

be the basis for disapproval, whether or not the principal was actively involved in the project:

(1) Mortgage defaults, assignments or foreclosures, unless the Review Committee determines that the default, assignment or foreclosure was caused by circumstances beyond the principal's control;

(2) Defaults or noncompliance under any conventional construction contract or turnkey contract of sale in connection with a public housing project;

(3) Violation of the regulatory agreement or noncompliance with any other obligation to HUD that has not been corrected to the satisfaction of the Review Committee at the time of its consideration;

(4) Suspension or termination of payments under any HUD assistance contract;

(5) Defaults under an obligation covered by a surety or performance bond and/or claims under an employee fidelity bond;

(6) Unresolved findings as a result of HUD or other governmental audits or investigations; or

(7) A criminal record or other evidence that the principal's previous conduct or method of doing business has been such that his participation in the project would make it an unacceptable risk from the underwriting standpoint of an insurer, lender or governmental agency;

(d) With respect to any HUD insured or assisted projects, work stoppage for a period in excess of 20 days, or in the case of an insured project, failure to achieve final endorsement of the mortgage where the project has been substantially completed for more than 90 days but documents for closing, including cost certification have not been filed with HUD and such is chargeable to the fault or neglect of the principal;

(e) Any serious and significant violation by a management agent of a project management contract, where the contract required HUD or other Governmental agency approval at its inception;

(f) Submission of a false or materially incomplete form 2530 certification application.

(g) Any other significant violation of or noncompliance with regulations, or programs or contract requirements of HUD, Farmers Home Administration or a State or local government's Housing Finance Agency in connection with any insured or assisted project.

[45 FR 54199, Aug. 14, 1980, as amended at 56 FR 50820, Oct. 9, 1991; 72 FR 73494, Dec. 27, 2007]

§ 200.233 Effect and requirement of approval.

Approval is required as a precondition for participation and constitutes clearance of the principal under this part for participation only for a specific project in a specific role. Approval of a principal does not obligate the Department to approve the principal's applications or contracts for program participation.

§ 200.236 Modification or withdrawal of certain approvals.

Approvals will not be modified or withdrawn, except in cases where the principal is subsequently suspended or debarred from further participation in any HUD programs under 2 CFR part 2424, or is found by the Review Committee to have obtained approval based upon submission to HUD of a false, fraudulent, or incomplete report or certificate. In such cases, the Review Committee may take such action, including modification or withdrawal of approval, as it determines to be in the best interest of the Department and the public. For the purpose of this section, the term "approval" includes conditional approval.

[72 FR 73494, Dec. 27, 2007]

§ 200.239 Notice of determination.

The Participation Control Officer shall give written notice to the principal and to the field office concerned of disapproval under § 200.226, and conditional approval, withholding of approval or disapproval by the Review Committee under § 200.228. In the case of any such adverse notice:

(a) The notice shall contain a general statement of the reasons for the determination; and

(b) The notice to the principal shall be sent by certified mail to the address

§ 200.241

shown on the certificate with a return receipt requested.

§ 200.241 Request for reconsideration of an adverse determination and request for a hearing.

(a) Where approval has been withheld, denied, or conditionally granted, the principal may request reconsideration by the Review Committee. Such request shall be made in writing, within 30 days of receipt of the notice of such action, addressed to the Review Committee. It may contain such supporting material as principal desires; or

(b) The principal may file a request for a hearing before a Hearing Officer as provided in §200.243. Such request for a hearing shall be made in writing within 30 days from the date of receipt of the determination.

§ 200.243 Hearing rules—How and when to apply.

(a) A principal who has been disapproved, conditionally approved, or who has had approval withheld by the Review Committee, either initially or after reconsideration, or who is disapproved by the Participation Control Officer, may request a hearing before a Hearing Officer. The hearing will be conducted in accordance with the provisions of 24 CFR part 26, subpart A, except as modified by this section. Requests for hearing must be made within 30 days from the date of receipt of notice of the adverse determination.

(1) Except as provided in paragraphs (a)(2) and (3) of this section, a principal may request an oral hearing before a hearing officer.

(2) Where a disapproval is based solely on a suspension or debarment that has been previously adjudicated, the hearing shall be limited to the opportunity to submit documentary evidence and written briefs for consideration by a hearing officer.

(3) Where a disapproval is based on a suspension and an appeal is pending, the hearing shall be stayed pending the outcome of the suspension, unless the parties and the hearing officer agree that the matter should be consolidated with the suspension for hearing.

(b) Hearings and review of determination by the Hearing Officer shall be

24 CFR Ch. II (4–1–08 Edition)

governed by the procedures contained in 2 CFR part 2424, except as modified in paragraph (a) of this section and by §200.245.

[45 FR 54199, Aug. 14, 1980, as amended at 56 FR 50820, Oct. 9, 1991; 61 FR 50219, Sept. 24, 1996; 72 FR 73494, Dec. 27, 2007]

§ 200.245 Hearing Officer determines facts and law: Review Committee makes final administrative decision.

The Hearing Officer will determine the facts and the law relevant to the issues and will report the determination in writing to the Review Committee and to the principal. The Review Committee shall be bound by the Hearing Officer's findings of facts and law and will make a final decision based upon its application of the uniform underwriting and risk evaluation standards contained in this part. It will notify principal of the final action taken.

Subpart I—Nondiscrimination and Fair Housing

§ 200.300 Nondiscrimination and fair housing policy.

Federal Housing Administration programs shall be administered in accordance with:

(a) The nondiscrimination and fair housing requirements set forth in 24 CFR part 5; and

(b) The affirmative fair housing marketing requirements in 24 CFR part 200, subpart M and 24 CFR part 108.

[61 FR 7944, Feb. 29, 1996]

Subpart J—Equal Employment Opportunity

§ 200.400 Purpose.

The purpose of this subpart is to assist in achieving the aims of part III of Executive Order 11246 and the relevant regulations of the Secretary of Labor and the Secretary of Housing and Urban Development.

§ 200.405 Notice to public.

Participants in insurance programs under the National Housing Act shall be informed, as early as possible upon indicating their interest in any such