

Real Estate Asset Manager — Prohibited Activities

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Real Estate Asset Managers (REAMs) must be impartial when conducting HUD business. Sound business decisions without preferential treatment or appearance of favoritism, require constant attention. These prohibited activities are designed to protect program integrity. High standards of honesty and conduct are essential in assuring public confidence in Government business. Avoiding misconduct and conflicts of interest is indispensable to maintaining these standards. This document, while not all inclusive, provides specific prohibitions. It summarizes those areas with repetitive problems and reiterates many related Federal laws and contractual clauses.

Laws and rules that identify practices to avoid are: Anti-Kickback Act; Davis-Bacon Act; Federal Antitrust Laws; Federal Procurement Regulations (Title 41, CFR); Service Contract Act of 1965.

Specific guidelines are contained in the Real Estate Asset Manager Contract. Complete familiarity and understanding of the Contract Articles and General Provisions can help prevent problems.

Many professional codes, standards of conduct or ethics statements have been developed by professional societies. These codes or standards are also applicable for HUD business.

Prohibited Activities

1. General—You shall not:

- a. Accept money, favors, gratuities, entertainment, or anything of value that might affect or be reasonably interpreted as affecting your impartiality or influencing contractual action.
- b. Accept direct or indirect payment, fee, commission, compensation, or gratuities of any kind as an inducement of or acknowledgment of purchases made by you or by the Government following your solicitation.
- c. Employ, or enter into a contract for the purchase of materials or services from any person, firm, or corporation in which you have a direct or indirect interest or in the proceeds you are to share. This prohibition shall extend to firms in which your spouse, minor child, dependent, or partner may have a financial interest.
- d. Employ Federal employees or Federal officials.
- e. Favor or provide a competitive advantage to any one firm, individual, or others seeking Government business.
- f. Split repair work to circumvent formal contracting procedures.

2. Contracting—You shall not deprive HUD in any way of the benefit of full, free, and unrestricted competition by engaging in any of the following practices:

- a. Use contractors who have been excluded from participating in HUD or other Federal Government activities.
- b. Select contractors on an arbitrary basis in lieu of using the bidder rotational basis.
- c. Knowingly solicit bids from paper or dummy firms.
- d. Develop repair specifications that are deliberately restrictive.
- e. Order emergency repairs on a property without inspecting it first.
- f. Recommend replacement in lieu of repair as a routine practice.
- g. Invite specification writers who prepared the list of items to be repaired to bid on the same property.
- h. Split repair work to circumvent formal contracting procedures.
- i. Use your service employees hired for other positions to perform repair, maintenance, and housekeeping activities.
- k. Refuse to allow contractors to compete because of race, color, creed, religion, sex, national origin, age, familial status, or disability.

If you have a question about a situation or action that is or appears to be unethical, contact your local HUD office.

3. Bidding—You shall not engage in collusive bidding with any individual or firm bidding for a repair contract to:

- a. Charge excessive prices.
- b. Rotate low bidders.

- c. Create fictitious companies to give the appearance of competitive bidding.
- d. Identify the names of those invited to bid on the invitation to Bid form.
- e. Award contracts to other than the low bidder without solid justification.
- f. Accept a bid which does not contain a price for all repair items included in the Invitation to Bid form.

4. Inspection and Payments—You shall not

- a. Falsify inspection reports.
- b. Recommend payment for work not completed.
- c. Alter contractor invoices.
- d. Submit monthly invoices which you cannot support by documentation such as other types of billings, cancelled checks, or other cancelled negotiable instruments.
- e. Engage in fictitious billings.
- f. Submit duplicate billings for the same work or material.
- g. Claim fees for services not provided for in your contract.

5. Real Estate Practices—If you are permitted to sell properties in your inventory, you shall not

- a. Place HUD "For Sale" signs on properties that are not HUD-owned.
- b. Provide earnest money or down payments for buyers of HUD properties.
- c. Show HUD properties to prospective buyers before they are listed for sale.
- d. Encourage prospective buyers to falsely certify they intend to occupy the property they are buying.
- e. Act to restrain or inhibit prospective buyers from seeing or bidding on HUD-owned houses.
- f. Submit offers to purchase on behalf of a "straw buyer", i.e., an individual who intends to purchase a HUD-owned property with an FHA-insured mortgage stating he/she will be an owner-occupant when, in fact, the property is being purchased for another individual who does not qualify for the purchase.
- g. Make promises to prospective buyers that HUD will accomplish certain repairs (which HUD has not publicly stated it will do).
- h. Refuse to sell any HUD property to a prospective buyer because of race, color, creed, religion, sex, national origin, age, familial status, or disability.
- i. Purchase HUD-owned properties managed under the contract. This prohibition extends to members of your immediate family or household or by any entity in which they have any direct, indirect or financial interest.

I hereby certify that I have read the above Prohibited Activities and will not engage in any of the Prohibited Activities while a Real Estate Asset Manager for the Department of Housing and Urban Development.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Signature

Date (mm/dd/yyyy)