

§266.215

any information or certification required by the Commissioner to permit determination of compliance with requirements concerning:

(a) *Previous participation of principals.* Previous participation of the principals of the mortgagor, general contractor, consultant or management agent in accordance with the Previous Participation and Clearance Review Procedures of 24 CFR 200.210 through 200.218.

(b) *Environmental review requirements.* To determine compliance with the requirements of the National Environmental Policy Act of 1969 and related laws and authorities, the HUD Field Office (or other responsible entity through such delegation as may be in effect by regulation hereafter) will visit each project site proposed for insurance under this part and prepare the applicable environmental reviews as set forth in 24 CFR part 50 (or as set forth in 24 CFR part 58 for the other responsible entity). These requirements must be completed before HUD may issue the firm approval letter.

(c) *Intergovernmental review.* Intergovernmental review of Federal programs under Executive Order 12372, as implemented in 24 CFR part 52.

(d) *Subsidy layering.* The Commissioner, or Housing Credit Agencies through such delegation as may be in effect by regulation hereafter, shall review all projects receiving tax credits and some form of HUD assistance for any excess subsidy provided to individual projects and reduce subsidy sources in accordance with outstanding guidelines.

(e) *Davis-Bacon Act.* The Commissioner shall obtain and provide to the HFA the appropriate Department of Labor wage rate determinations under the Davis-Bacon Act, where they apply under this part.

[59 FR 62524, Dec. 5, 1994, as amended at 60 FR 16573, Mar. 31, 1995]

§266.215 Functions delegated by HUD to HFAs.

The following functions are delegated by HUD to the HFAs:

(a) *Affirmative Fair Housing Marketing Plan (AFHMP).* The HFA will perform information collection, reviews and ministerial activities associated with the review and approval of the AFHMP

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for all projects. (Enforcement of fair housing and equal opportunity laws is the responsibility of HUD.)

(b) *Labor standards and prevailing wage requirements.* The HFA will perform information collection (e.g., payroll review and routine interviews) and other routine administration and enforcement functions regarding labor standards, in accordance with §266.225(e). (Enforcement of Davis-Bacon prevailing wage requirements and labor standards is the responsibility of HUD.)

(c) *Insurance of advances.* In cases involving insured advances, the HFA will approve periodic advances of mortgage insurance proceeds during construction of the project subject to terms specified by the Commissioner.

(d) *Cost certification.* The HFA will perform cost certification functions on each insured loan subject to terms specified by the Commissioner.

(e) *Lead-Based Paint.* The HFA will perform functions related to Lead-Based Paint requirements subject to terms specified by the Commissioner.

§266.220 Nondiscrimination in housing and employment.

The mortgagor must certify to the HFA that, so long as the mortgage is insured under this part, it will:

(a) Not use tenant selection procedures that discriminate against families with children, except in the case of a project that constitutes "housing for older persons" as defined in section 807(b)(2) of the Fair Housing Act (42 U.S.C. 3607(b)(2));

(b) Not discriminate against any family because of the sex of the head of household;

(c) Comply with the Fair Housing Act (42 U.S.C. 3601-3619), as implemented by 24 CFR part 100; titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101-12213), as implemented by 28 CFR part 35; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as implemented by 24 CFR part 135; the Equal Credit Opportunity Act (15 U.S.C. 1691-1691f), as implemented by 12 CFR part 202; Executive Order 11063, as amended by Executive Order 12259 (3 CFR 1958-1963 Comp., p. 652 and 3 CFR 1980 Comp., p. 307), and implemented by 24 CFR part