Office of Assistant Secretary for Housing, HUD

§ 242.55 Labor standards.

(a) Projects financed under this part (except under 24 CFR 242.91) must comply with the prevailing wage rates determined under the Davis-Bacon Act (40 U.S.C. 3141 et seq.), and U.S. Department of Labor regulations in 29 CFR parts 1, 3, and 5 for compliance with labor standards laws, in accordance with section 212 of the Act, provided that supplemental loans under section 241 of the Act made in connection with loans insured under this part are subject to labor standards requirements in the same manner and to the same extent as mortgages insured under section 242 of the National Housing Act.

(b) The requirements stated in 24 CFR part 70 governing HUD waiver of Davis-Bacon prevailing wage rates for

§ 242.52 Construction contracts.

(a) Awarding of contract. A contract for the construction or substantial rehabilitation of a hospital shall be entered into by a mortgagor, with a builder selected by a competitive bidding procedure acceptable to HUD.

(b) Form of contract. The construction contract shall be: A lump sum form providing for payment of a specified amount; a construction management contract with a guaranteed maximum price, the final costs of which are subject to a certification acceptable to HUD; a design-build contract with terms and certification requirements acceptable to HUD; or such other form of contract as may be acceptable to HUD.

(c) Competitive bidding. A competitive bidding procedure acceptable to HUD must be used in the selection of bidders to perform work or otherwise provide service to the project, the costs of which are included in any form of construction contract cited in paragraph (b) of this section. Fixed equipment not included in the construction contract, and movable equipment, may be purchased by securing quotations or by using competitive bidding procedures.

[72 FR 67546, Nov. 28, 2007, as amended at 73 FR 35923, June 25, 2008]

§ 242.53 Excluded contractors.

(a) Contracts relating to the construction of the project shall not be made with a general contractor that has an identity of interest, as defined by HUD, with the mortgagor or mortgagee.

(c) If HUD determines that a contract has been made contrary to the requirements of paragraphs (a) or (b) of this section and so notifies the mortgagee, HUD will require the contractor or construction manager to cost-certify and may require other remedial action in addition to taking enforcement action, as HUD deems appropriate.

§ 242.54 Nondiscrimination.

Hospital facilities financed with mortgages insured under this part must be made available without discrimination as to race, color, religion, sex, age, disability, or national origin. Hospitals must be operated in compliance with all applicable civil rights laws and regulations, including 24 CFR part 200, subpart J (Equal Employment Opportunity), and the Americans with Disabilities Act (42 U.S.C. 12101 et seq.). Racially restrictive covenants are per se illegal and their use is prohibited. The aforesaid provisions regarding age and sex discrimination do not affect the eligibility of hospitals for women and children.

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(b) The requirements stated in 24 CFR part 70 governing HUD waiver of Davis-Bacon prevailing wage rates for
volunteers apply to hospitals with mortgages insured under this part.
(c) Each laborer or mechanic employed on any facility covered by a mortgage insured under this part (except under 24 CFR 242.91), but including a supplemental loan under section 241 of the Act made in connection with a loan insured under this part) shall receive compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in any workweek in excess of 8 hours in any workday or 40 hours in the workweek.
(d) Project commitments, contracts, and agreements, as determined by HUD, and construction contracts and subcontracts, shall include terms, conditions, and standards for compliance with applicable requirements set forth in 29 CFR parts 1, 3, and 5 and section 212 of the Act.
(e) No advance under a loan or mortgage that is subject to the requirements of section 212 shall be eligible for insurance unless there is filed with the application for the advance a certificate as required by HUD certifying that the laborers and mechanics employed in construction of the project have been paid not less than the wage rates required under section 212.

§ 242.57 Maintenance of hospital facility.
The mortgagor shall maintain the hospital’s grounds, buildings, and the equipment financed with mortgage proceeds in good repair, and shall promptly complete such repairs and maintenance as HUD considers necessary.

§ 242.58 Books, accounts, and financial statements.
(a) Books and accounts. The mortgagor’s books and accounts relating to the operation of the physical facilities of the hospital shall be established in a manner satisfactory to HUD, and shall be kept in accordance with the requirements of HUD as long as the mortgage is insured or held by HUD.
(b) Financial reports. The mortgagor shall file with HUD:
(i) Annual audited financial statements in accordance with the guidance below;
(ii) Quarterly unaudited financial reports, within 40 days following the end of each quarter of the mortgagor’s fiscal year;
(iii) If requested by HUD, monthly financial reports within 40 days following the end of each month;
(iv) Board-certified annual financial results within 120 days following the close of the fiscal year (if the annual audited financial statement has not yet been filed with HUD) and at such other times as HUD may designate on a case-by-case basis; and
(v) Such other financial and utilization reports as HUD may require.
(c) Audits. (1) Not-for-profit and state and local governments shall conduct audits in accordance with the Consolidated Audit Guide for Audits of HUD Programs (Handbook 2000.04) and OMB Circular A–133 (Audits of states, local governments, and nonprofit organizations).
(2) For-profit organizations shall conduct audits in accordance with the