

or other entity member ownership, of construction and other costs, as prescribed by HUD.

(b) The Certificate of Actual Cost shall be verified by an independent certified public accountant or independent public accountant in a manner acceptable to HUD.

(c) Upon HUD's approval of the mortgagor's certification of actual cost, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor.

#### § 242.43 Application of cost savings.

At the sole discretion of HUD, any cost savings shall be used to:

(a) Reduce the principal amount of the mortgage and the mortgagor's cash equity contribution proportionally, unless the mortgagor elects to have a greater portion of the savings used to reduce the mortgage; and/or

(b) Fund any additional construction or substantial rehabilitation approved by HUD.

### Subpart E—Construction

#### § 242.44 Construction standards.

Work designed and performed under this section shall conform to the standards adopted by HUD, which, at a minimum, shall include the "Guidelines for Construction and Equipment of Hospital and Medical Facilities," which is regularly updated and published by the American Institute of Architects.

#### § 242.45 Early commencement of work.

(a) *Site preparation.* Prior to or following the submission of an application, the mortgagor may request for good cause the commencement of certain limited site preparation for the project within legal guidelines and state law. Such work can commence only after the review of the work and concurrence by HUD, including the environmental review under 24 CFR 242.79, previous participation review, and the agreement to certain conditions by the applicant. HUD will not approve such request until it has completed the environmental review under 24 CFR 242.79. The work must meet all requirements and guidelines as if it

were approved for mortgage insurance and is to be accomplished at the sole risk of the mortgagor.

(b) *Construction completed prior to application.* Structures completed more than 2 years prior to application are eligible to be refinanced with insured mortgage proceeds.

(c) *Pre-commitment work.* Subsequent to submission of an application but prior to the issuance of a commitment or denial by HUD, the hospital and lender may request for good cause the commencement of certain necessary early site work and limited construction activity in connection with the improvements, within legal guidelines and state law. This work must be requested by both the hospital and the lender to be approved. Such work may be eligible to be financed with insured mortgage proceeds if the application is approved and the work complies with all specified conditions of HUD as set forth in a written agreement between the hospital and HUD. It is understood that in some cases the application submitted in order for pre-commitment work to begin may not be complete in all respects. However, at a minimum, the application shall include the approved FHA application form, the application fee (based on the amount of the total proposed insured loan), the inspection fee (based on the cost of the pre-commitment work), a project description of the pre-commitment work and its relation to the total project, and plans and specifications for the proposed pre-commitment work in sufficient detail to allow HUD to conduct its architectural and engineering review and obtain the necessary previous participation information and evidence of compliance with federal and state environmental regulations. Such work can commence only after the review of the work and concurrence by the lender and HUD, including previous participation review. HUD will not approve such request until it has completed the environmental review under 24 CFR 242.79. The work must meet all requirements and guidelines as if it were approved for mortgage insurance and is to be accomplished at the sole risk of the hospital. A request shall be accompanied by documentation required by