

§ 266.500

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cases, if submitted for final endorsement, that advances were made proportionate to construction progress.

(5) A copy of the HFA-approved cost certification if the project is submitted for final endorsement.

(6) A certification that equal employment requirements are followed.

(7) A certification that the HFA has reviewed and approved the Affirmative Fair Housing Marketing Plan and found it acceptable.

(8) A certification that a dedicated account, if required, has been increased in accordance with § 266.110(b).

(9) Certifications required under § 266.415 concerning liens and contractual obligations.

(10) Copies of the Hazard Insurance Policy with a clause making the loss payable to the HFA.

(11) For projects subject to Davis-Bacon prevailing requirements under § 266.225, the certification and information concerning payment of prevailing wage rates required by § 266.225(d).

(12) Certified copies of mortgage (deed of trust) with attached regulatory agreement, and note for HUD files.

Subpart F—Project Management and Servicing

§ 266.500 General.

The HFA will have full responsibility for the administration of the provisions of this subpart and for managing and servicing projects insured under this part. The HFA is responsible for monitoring and determining the compliance of the project owner in accordance with the provisions of this subpart. HUD will monitor the performance of the HFA, not the project owner, to determine its compliance with the provisions covered under this subpart.

§ 266.505 Regulatory agreement requirements.

(a) *General.* (1) The HFA must execute a Regulatory Agreement, in recordable form, between the mortgagor and the HFA to be in force for the duration of the insured mortgage and note or bond. The Regulatory Agreement must include a description of the property. The Regulatory Agreement

must be incorporated by reference into the mortgage and recorded with the mortgage.

(2) The Regulatory Agreement executed between the HFA and the mortgagor must be binding upon the mortgagor and any of its successors and assigns and upon the HFA and any of its successors for so long as the mortgage is insured by HUD or HUD holds an HFA debenture issued in connection with a claim arising from the insured mortgage. The HFA may not assign the Regulatory Agreement.

(3) The HFA will enforce the Regulatory Agreement and take actions against any mortgagors who violate its provisions. Such actions may involve a declaration of default and application to any court for specific performance of the agreement.

(b) *Requirements.* The Regulatory Agreement must require the mortgagor to comply with the provisions of this part and obligate the mortgagor, among other things, to:

(1) Make all payments due under the mortgage and note/bond.

(2) Where necessary, establish a sinking fund for future capital needs.

(3) Maintain the project as affordable housing, as defined in § 266.5.

(4) Continue to use dwelling units for their original purposes.

(5) Comply with such other requirements as may be established by the HFA and set forth in the Regulatory Agreement.

(6) [Reserved]

(7) Maintain complete books and records established solely for the project.

(8) Comply with the Affirmative Fair Housing Marketing Plan and all other fair housing and equal opportunity requirements.

(9) Operate as a single asset mortgagor.

(10) Make books and records available for HUD or General Accounting Office (GAO) review with appropriate notification.

(11) Permit HUD officials or employees to inspect the project upon request by the Commissioner.

(c) *Enforcement.* The Regulatory Agreement shall be enforced by the HFA.

[59 FR 62524, Dec. 5, 1994, as amended at 63 FR 46578, 46593, Sept. 1, 1998; 65 FR 16296, Mar. 27, 2000]

§ 266.507 Maintenance requirements.

The mortgagor must maintain the project in accordance with the physical condition standards in 24 CFR part 5, subpart G.

[63 FR 46578, Sept. 1, 1998]

§ 266.510 HFA responsibilities.

(a) *Inspections.* The HFA must perform inspections in accordance with the physical inspection procedures in 24 CFR part 5, subpart G.

(b) *Annual audits of projects.* The HFA must analyze projects' annual audits and provide a copy to HUD along with a summary of unresolved findings and actions planned, with target dates, to correct unresolved findings.

(c) *HFA's annual financial statement.* The HFA must provide HUD with annual audited financial statement in accordance with the requirements of 24 CFR part 85.26.

[59 FR 62524, Dec. 5, 1994, as amended at 63 FR 46578, Sept. 1, 1998; 65 FR 16296, Mar. 27, 2000]

§ 266.515 Record retention.

(a) *Loan origination and servicing.* Records pertaining to the mortgage loan origination and servicing of the loan must be maintained for as long as the insurance remains in force.

(b) *Defaults and claims.* Records pertaining to a mortgage default and claim must be retained from the date of default through final settlement of the claim for a period of no less than three years after final settlement.

§ 266.520 Program monitoring and compliance.

HUD will monitor the performance of the HFA in accordance with the provisions covered under this subpart.

Subpart G—Contract Rights and Obligations

MORTGAGE INSURANCE PREMIUMS

§ 266.600 Mortgage insurance premium: Insurance upon completion.

(a) *Initial premium.* For projects insured upon completion, on the date of the final closing, the HFA shall pay to the Commissioner an initial premium equal to the prescribed percentage, in the sliding scale chart that is shown in § 266.604(b), of the face amount of the mortgage.

(b) *Premium payable with first payment of principal.* On the date of the first payment of principal the HFA shall pay a second premium (calculated on a per annum basis) equal to the prescribed percentage of the average outstanding principal obligation of the mortgage from the final closing date to the year following the date of the first principal payment, less the amount paid on the date of the final closing.

(c) *Subsequent premiums.* Until one of the conditions is met under § 266.606(a), the HFA on each anniversary of the date of the first principal payment shall pay to the Commissioner an annual mortgage insurance premium equal to the prescribed percentage of the average outstanding principal obligation of the mortgage, without taking into account delinquent payments, or partial claim payment under § 266.630, or prepayments, for the year following the date on which the premium becomes payable.

§ 266.602 Mortgage insurance premium: Insured advances.

(a) *Initial premium.* For projects involving insured advances, on the date of the initial closing, the HFA shall pay to the Commissioner an initial premium equal to the prescribed percentage, in the sliding scale chart that is shown in § 266.604(b), of the face amount of the mortgage.

(b) *Interim premium.* On each anniversary of the initial closing, the HFA shall pay an interim mortgage insurance premium equal to the prescribed percentage of the face amount of the mortgage. The HFA shall continue to pay the interim mortgage insurance