

§ 290.30

project-based assistance made available, would be more cost-effective than the use of the maximum permissible project-based rental assistance alone.

(b) *Eligible projects.* An up-front grant or loan can be made available in the sale of a HUD-owned multifamily housing project that meets all of the following requirements:

(1) Has more than 50% of the units in the project occupied by very low-income residents at the time a disposition plan is approved by HUD, or that HUD determines is essential, as affordable housing, to the revitalization of its community;

(2) Is located in a housing market or submarket in which there is not sufficient habitable, affordable, rental housing, as defined in § 290.3;

(3) Will generate, after rehabilitation or rebuilding, sufficient rental income in a competitive market to cover all operating expenses, meet after sale debt service requirements, fund required reserves and throw off positive cash flow;

(4) Will provide affordable housing for at least 20 years or the term of the loan, whichever is shorter, after the rehabilitation and/or rebuilding is completed; and

(5) Meets such other requirements, including deed restrictions, loan provisions, and monetary penalties for non-performance, as HUD may determine are appropriate on a case-by-case basis.

(c) *Eligible sales and purchasers—(1) Negotiated sales to governmental entities.* A negotiated sale of a project with an up-front grant or loan can only be made to the unit of general local government, which includes public housing agencies, in the area in which the project is located; or a State agency designated by the chief executive officer of the State in which the project is located; or an agency of the Federal government. The governmental entity in such a sale must take title to the project.

(2) *Other sales and purchasers.* All sales which provide up-front grants or loans to entities other than those described in paragraph (c)(1) of this section must be conducted through a competitive selection process. All general and limited partnerships or their nominees, joint ventures or other entities

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assembled for purposes of purchasing the project and which have a governmental entity as a partner or other participant are considered profit motivated purchasers and not governmental entities, whether or not there is a non-profit, public, corporate or individual general partner.

(d) *Up-front grant or loan amount.* The maximum that HUD will fund per project in an up-front grant or loan is 50 percent of total development cost (TDC), or \$40,000 per affordable, finished unit, whichever amount is less. TDC covers demolition, environmental hazard remediation, construction materials, artisan services, professional services, developers services, and overhead, relocation and operating losses that are incurred to plan, perform and complete repairs or rebuilding.

[64 FR 72412, Dec. 27, 1999]

Subpart B—Sale of HUD-Held Multifamily Mortgages

§ 290.30 General.

(a) Except as otherwise provided in § 290.31(a)(2), HUD will sell HUD-held multifamily mortgages on a competitive basis. HUD retains full discretion to offer any qualifying mortgage for sale and to withhold or withdraw any offered mortgage from sale. However, when a qualifying mortgage is offered for sale, the procedures set out in this subpart will govern the sale.

(b) References in subpart B of this part to mortgages securing subsidized projects include HUD-held purchase money mortgages on subsidized projects.

[61 FR 11685, Mar. 21, 1996, as amended at 61 FR 32265, June 21, 1996]

§ 290.31 Sale of current mortgages securing subsidized projects.

HUD will sell current mortgages securing subsidized projects, as follows:

(a) *Current mortgages with FHA mortgage insurance* will be sold either:

(1) On a competitive basis to FHA-approved mortgagees; or

(2) On a negotiated basis, to State or local governments, or to a group of investors that includes an agency of a State or local government if, in addition to meeting the requirements of