

(2) *Procedure for removal.* If you are a listed appraiser and HUD decides to remove you for cause from the Appraiser Roster, the following procedure applies to you unless you have been issued a final debarment, suspension, or limited denial of participation, in which case you are subject to paragraph (a)(3) of this section:

(i) You will be given written notice of your proposed removal. The notice will include the reasons for your proposed removal and the duration of your proposed removal.

(ii) You will have 20 days from the date of your notice of proposed removal to submit a written response appealing the proposed removal and to request a conference. A request for a conference must be in writing and must be submitted along with a written response.

(iii) Within 30 days of receiving your written response, or if you have requested a conference, within 30 days after the completion of your conference, a HUD official, designated by the Secretary, will review your appeal and will send you a final decision either affirming, modifying, or canceling your removal from the Appraiser Roster. HUD may extend this time upon giving you notice. The HUD official designated by the Secretary to review your appeal will not be someone involved in HUD's initial removal decision nor will it be someone who reports to a person involved in that initial decision.

(iv) If you do not submit a written response, your removal will be effective 20 days after the date of HUD's initial removal notice. If you submit a written response, and the removal decision is affirmed or modified, your removal or modification will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(3) *Automatic removal for issuance of final debarment, suspension, or limited denial of participation.* If you are a listed appraiser and you have been issued a final debarment, a suspension, or a limited denial of participation, the provisions of paragraph (a)(2) of this section do not apply to you, and you will be automatically removed from the Appraiser Roster.

(b) *Reinstatement.* If an appraiser who has been removed from the Roster

wants to be reinstated on the Roster, the appraiser must follow the procedures and requirements contained in this subpart for placement on the Roster. Before an appraiser is eligible to reapply for placement on the Roster, the appraiser shall comply with the terms of any applicable remedial training education requirements, and the time period for the appraiser's removal from the Roster shall have expired.

(c) *Automatic suspension from Appraiser Roster—(1) Appraisers subject to state disciplinary action.* An appraiser whose state licensing or certification in any state has been revoked, suspended, or surrendered as a result of a state disciplinary action is automatically suspended from the Appraiser Roster and prohibited from conducting FHA appraisals in any state until HUD receives evidence demonstrating that the state imposed sanction has been lifted.

(2) *Expirations not due to state disciplinary action.* An appraiser whose licensing or certification in a state has expired is automatically suspended from the Appraiser Roster in that state and may not conduct FHA appraisals in that state until HUD receives evidence that demonstrates renewal, but may continue to perform FHA appraisals in other states in which the appraiser is licensed or certified.

(d) *Education requirements.* Where there is evidence that an appraiser is deficient in FHA appraisal requirements, HUD may require an appraiser to undergo professional training.

(e) *Other action.* Nothing in this section prohibits HUD from taking any other action against an appraiser, as provided under 2 CFR part 2424, or from seeking any other remedy against an appraiser, available to HUD by statute or otherwise.

[65 FR 17977, Apr. 5, 2000, as amended at 68 FR 26950, May 16, 2003; 72 FR 73494, Dec. 27, 2007; 73 FR 1432, Jan. 8, 2008]

§ 200.206 What are my responsibilities as an appraiser listed on the Appraiser Roster?

All appraisers listed on the Appraiser Roster are responsible for:

(a) Obtaining and reading the HUD Appraiser Handbook (4150.2) and any updates to the Handbook;

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(b) Complying with the HUD Appraiser Handbook (4150.2), and any updates to the Handbook, when performing all appraisals of properties for HUD single family mortgage insurance purposes; and

(c) Complying with all other instructions and standards issued by HUD when performing all appraisals of properties for HUD single family mortgage insurance purposes.

Subpart H—Participation and Compliance Requirements

SOURCE: 45 FR 54199, Aug. 14, 1980, unless otherwise noted.

PREVIOUS PARTICIPATION REVIEW AND CLEARANCE PROCEDURE

§ 200.210 Policy.

It is the Department's policy that participants in its housing programs be responsible individuals and organizations who will honor their legal, financial and contractual obligations. Accordingly, uniform standards are established in this part for approval, disapproval, or withholding of action on principals in projects based upon their past performance as well as other aspects of their records.

§ 200.213 Applicability of procedure.

The Previous Participation Review and Clearance procedure set forth in this part is administered by the Assistant Secretary for Housing-Federal Housing Commissioner and is applicable to all principals and to their:

(a) Projects already financed or which are proposed to be financed with a mortgage insured under the National Housing Act and projects subject to a mortgage held by the Secretary under that Act or projects acquired by the Secretary under that Act (FHA projects);

(b) Projects financed or to be financed with direct loans or projects acquired by the Secretary pursuant to section 202 of the Housing Act of 1959 (Housing for the Elderly and Handicapped);

(c) Projects in which 20% or more of the units now receive or will receive a subsidy in the form of:

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(1) Interest reduction payments under section 236 of the National Housing Act;

(2) Rent Supplement payments under section 101 of the Housing and Urban Development Act of 1965;

(3) Housing assistance payments under section 8 of the United States Housing Act of 1937 (with the exception of the programs described in 24 CFR part 882, subparts A, B, C and F, and in 24 CFR part 887, which are tenant-based programs);

(d) Sales of projects by the Secretary, including “all cash” sales.

[45 FR 54199, Aug. 14, 1980, as amended at 56 FR 50820, Oct. 9, 1991; 59 FR 31522, June 20, 1994]

§ 200.215 Definitions.

(a) *Affiliate*. Any person or business concern that directly or indirectly controls policy of a principal or has the power to do so is an affiliate. Persons and business concerns controlled by the same third party are also affiliates.

(b) *Felony*. A felony is any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of two years or less.

(c) *Packager or Consultant*. A person or firm that furnishes or proposes to furnish advisory services in connection with the financing or construction of a project and the related HUD requirements. Such services may include, but are not limited to, the selection and negotiation of contracts with a general contractor, architect, attorney or management agent.

(d) *Participation Control Officer*. (See § 200.224)

(e) *Principal*. (1) An individual, joint venture, partnership, corporation, trust, nonprofit association, or any other public or private entity proposing to participate, or participating, in a project as sponsor, owner, prime contractor, Turnkey Developer, management agent, nursing home administrator or operator, packager, or consultant; and architects and attorneys who have any interest in the project other than an arms-length fee arrangement for professional services.