

(e) *Principal*. (1) An individual, joint venture, partnership, corporation, trust, nonprofit association, or any other public or private entity proposing to participate, or participating, in a project as sponsor, owner, prime contractor, Turnkey Developer, management agent, nursing home administrator or operator, packager, or consultant; and architects and attorneys who have any interest in the project other than an arms-length fee arrangement for professional services.

(2) The term principal also includes: (i) Any affiliates of a principal; (ii) if the principal is a partnership, all general partners, and each limited partner having a 25 percent or more interest in the partnership; (iii) if the principal is a public or private corporation or governmental entity; the President, Vice-President, Secretary and Treasurer and any other executive officers who are directly responsible to the Board of Directors, or the equivalent thereof; all the directors; and each stockholder having a 10 percent or more interest.

(3) Specifically excepted from this definition of a principal are: (i) Parties whose sole interest is that of purchaser or owner of less than five individual unit(s) in the same condominium or cooperative development; (ii) parties whose sole interest is that of a tenant; and (iii) Public Housing Agencies.

(f) *Project*. A project is: (1) Five or more residential units covered by a single mortgage, loan or contract of assistance; (2) a hospital, group practice facility or nursing home; (3) cooperative and condominium developments; and (4) a subdivision being developed and financed with a mortgage under title X of the National Housing Act.

(g) *Review Committee*. (See §§ 200.224 and 200.93).

(h) *Risk*. In order to determine whether a participant's participation in a project would constitute an unacceptable risk, the following factors must be considered: Financial stability; previous performance in accordance with HUD statutes, regulations, and program requirements; general business practices; or other factors which indicate to the MPRC that the principal could not be expected to operate the project in a manner consistent with furthering the Department's purpose of

supporting and providing decent, safe and affordable housing for the public.

[45 FR 54199, Aug. 14, 1980, as amended at 56 FR 50820, Oct. 9, 1991]

§ 200.217 Filing of previous participation certificate on prescribed form.

(a) Effective October 11, 2005, or on such later date as may be allowed by HUD, all principals in HUD multi-family mortgage and project based subsidy programs must submit an electronic Previous Participation Certificate (form HUD-2530) via HUD's secure web server as a condition prerequisite to new or revised participation. Prior to this date, principals are required to file form HUD-2530 as a condition prerequisite to new or revised participation. Filing requirements are as prescribed by the Assistant Secretary for Housing-Federal Housing Commissioner at the occurrence of any of the events below:

(1) With an Application for a Site Appraisal/Market Analysis Letter, Feasibility Letter, Conditional Commitment for Mortgage Insurance, or Firm Commitment for Mortgage Insurance, whichever application is first filed, for projects to be financed or refinanced with mortgages insured under the National Housing Act;

(2) With an Application for a Fund Reservation for projects financed or to be financed with direct loans or capital advances under section 202 of the Housing Act of 1959 (Housing for the Elderly and Handicapped);

(3) With an Application for a Fund Reservation for projects financed or to be financed with direct loans or capital advances under Section 811 of the Cranston-Gonzales National Affordable Housing Act (Supportive Housing for Persons with Disabilities);

(4) With the first request for a reservation of funds for assistance payments for projects in which 20 percent or more of the units are to receive a subsidy described in § 200.213(c);

(5) With an Application for any Transfer of Physical Assets;

(6) With a request to assume any existing Housing Assistance Payments Contract, Interest Reduction Contract, Rent Supplement Contract, or Rental Assistance Payments Contract;

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(7) With a request to change ownership of a property regulated or controlled by a HUD “use agreement”;

(8) With an application or request to change the approved lessee operating a nursing home, assisted living, or skilled care facility;

(9) With a bid to purchase a project being sold at foreclosure by HUD or by a foreclosure commissioner acting for HUD, when the terms of the sale permit HUD to disapprove a bidder;

(10) With a bid to purchase a Secretary-owned project;

(11) With a bid to purchase a mortgage note held by the Commissioner;

(12) At least 30 days prior to the date of any proposed substitution or addition of a new principal in an existing project, such as management agents, LLC members, directors, or partners, or proposed participation in a different capacity from that previously approved for the same project;

(13) At least 30 days prior to the proposed acquisition by an existing limited partner, stockholder, or any principal of additional interests resulting in a total interest of at least 25 percent (partners) or 10 percent (non-partners); or

(14) Certificates of participation must be submitted for interests acquired by any party or organization by inheritance or court decree within 30 days after said acquisition or decree, but will not be subject to review or disapproval.

(b) Certificates are not required for interests acquired by inheritance or by Court decree.

[45 FR 54199, Aug. 14, 1980, as amended at 59 FR 31522, June 20, 1994; 70 FR 19662, Apr. 13, 2005]

§ 200.218 Who must certify and sign.

All principals must certify and sign the certificate personally as to their individual record and are responsible for its timely filing with the HUD Area Office in whose jurisdiction the project or proposal is located except:

(a) When a corporation is a principal all its officers, directors and principal stockholders need not individually sign, certify nor file the certificate when they all have the same record. When their previous participation records are the same the officer au-

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thorized to sign for the corporation will list on the certificate the full names for all such principals connected with the corporation who do not elect to sign. Those principals who have a separate participation record outside that of their corporation must certify, sign and file. The objective is full disclosure.

(b) The Participation Control Officer is authorized to waive the requirement for signatures for good cause in cases where he finds that adequate provision has been made for full disclosure, and the signature is thereafter provided.

§ 200.219 Content of certification.

(a) Each principal who executes the certificate certifies that:

(1) The certificate contains a listing of every assisted or insured project of HUD, Farmers Home Administration and State or local government housing finance agencies in which the principal has been or is now a principal;

(2) For a period beginning 10 years prior to the date of the certificate under review and except as shown on the certificate:

(i) No mortgage on a project listed has ever been in default nor has mortgage relief been given;

(ii) There have been no defaults or noncompliances under any conventional construction contract or Turn-key contract of sale in connection with a public housing project;

(iii) There are no known unresolved findings raised as a result of HUD audits, management reviews or other governmental investigations;

(iv) There has been no suspension or termination of payments under any HUD assistance contract attributable to the fault or negligence of principal;

(v) The principal has not been convicted of a felony (See definitions §200.215(b)) and is not presently the subject of a complaint or indictment charging a felony;

(vi) The principal has not been suspended, debarred, or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency;

(vii) The principal has not defaulted on an obligation covered by a surety or performance bond, and has not been