

### § 291.303

on a negotiated basis. Nothing in this subpart shall be construed to prevent HUD from packaging single family mortgage loans with other types of HUD assets for sale. The Secretary retains full discretion to offer any qualifying pool of mortgage loans for sale and to withhold or withdraw any offered pool of mortgage loans from sale. However, when HUD offers a qualifying mortgage loan for sale, the procedures set out in this subpart and in the bid package will govern the sale of HUD-held single family mortgage loans.

#### § 291.303 Eligible bidders.

HUD will provide information on the eligibility of bidders in the bid package, a notice in the FEDERAL REGISTER, or other means, at the Secretary's full discretion. However, an individual, partnership, corporation, or other legal entity will not be eligible to bid for any loan pool, either as an individual or a participant, if at the time of the sale, that individual or entity is debarred or suspended from doing business with HUD under 24 CFR part 24.

#### § 291.304 Bidding process.

(a) *Submission of bids.* All bids must be submitted to HUD in accordance with instructions in the bid package for a particular sale.

(b) *Effect of bid.* By submitting a bid, the bidder is making an offer to purchase single family mortgage loans as presented in the bid package. Submission of a bid constitutes acceptance of the terms and conditions set forth in the bid package. Along with the bid, the bidder must submit an executed copy of the Loan Sale Agreement, which is included in the bid package.

(c) *Earnest money deposits.* The bidder must submit to HUD, along with its bid, an earnest money deposit in an amount to be determined by HUD. The earnest money deposit is nonrefundable to the winning bidder and will be credited toward the purchase price.

(d) *Termination of offering.* HUD reserves the right to terminate an offering in whole or in part at any time before the bid date.

(e) *Withdrawal of loans.* HUD reserves the right, in its sole discretion and for any reason whatsoever, to withdraw loan assets from a pool prior to the bid

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date. Any earnest money deposits relating to withdrawn loan assets will be retained by HUD and credited toward the total purchase price of the remaining loan assets in the pool, in accordance with the Loan Sale Agreement. After the bid date, HUD can withdraw mortgage loans in accordance with the Loan Sale Agreement.

(f) *Rejection of bids.* (1) HUD may, in its sole discretion, reject any bid under the following circumstances:

(i) If the bid does not conform with the instructions in the bid package; or

(ii) If, in HUD's sole discretion, it determines that such action would be in the best interests of the U.S. Government.

(2) HUD can also issue a conditional rejection that will become an acceptance upon fulfillment of HUD's requests.

(g) *Withdrawal of bids.* A bidder may withdraw a previously submitted bid in accordance with the instructions in the bid package for a particular sale.

(h) *Bids by brokers or agents.* Any bid by a broker or agent for a principal must be in the name of the principal and signed by the broker/agent as the attorney-in-fact for the principal. All such bid documents must be executed so as to bind the principal by the broker/agent as the attorney-in-fact. A power of attorney satisfactory to HUD as to form and content must be submitted with each bid.

#### § 291.305 Selection of bids and execution of Loan Sale Agreement.

HUD will evaluate bids, select successful bids, and notify the successful bidder in a manner set forth in the bid package. HUD will complete the execution of the Loan Sale Agreement when it accepts the successful bid.

#### § 291.306 Closing requirements.

(a) *Closing date payment.* On the closing date, the purchaser must pay to HUD the closing date payment, consisting of the balance of the amount due on the bid price, as adjusted in accordance with the Loan Sale Agreement.

(b) *Closing documents.* HUD will execute and deliver to the purchaser a bill

of sale transferring title to the mortgage loans sold in the sale. The purchaser must deliver to HUD the documents required at closing, in addition to the closing date payment.

**§ 291.307 Servicing requirements.**

(a) *Use of HUD-approved servicing mortgagees.* All mortgage loans must be serviced by HUD-approved servicing mortgagees for the remaining life of the mortgage loans. A purchaser that is not a HUD-approved servicing mortgagee must retain a HUD-approved servicing mortgagee to service the mortgage loans.

(b) *Continuation of mortgagor rights.* The purchaser may take all lawful steps to collect the amounts due under the mortgage loans. These steps may include foreclosure, but only after the servicer has provided all required forms of relief for the mortgagor in accordance with paragraph (c) of this section. The purchaser and its servicer, and any subsequent transferee of or servicer for the mortgage loan, will be fully bound by the terms of the Loan Sale Agreement, including those terms that provide the mortgagor with any rights regarding forbearance, assistance, or reinstatement of the mortgage loan.

(c) *Purchaser's protection of mortgagor's rights—(1) Assigned mortgage loans during forbearance period.* This paragraph (c)(1) explains how a purchaser (or a servicer of a purchased mortgage loan) must service a mortgage loan that was assigned to HUD under section 230(b) of the National Housing Act (as that subsection existed prior to January 26, 1996), for which not more than 36 months has expired since the mortgage loan assignment was accepted by the Secretary. Such a purchaser must service these mortgage loans in essentially the same manner as HUD was required to service the loans while HUD held them. Specific servicing requirements will be set forth in the Loan Sale Agreement for each sale.

(2) *Assigned mortgage loans after the initial 36-month forbearance period.* This paragraph (c)(2) explains how a purchaser (or a servicer of a purchased mortgage loan) must service a mortgage loan that was assigned to HUD under section 230(b) of the National

Housing Act (as that subsection existed prior to January 26, 1996), for which more than 36 months has expired since the mortgage loan assignment was accepted by the Secretary.

(i) Such purchaser may require the mortgagor to pay at least the full monthly payment due under the mortgage loan. A purchaser may also require a mortgagor to pay increased monthly mortgage loan payments under a renewed payment plan agreement to reduce the amount in arrears if the mortgagor's available income (as calculated according to the Loan Sale Agreement) can support the increased payments. A purchaser must renew payment plan agreements at least through and including the expiration of the original term of the mortgage loan, so long as the mortgagor complies with the prior payment plan agreement.

(ii) If the mortgagor defaults under a payment plan agreement established by the purchaser, the mortgagor shall have the right to reinstate the most recent payment plan agreement if the mortgagor makes a lump sum payment in an amount necessary to cure the default. If the mortgagor defaults under the most recent payment plan agreement and does not reinstate, the purchaser may terminate the payment plan agreement and take such action as may be permitted under the terms of the mortgage.

(iii) The purchaser's right to demand payment of a reinstatement amount from the mortgagor may be limited by the terms of the Loan Sale Agreement.

(3) *Section 221 Mortgages.* This paragraph (c)(3) explains how a purchaser (or a servicer of a purchased mortgage) must service a mortgage assigned to HUD under section 221(g)(4) of the National Housing Act.

(i) *Current section 221(g)(4) mortgage loans.* Section 221(g)(4) mortgage loans that are current as of the closing date are not subject to the servicing requirements set forth in paragraphs (c)(1) and (c)(2) of this section.

(ii) *Defaulted section 221(g)(4) mortgage loans.* With respect to any section 221(g)(4) mortgage loan as to which a payment default has occurred, and as to which HUD, as of the closing date, was providing or had agreed to provide forbearance relief, the purchaser must