$1,000 of the amount of mortgage requested. This fee may be collected in two stages as provided in paragraph 4-2 above and must be adjusted at the time of final endorsement so that the total amount does not exceed \$3.00 per \$1,000 of the finally endorsed mortgage.
  - (2) A service charge or financing fee, not to exceed \$2.00 per \$100 of the amount of mortgage. This fee may not be collected prior to endorsement of the mortgage. This fee is intended to reimburse the lender for costs associated with closing the project, including the lender's legal fees.

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- (5-5) (3) A permanent placement fee of \$1.50 per \$100 of mortgage

amount. This fee may not be collected prior to closing the mortgage transaction. This fee is expected to include all permanent placement expenses except discounts. Where GNMA mortgage backed securities are involved, the lender may not assess an additional charge for the MBS application fee or an additional charge for the securities custodial fee.

- b. Commencing on the first anniversary of the scheduled commencement of amortization, the lender may collect from the mortgagor an annual fee of .75 percent of the outstanding principal balance of the mortgage. A portion of this fee must be remitted to HUD in accordance with the provisions of paragraph 5-6b below. The balance of the annual amount collected may be retained by the lender.
- c. The interest rate on the coinsured mortgage loan may not exceed the maximum rate established by HUD and in effect at the time of firm commitment or at the time of endorsement.

5-6. MORTGAGE INSURANCE PREMIUMS. Mortgage insurance premiums (MIP) shall be paid by the lender to HUD for the period from the date of endorsement of the mortgage through the date the coinsurance contract is terminated. Such premiums are to be collected by the lender from the mortgagor and must be paid to the Office of Finance and Accounting by the lender by check.

- a. The initial MIP due HUD shall be in an amount equal to one percent of the face amount of the mortgage. This premium shall provide mortgage insurance coverage for a period of one year, and is the maximum first year MIP which may be charged to the mortgagor.
- b. Each subsequent year, the lender must remit to HUD an annual MIP equal to .4 percent of the outstanding principal balance notwithstanding delinquent payments or prepayments. Premiums due HUD are payable in advance or shall include late charges, when applicable (see paragraph 5-6e).
- c. The first annual MIP billing from HUD will include any adjustments resulting from the application of the initial premium payment.
- d. Upon termination of the coinsurance contract, HUD will refund any unearned portion of the MIP.
- e. Premiums paid to HUD more than 15 days after their due date shall be subject to a late charge of 4 percent of the MIP due.