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any of the forms of project-based assistance enumerated in paragraphs (4)(i) to (4)(iv) of the “subsidized project” definition in §290.3.

(c) *Applicability to mortgages securing unsubsidized projects receiving project-based assistance (partially-assisted projects) or securing subsidized projects.*

(1) The nondiscrimination requirement in paragraph (a) of this section applies to the project owner upon the sale of a mortgage without FHA mortgage insurance if, at the time HUD offers it for sale, the mortgage secures:

(i) An unsubsidized project that receives any of the forms of assistance enumerated in paragraphs (4)(i) to (4)(iv) of the “subsidized project” definition in §290.5; or

(ii) A subsidized project, as defined in §290.3.

(2) This requirement shall continue in effect until the mortgage debt is satisfied.

(d) *Covenant requirement for all delinquent mortgages sold without FHA mortgage insurance.* This paragraph (d) applies to the sale of any mortgage that is delinquent at the time HUD offers it for sale without FHA mortgage insurance, without regard to the subsidy status of the project. The mortgage purchaser and its successors and assigns shall require the mortgagor to record a covenant running with the land as part of any loan restructuring or final compromise of the mortgage debt and shall include a covenant in any foreclosure deed executed in connection with the mortgage. The covenant shall set forth the nondiscrimination requirement in paragraph (a) of this section. The covenant shall continue in effect until a date that is the same as the maturity date of the mortgage sold by HUD.

[61 FR 11685, Mar. 21, 1996; 61 FR 19188, May 1, 1996, as amended at 61 FR 32265, June 21, 1996; 89 FR 38291, May 7, 2024]

PART 291—DISPOSITION OF HUD-ACQUIRED AND -OWNED SINGLE FAMILY PROPERTY

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AUTHORITY: 12 U.S.C. 1701 *et seq.*; 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

SOURCE: 56 FR 46956, Sept. 16, 1991, unless otherwise noted.

Subpart A—General Provisions

SOURCE: 64 FR 6479, Feb. 9, 1999, unless otherwise noted.

§ 291.1 Purpose and general requirements.

(a) *Purpose.* (1) This part governs the acquisition, possession, and disposition of one-to-four family properties acquired by the Federal Housing Administration (FHA) through foreclosure of an insured or Secretary-held mortgage or loan under the National Housing Act, or acquired by HUD under section 204(g) of the National Housing Act (12 U.S.C. 1710(g)). HUD will issue detailed policies and procedures that must be followed in specific areas.

(2) The purpose of the property disposition program is to dispose of properties in a manner that expands homeownership opportunities, strengthens neighborhoods and communities, and ensures a maximum return to the mortgage insurance funds.

(b) *Nondiscrimination policy.* The requirements set forth in 24 CFR parts 5 and 110 apply to the administration of any activity under this part. In addition, in accordance with 24 CFR 9.155(a), HUD must ensure that its policies and practices in conducting the single family property disposition program do not discriminate on the basis of disability.

[64 FR 6479, Feb. 9, 1999, as amended at 81 FR 53002, Aug. 11, 2016]

§ 291.5 Definitions.

Terms used in this part are defined as follows:

Competitive sale of individual property means a sale of an individual property to an individual bidder through a sealed bid process (or other bid process specifically authorized by the Secretary) in competition with other bidders in which properties have been pub-

licly advertised to all prospective purchasers for bids.

Direct sale means a sale to a selected purchaser to the exclusion of all others without resorting to advertising for bids. Such a sale is available only to approved applicants.

Eligible properties means HUD-acquired properties designated by HUD for property disposition or other housing programs.

HUD means the Department of Housing and Urban Development or its contractor, as appropriate.

Insured mortgage means a mortgage insured under the National Housing Act (12 U.S.C. 1701 *et seq.*).

Investor purchaser means a purchaser who does not intend to use the property as his or her principal residence.

Owner-occupant purchaser means a purchaser who intends to use the property as his or her principal residence; a State, governmental entity, tribe, or agency thereof; or a private nonprofit organization as defined in this section. Governmental entities include those with general governmental powers (e.g., a city or county), as well as those with limited or special powers (e.g., public housing agencies).

Private nonprofit organization means a secular or religious organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must:

(1) Have a voluntary board;

(2)(i) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles; or

(ii) Designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles;

(3) Practice nondiscrimination in the provision of assistance in accordance with the authorities described in § 291.435(a); and

(4) Have nonprofit status as demonstrated by approval under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)), or demonstrate that an application for such status is currently pending approval.

Secretary is defined in 24 CFR 5.100.

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State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Tribe has the meaning provided for the term “Indian tribe” in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

[64 FR 6479, Feb. 9, 1999, as amended at 81 FR 53002, Aug. 11, 2016]

§ 291.10 General policy regarding rental of acquired property.

HUD will lease acquired property to comply with other designated HUD programs, or when the Secretary determines that it is in the interest of HUD. Leases may include an option to purchase in appropriate circumstances.

Subpart B—Disposition by Sale

SOURCE: 64 FR 6480, Feb. 9, 1999, unless otherwise noted.

§ 291.90 Sales methods.

In accordance with section 204(g) of the National Housing Act (12 U.S.C. 1710(g)), HUD will prescribe the terms and conditions for all methods of sale. HUD may dispose of assets using any method that the Secretary deems appropriate, including, but not limited to the following:

(a) *Future REO acquisition method.* The Future Real Estate-Owned (REO) acquisition method consists of a property acquisition agreement (or agreements) between HUD and a transferor (or transferors), which shall provide for the right and obligation of the transferor(s) to acquire a future quantity of properties designated by HUD as they become available. HUD will select such transferor(s) through a competitive process, in accordance with all applicable laws and regulations, including the requirements in § 291.200. The transferor(s) shall have the right and obligation to manage and dispose of the properties upon such terms and conditions as are approved by the Secretary;

(b) *Competitive sales of individual properties.* This method consists of competi-

tive sales of individual properties to individual buyers, the procedures for which are described in § 291.205;

(c) *Direct sales methods.* There are three types of direct sales methods:

(1) Direct sales of properties without insured mortgages to governmental entities and private nonprofit organizations, the procedures for which are described in § 291.210(a);

(2) Direct sales to displaced persons, sales of razed lots, or auctions, the procedures for which are described in § 291.210(b);

(3) Direct sales to other individuals or entities that do not meet any of the categories specified in paragraphs (a) through (d) of this section, under the circumstances and procedures described in § 291.210(c);

(d) *Bulk sales,* the procedures for which are described in § 291.210(d); or

(e) *Other sales methods.* HUD may select any other methods of sale, as determined by the Secretary.

[64 FR 6480, Feb. 9, 1999, as amended at 81 FR 53002, Aug. 11, 2016]

§ 291.100 General policy on HUD acquisition, ownership, and disposition of real estate assets.

For all sales, except as otherwise specifically indicated, those sales conducted in accordance with §§ 291.90(a) and 291.200 or with subpart D of this part, the following general policies apply:

(a) *Qualified purchaser.* (1) Anyone, including a purchaser from a transferor of a property pursuant to §§ 291.90(a) and 291.200, regardless of race, color, religion, sex, national origin, familial status, age, or disability may offer to buy a HUD-owned property, except that:

(i) No member of or delegate to Congress is eligible to buy or benefit from a purchase of a HUD-owned property; and

(ii) No nonoccupant mortgagor (whether an original mortgagor, assumptor, or a person who purchased “subject to”) of an insured mortgage who has defaulted, thereby causing HUD to pay an insurance claim on the mortgage, is eligible to repurchase the same property.

(2) Neither HUD nor any transferor pursuant to §§ 291.90(a) or 291.200 will

offer former mortgagors in occupancy who have defaulted on the mortgage the right of first refusal to repurchase the same property.

(3) HUD will offer tenants accepted under the occupied conveyance procedures outlined in 24 CFR 203.670 through 203.685 the right of first refusal to purchase the property only if:

(i) The tenant has a recognized ability to acquire financing and a good rent-paying history, and has made a request to HUD to be offered the right of first refusal; or

(ii) State or local law requires that tenants be offered the right of first refusal.

(b) *List price.* The list price, or “asking price,” assigned to the property is based upon one or more evaluation tools (e.g., appraisal, Broker Price Opinion, Automated Valuation Model). An appraisal, when used, must be conducted by an independent real estate appraiser who meets all of the requirements of 24 CFR part 200, subpart G, and is in good standing on the appraiser roster established under that section. The appraiser must provide an opinion of the “as-is” market value using a valuation method that is commonly employed in the industry and that is consistent with FHA appraisal requirements.

(c) *Insurance.* When listing properties, HUD may elect to include information to indicate whether the property is eligible for FHA-insured financing under section 203(B) of the National Housing Act (12 U.S.C. 1709(b)).

(d) *Financing.* (1) Subject to underwriting requirements, REO properties that have not been identified as uninsurable in accordance with paragraph (c) of this section can be purchased and financed with a mortgage insured under section 203(b) or 203(k) of the National Housing Act (12 U.S.C. 1709(b), 1709(k)), if supported by an FHA appraisal, in one of the following ways:

(i) *Insured.* A property that meets the Minimum Property Standards (MPS), as defined in HUD Handbook 4905.1 or any successor handbook, as determined by the Secretary, for existing dwellings will be offered for sale in “as-is” condition with FHA mortgage insurance available as provided in part 203 of this chapter.

(ii) *Insured with repair escrow.* (A) A property that requires no more than \$10,000 for repairs to meet the MPS, as defined in HUD Handbook 4905.1 or any successor handbook, as determined by the Secretary, will be offered for sale in “as-is” condition with FHA mortgage insurance available, as provided in part 203 of this chapter, provided the mortgagor establishes a cash escrow to ensure the completion of the required repairs.

(B) *Changes in repair escrow.* HUD may adjust the escrow balance required under this paragraph based on changes to the Consumer Price Index by publishing a FEDERAL REGISTER notice that provides for a public comment period of 30 calendar days for the purpose of accepting comments on the amount of the change. After comments have been considered, HUD will publish a final notice announcing the revised escrow amounts.

(iii) *Insured with rehabilitation loan* in accordance with section 203(k) of the National Housing Act and pursuant to § 203.50 of this chapter.

(2) REO properties that have been identified as uninsurable in accordance with paragraph (c) of this section can be purchased and financed with a mortgage insured under section 203(k) of the National Housing Act (12 U.S.C. 1709(k)), subject to underwriting requirements supported by an FHA-specified appraisal and in accordance with 24 CFR 203.50.

(3) HUD, in its sole discretion and subject to appropriations, may take back Purchase Money Mortgages (PMMs) on property purchased by governmental entities or private nonprofit organizations who buy property for ultimate resale to owner-occupant purchasers with incomes at or below 115 percent of the area median income. When offered by HUD, a PMM will be available in an amount determined by the Secretary to be appropriate, at market rate interest, for a period not to exceed 5 years. Mortgagors must meet FHA mortgage credit standards.

(i) For purposes of this section, the term “purchase money mortgage,” or PMM means a note secured by a mortgage or trust deed given by a buyer, as mortgagor, to the seller, as mortgagee,

as part of the purchase price of the real estate.

(ii) Except as provided in paragraph (d)(3) of this section, the purchaser is entirely responsible for obtaining financing for purchasing a property.

(e) *Environmental requirements and standards.* Sales under this part are subject to the environmental requirements and standards described in 24 CFR part 50, as applicable.

(f) [Reserved]

(g) *Lead-based paint poisoning prevention.* Properties constructed before 1978 are subject to the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, F, and R, of this title.

(h) Any real estate broker who has agreed to comply with HUD requirements may be eligible to participate in the sales program. Purchasers participating in the competitive sales program, except government entities and nonprofit organizations, must submit bids through a participating broker. In accordance with section 204(g) of the National Housing Act (12 U.S.C. 1710(g)), HUD will prescribe the terms and conditions for all methods of listing properties. HUD may dispose of properties using any method that the Secretary deems appropriate, including, but not limited to the following:

(1) *Open listings.* Properties may be sold on an open listing basis with participating real estate brokers.

(2) *Asset management and listing contracts.* (i) HUD may invite firms experienced in property management to compete for contracts that provide for an exclusive right to manage and list specified properties in a given area.

(ii) In areas where a broker has an exclusive right to list properties, a purchaser may use a broker of his or her choice. The purchaser's broker must submit the bid through HUD's designated electronic bid system.

(i) *Disciplinary actions against HUD-qualified real estate brokers—(1) In general.* Real estate brokers that are involved in Real Estate Owned (REO) sales will be removed from HUD's qualified selling broker list and will be

prohibited from using HUD systems to participate in the sale of HUD-owned single family properties for good cause in accordance with the procedures of this paragraph. Nothing in this section prohibits HUD from taking such other action against a broker as provided in 24 CFR part 24 or from seeking any other available remedy.

(2) *Good cause.* Good cause includes, but is not limited to:

(i) Conviction under 18 U.S.C. 371 or 1010 of a broker or an agent supervised by that broker and acting within the scope of the agent's duties;

(ii) Any of the following actions by a broker or an agent supervised by that broker and acting within the scope of the agent's duties:

(A) Falsifying loan documents or aiding or abetting persons in the use of false or misleading information including, but not limited to, forged or fraudulent gift letters and owner occupant certifications;

(B) Acting in concert with an appraiser to arrive at an artificial appraised value;

(C) Engaging in fraudulent activities (with or without the assistance of an appraiser) that have led to default and payment of an insurance claim;

(D) Failing to comply with earnest money collection, management, and disbursement procedures as set forth in this part;

(E) Failing to maintain a current state license;

(F) Violating the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2601 *et seq.*);

(G) Non-compliance with civil rights requirements regarding the sale of HUD-owned single family properties;

(H) Involvement in, or knowledge of, any fraudulent activity by any person involved in the REO sales transaction; and

(I) Any other actions or omissions that evidence a lack of business integrity or non-compliance with the laws, regulations, and rules applicable to housing, lending, or real estate sales.

(3) *Written notice.* Once HUD makes an initial finding that there is good cause to remove a broker, HUD will provide the broker with written notice

of proposed removal from HUD's qualified selling broker list and deactivation of the broker's access to HUD systems to participate in the sale of HUD-owned properties. The notice will:

- (i) State the reasons that HUD is taking the action;
- (ii) Identify the violations or deficiencies involved;
- (iii) Provide a citation to the relevant regulation, statute, or policy; and
- (iv) State the effective date and duration of the removal and deactivation.

(4) *Effective date and duration of removal.* (i) The effective date of the broker's removal will be the 30th day after the date of the notice, unless the broker submits a written response or requests a conference in accordance with paragraph (i)(5) of this section;

(ii) HUD's determination of the duration of removal and deactivation will be based upon HUD's consideration of the number and seriousness of the broker's violations and deficiencies.

(5) *Response and conference.* Real estate brokers will be given 20 days after the date of the notice (or longer, if provided in the notice) to submit a written response to HUD opposing the proposed removal and to request a conference. A request for a conference must be in writing and must be submitted along with the written response. If a conference is requested, it will occur within 15 days after the date of receipt of the request. HUD may extend the 15-day period by providing written notice to the broker. HUD may request additional information at or following a conference and provide additional time to submit such information. If the information is not submitted by the time set by HUD, the conference is completed. If the information is timely submitted, the conference is not completed until HUD has considered the additional information.

(6) *Disposition*—(i) *No response from real estate broker.* If the real estate broker does not submit a written response within the time provided, the removal and deactivation take effect in accordance with the notice.

(ii) *Response from real estate broker.* If the real estate broker submits a written response within the time provided, the removal and deactivation are de-

layed until HUD considers the response and makes a final determination. HUD will consider the sufficiency of any corrective actions taken by a broker with respect to its procedures and, if relevant, its agents, in reaching its decision. Within 20 days after the date of receipt of the written response, or if a conference is requested, within 20 days after the date of completion of the conference, HUD will advise the real estate broker in writing of the decision to rescind, modify, or affirm the removal from HUD's qualified selling broker list and the deactivation of the broker's access to HUD systems to participate in the sale of HUD-owned properties. The written decision by HUD shall constitute final agency action.

(7) *Effect of removal proceeding on bids.* All bids submitted and commissions earned by the real estate broker prior to removal will be honored, unless HUD determines they were made under fraudulent circumstances.

[64 FR 6480, Feb. 9, 1999, as amended at 64 FR 50225, Sept. 15, 1999; 71 FR 65325, Nov. 7, 2006; 81 FR 53002, Aug. 11, 2016]

Subpart C—Sales Procedures

SOURCE: 64 FR 6481, Feb. 9, 1999, unless otherwise noted.

§ 291.200 Future REO acquisition method.

(a) Under this method of property disposition, HUD will enter into a property acquisition agreement (or agreements) with a transferor (or transferors), which shall provide for the right and obligation of the transferor(s) to acquire a future quantity of properties designated by HUD as they become available. The transferor(s) will be selected through a competitive process, conducted in accordance with applicable laws. HUD will negotiate the specific terms of the property acquisition agreement(s) with the selected transferor(s). The properties will be available on an "as-is" basis only, without repairs or warranties.

(b) *Eligible entities.* An individual, partnership, corporation, or other legal entity will not be eligible to participate in this process if at the time of the sale, that individual or entity is

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debarred, suspended, or otherwise precluded from doing business with HUD under 2 CFR part 2424.

[64 FR 6481, Feb. 9, 1999, as amended at 72 FR 73495, Dec. 27, 2007]

§ 291.205 Competitive sales of individual properties.

When HUD conducts competitive sales of individual properties to individual buyers, it will generally sell the properties on an “as-is” basis, without repairs or warranties, and it will follow the sales procedures provided in this section.

(a) *General.* (1) Properties that are sold on an individual competitive bid basis are sold through local real estate brokers, except as provided in § 291.100(h).

(2) For properties being offered with insured mortgages, priority will be given to owner-occupant purchasers, as defined in § 291.5, for a period of up to 30 days, as determined by HUD. For properties offered without insured mortgages, priority will be given to governmental entities and nonprofit organizations prior to other owner-occupant purchasers.

(b) *Net offer.* (1) The net offer is calculated by subtracting from the bid price the dollar amounts for the financing and loan closing costs and the broker’s sales commission, as described in paragraph (b)(2) of this section.

(2) If an owner-occupant purchaser of the property requests in the bid, HUD may pay all or a portion of the financing and loan closing costs, not to exceed the percentage of the purchase price determined appropriate by the Secretary for the area. In no event will the total amount for broker’s sales commission exceed 6 percent of the purchase price, except for cash bonuses offered to brokers by HUD for the sale of hard-to-sell properties. No assistance for financing and loan closing costs or for the broker’s sales commission will be provided to investor purchasers.

(c) *Acceptable bid.* HUD will accept the bid producing the greatest net return to HUD and otherwise meeting the terms of HUD’s offering of the property, with priority given to owner-occupant purchasers as described in paragraph (a)(2) of this section. The great-

est net return is calculated based on the net offer, as described in paragraph (b) of this section.

(d) *Bid period.* (1) HUD will establish a bid period for properties available for sale. Generally, the bid period will be 10 days, but may be lengthened or shortened by HUD. After properties are initially advertised, bids may be submitted by all potential purchasers. However, in the case of properties offered with insured mortgages, HUD may give priority to owner-occupant purchasers for a period of up to 30-days, as described in paragraph (a)(2) of this section.

(2) HUD may treat all bids received during a specified period of time during the bid period to have been received simultaneously. HUD may also choose to review bids on a daily basis, with all bids submitted during each day considered to have been received simultaneously. HUD may use either (or both) of these methods during the bid period, as described in the bid materials accompanying a particular sale.

(3) Offers received on a property before the bid period begins will be returned. Offers received after the bid period will not be considered at the bid opening, but will be considered during the extended listing period if no acceptable bid was received during the bid period (see paragraph (f) of this section).

(e) *Full price offers.* HUD local offices that operate under a “full price offer” program open offers at specified times during the bid period. If an offer for the full list price and otherwise meeting the terms of the offering is received, it will be accepted at the time of the opening and the bid period cancelled.

(f) *Extended listing period.* Properties not sold during the bid period will remain available for an extended listing period. All bids received on each day of the extended listing period will be considered as being received simultaneously, and will be opened together at the next scheduled daily bid opening. Properties that fail to sell within 45 days after being offered for competitive bidding will be reanalyzed and made available for sale. If a property’s price or terms are changed, it may be subject to another competitive bid period as

described in paragraph (d) of this section.

(g) *Bid requirements.* (1) All successful bids submitted, whether during the bid period or the extended listing period, must be in a form prescribed by HUD, and must be submitted in accordance with procedures established by HUD. If the purchase is to be an insured sale, a local HUD office may also require that supporting exhibits for mortgage credit analysis accompany the initial submission of the bid. All bids not indicating that the purchaser will occupy the property will be considered as offers from investor purchasers.

(2) Noncomplying bids will be returned to the broker with an explanation for the noncompliance decision and information about whether the property is still available.

(h) *Earnest money deposits.* (1) The amount of earnest money deposit required for a property with a sales price of \$50,000 or less is \$500, except that for vacant lots the amount is 50 percent of the list price. For a property with a sales price greater than \$50,000, the amount of earnest money deposit required in the area is set by the local HUD office, in an amount not less than \$500 or more than \$2,000. Information on the amount of the required earnest money deposit is available from the local HUD office or participating real estate brokers.

(2) All bids must be accompanied by earnest money deposits in the form of a cash equivalent as prescribed by the Secretary, or a certification from the real estate broker that the earnest money has been deposited in the broker's escrow account. If a bid is accepted by HUD, the earnest money deposit will be credited to the purchaser at closing; if the bid is rejected, the earnest money deposit will be returned. Earnest money deposits are subject to total or partial forfeiture for failure to close a sale.

(i) *Multiple bids.* Real estate brokers may submit unlimited numbers of bids on an individual property provided each bid is from a different prospective purchaser. If a purchaser submits multiple bids on the same property, only the bid producing the highest net return to HUD will be considered. If a prospective owner-occupant purchaser

submits a bid on more than one property, the bid that produces the greatest net return to HUD will be accepted and all other bids from that purchaser will be eliminated from consideration. However, if the prospective owner-occupant purchaser has submitted the only acceptable bid on another property, then that bid must be accepted and all other bids from that purchaser on any other properties will be eliminated from consideration.

(j) *Identical bids.* In the case of identical bids submitted by an owner-occupant purchaser and an investor purchaser, HUD will select the bid submitted by the owner-occupant purchaser. If identical bids are submitted by two or more owner-occupant purchasers, or by two or more investor purchasers, award will be determined by drawing lots.

(k) *Opening the bids.* Unless the Secretary specifically authorizes another bid process:

(1) The Secretary will make all winning bids available publicly.

(2) Successful bidders will be notified through their real estate brokers by electronic mail, mail, telephone, or other means. Acceptance of a bid is final and effective only upon HUD's execution of the sales contract, signed by both the submitting real estate broker and the prospective purchaser, and sending a copy of the executed contract by electronic mail to the successful bidder or the bidder's agent.

(l) *Counteroffers.* HUD may present counteroffers during competitive bid periods, as it deems appropriate to minimize losses to its insurance fund. "Best and Final" offers requested by HUD are considered counteroffers.

[64 FR 6481, Feb. 9, 1999, as amended at 81 FR 53003, Aug. 11, 2016]

§ 291.210 Direct sales procedures.

When HUD conducts the sales listed in § 291.90(c), it will sell the properties on an "as-is" basis, without repairs or warranties, and it will follow the applicable sales procedures provided in this section.

(a) *Direct sales of properties without insured mortgages to governmental entities and private nonprofit organizations.* (1) State and local governments, public

agencies, and qualified private non-profit organizations that have been preapproved to participate by HUD, according to standards determined by the Secretary, may purchase properties directly from HUD at a discount off the list price determined by the Secretary to be appropriate, but not less than 10 percent, for use in HUD and local housing or homeless programs.

(2)(i) Purchasers under paragraph (a)(1) of this section must designate geographical areas of interest by ZIP code. Upon request, before those properties without insured mortgages are publicly listed, HUD will assure that governmental entities and nonprofit organizations are notified in writing when eligible properties become available in the areas designated by them. HUD will coordinate the dissemination of the information to ensure that if more than one purchaser designates a specific area, those purchasers receive the list of properties at the same time, based on intervals agreed upon between HUD and the purchasers. A property in this section will be sold to the first eligible purchaser submitting an acceptable contract. All bids received on the same business day will be considered to have been received simultaneously. In the case of identical bids submitted on the same business day, award will be determined by drawing lots.

(ii) Purchasers under paragraph (a)(1) of this section must notify HUD of preliminary interest in specific properties within 5 days of the notification of available properties (if notification is by mail, the 5 days will begin to run 5 days after mailing). HUD will provide a consideration and inspection period for these purchasers. The consideration and inspection period will usually be for ten days from the date of notification of interest, but may be lengthened or shortened by HUD, as appropriate. Those properties in which purchasers express an interest will be held off the market for the duration of the consideration and inspection period. Other properties on the list will continue to be processed for public sale. HUD may limit the number of properties held off the market for a purchaser at any one time, based upon the purchaser's financial capacity as determined by HUD and upon past performance in HUD pro-

grams. At the end of the consideration and inspection period, properties in which no governmental entity or non-profit organization has expressed a specific intent to purchase will be offered for sale under the competitive bid process. Properties in which a governmental entity or nonprofit organization expressed an intent to purchase, during the consideration and inspection period, will continue to be held off the market pending receipt of the sales contract. If a sales contract is not received within a time period of up to 10 days, as determined by HUD, following expiration of the consideration and inspection period, and no other governmental entity or nonprofit organization has expressed an interest, then the property will be offered for sale under the competitive bid process.

(3) In order to ensure that properties purchased at a discount are being utilized for expanding affordable housing opportunities, HUD may require, as appropriate, periodic, limited information regarding the purchase and resale of such properties, and certain restrictions on the resale of such properties.

(b) *Direct sales to displaced persons; razed lots; auctions.* HUD may seek to dispose of individual properties to individual buyers through methods such as direct sales to displaced persons, sales of razed lots, or auctions. These sales will be upon such terms and conditions as the Secretary may prescribe.

(c) *Direct sales to individuals or entities.* HUD may also seek to dispose of properties through direct sales to other individuals or entities that do not meet any of the categories specified in this section, if the Assistant Secretary for Housing-Federal Housing Commissioner (or his or her designee) finds in writing that such sales would further the goals of the National Housing Act (12 U.S.C. 1701 *et seq.*) and would be in the best interests of the Secretary. These sales will be upon such terms and conditions as the Secretary may prescribe.

(d) *Bulk sales.* HUD may seek to dispose of properties through bulk sales. Such sales will be upon such terms and conditions as the Secretary may prescribe.

Subpart D [Reserved]

Subpart E—Lease and Sale of HUD-Acquired Single Family Properties for the Homeless

§ 291.400 Purpose and scope.

(a) *Purpose.* HUD seeks to assist individuals and families who are homeless by providing them with transitional housing and appropriate supportive services with the goal of helping them move to independent living. Therefore, HUD will make available, to applicants approved by HUD, certain HUD-acquired single family properties for use by the homeless.

(b) *Applicant preapproval.* Before a field office may notify an applicant of eligible properties, the applicant must be preapproved by HUD, according to procedures available from the field office.

(c) *Property available for lease with option to purchase.* HUD will make available up to 10 percent of its total inventory of properties, before or after they are listed for sale to the public.

(d) *Property available under a McKinney Act Supportive Housing program lease-option agreement.* Eligible properties will be available under a lease-option to purchase agreement to Supportive Housing program applicants for acquisition grants under 24 CFR part 583.

(e) *Properties available for sale.* Eligible properties will be available for competitive sale or direct sale for fair market value, less a discount determined appropriate by the Secretary but not less than 10 percent.

(f) *Concentration of properties.* To the extent practicable and possible, HUD will avoid excessive concentration in a single neighborhood of properties leased or sold under this subpart.

(g) *Failure to comply with requirements.* Failure to comply with this subpart, or a lease issued under this subpart, may result in termination from the program.

(Approved by the Office of Management and Budget under OMB control number 2502-0412)

[61 FR 55714, Oct. 28, 1996]

§ 291.405 Definitions.

For purposes of this subpart E:

Applicant means a State, metropolitan city, urban county, governmental

entity, tribe, or private nonprofit organization that submits a written expression of interest in eligible properties under this subpart E. Governmental entities include those that have general governmental powers (e.g., a city or county), as well as those with limited or special powers (e.g., public housing agencies or State housing finance agencies). In the case of applicants leasing properties while their applications for Supportive Housing assistance are pending, “applicant” is defined in 24 CFR part 583.

Homeless means:

(1) Individuals or families who lack the resources to obtain housing, whose annual income is not in excess of 50 percent of the median income for the area, as determined by HUD, and who:

(i) Have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;

(ii) Have a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing, but excluding prisons or other detention facilities); or

(iii) Are at imminent risk of homelessness because they face immediate eviction and have been unable to identify a subsequent residence, which would result in emergency shelter placement (except that persons facing eviction on the basis of criminal conduct such as drug trafficking and violations of handgun prohibitions shall not be considered homeless for purposes of this definition); or

(2) Persons with disabilities who are about to be released from an institution and are at risk of imminent homelessness because no subsequent residences have been identified and because they lack the resources and support networks necessary to obtain access to housing.

Lessee means the applicant, approved by HUD as financially responsible, that executes a lease agreement with HUD for an eligible property.

[64 FR 6482, Feb. 9, 1999]

§ 291.415 Lease with option to purchase properties for use by the homeless.

(a) *Certification.* Eligible properties are available for lease to applicants, approved by HUD, that certify that the property will be utilized only for the purpose of providing transitional housing for the homeless during the lease term, and that the intended use of the property will be consistent with all local laws and regulations. The lease agreement will be in a form prescribed by the Secretary. Lessees must execute a sublease with occupants in a form prescribed by the Secretary limiting an occupant's tenancy to no longer than two years.

(b) *Term of lease.* (1) A lease of an eligible property may be negotiated for such time as the lessee requires, not to exceed one year. Leases are renewable, at the option of the lessee and with the approval of HUD, at the end of the first lease term for up to four additional one-year terms, on a year-to-year basis, provided the lessee has met the requirements under this program.

(2) Approvals for lease renewals will be denied if HUD determines that the lessee has not complied with the requirements of this part of the lease.

(3) A property will not be leased to a lessee for a period longer than five years. At the end of the five-year period, if the lessee has not exercised the option to purchase, HUD will notify the lessee to vacate the property and, if necessary, will take appropriate action under the eviction laws of the jurisdiction in which the property is located. All property returned to HUD must be vacant, and will be placed on the market for sale to the general public.

(4) Within 30 days of leasing a property from HUD or within 30 days after a property is vacated, a lessee must sublease the property to the homeless, unless a longer period is approved by HUD.

(c) *Rent.* (1) The lessee must pay HUD a nominal rent of \$1 for each one-year lease period.

(2) A lessee may charge rent, including utilities, to an occupant at a rate appropriate to the financial means of the occupant. Unless HUD approves after consideration of such factors as

the cost of operating housing in the area and the amount of the lessee's contributions to the program, such rent may not exceed the highest of:

(i) Thirty percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child care expenses);

(ii) Ten percent of the family's monthly income; or

(iii) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated.

(3) In no event may the rent charged an occupant exceed the occupant's pro rata share of the lessee's costs of operating the property.

(d) *Damage to leased properties.* Any damage to leased property caused by the intentional or negligent acts of the lessee or occupants must be repaired by the lessee at its own expense. If the lessee does not make the necessary repairs within a reasonable time after the damage occurs, HUD may, at its option, make the repairs and charge the cost to the lessee. Failure by the lessee to make the necessary repairs or to reimburse HUD for the cost of repairs will constitute grounds for termination of the lease and may result in termination from the program.

(e) *Purchase of leased properties.* (1) Lessees that desire to purchase leased properties during the lease term will be offered the properties at the lower of the fair market value established at the time of the initiation of the lease or at the time of the sale, less a discount determined appropriate by the Secretary but not less than 10 percent, provided lessees agree to use the properties either to house low-income tenants for a period of not less than 10 years or to resell the properties to low-income buyers. If the lessee does not agree to such conditions, the lessee must purchase the properties at the higher of the fair market value at the time of the initiation of the lease or at the time of the sale, less 10 percent.

Any repairs to or rehabilitation of a property done by a lessee during the lease term will not be reflected in the purchase price.

(2) Sales of leased properties will be on as-is, all-cash basis. HUD will not pay a fee for a selling broker. HUD will pay the closing agent's fee. The purchaser must pay all other closing costs.

[61 FR 55715, Oct. 28, 1996]

§ 291.430 Elimination of lead-based paint hazards.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, F, and R of this title, apply to activities covered by this subpart.

[64 FR 50225, Sept. 15, 1999, as amended at 69 FR 34275, June 21, 2004]

§ 291.435 Applicability of other Federal requirements.

In addition to the requirements set forth in 24 CFR part 5, the following Federal requirements apply to lessees and purchasers under this subpart:

(a) *Nondiscrimination and equal opportunity.* (1) The nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5 are modified as follows:

(i) As applicable, lessees and purchasers must also comply with the Americans With Disabilities Act (42 U.S.C. 12131) and implementing regulations in 28 CFR parts 35 and 36.

(ii) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and Executive Order 11246 (30 FR 12319, 12935, 3 CFR, 1946-1965 Comp., p. 339; Executive Order 11625 (36 FR 19967, 3 CFR, 1971-1975 Comp., p. 616); Executive Order 12432 (48 FR 32551, 3 CFR, 1983 Comp., p. 198; and Executive Order 12138 (44 FR 29637, 3 CFR, 1979 Comp., p. 393) do not apply to this subpart.

(2) Lessees or purchasers that intend to serve designated populations of the homeless must comply, within the designated population, with the requirements for nondiscrimination on the basis of race, color, religion, sex, na-

tional origin, age, familial status, and disability.

(3) If the procedures that the lessee or purchaser intends to use to make known the availability of housing are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for admission to the housing, the recipient must establish additional procedures that will ensure that interested persons can obtain information concerning the availability of the housing.

(4) The lessee or purchaser must adopt procedures to make available information on the existence and locations of facilities and services that are accessible to persons with a handicap and maintain evidence of implementation of the procedures.

(b) *Conflicts of interest.* No person who is an employee, agent, consultant, officer, or elected or appointed official of the lessee or purchaser of property under this subpart, or who is in a position to participate in a decisionmaking process or gain inside information with regard to the lease or purchase of the property, may obtain a personal or financial interest or benefit from the lease or purchase of the property, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

[61 FR 55715, Oct. 28, 1996]

§ 291.440 Recordkeeping requirements.

Each lessee must establish and maintain sufficient records to enable the Secretary to determine whether the requirements of this subpart have been met. This includes, where available, racial, ethnic, gender, and disability status data on the applicants for, and beneficiaries of, this homeless initiative.

(Approved by the Office of Management and Budget under OMB control number 2502-0412)

[61 FR 55716, Oct. 28, 1996]

Subpart F—Good Neighbor Next Door Sales Program

SOURCE: 71 FR 64426, Nov. 1, 2006, unless otherwise noted.

§ 291.500 Purpose.

This subpart describes the policies and procedures governing the Good Neighbor Next Door (GNND) Sales Program. The purpose of the GNND Sales Program is to improve the quality of life in distressed urban communities. This is to be accomplished by encouraging law enforcement officers, teachers, and firefighters/emergency medical technicians to purchase and live in homes that are located in the same communities where they perform their daily responsibilities and duties.

[81 FR 53003, Aug. 11, 2016]

§ 291.505 Definitions.

For purposes of this subpart:

Locality means the community, neighborhood, or jurisdiction of the unit of general local government, or Indian tribal government;

Unit of general local government means a county or parish, city, town, township, or other political subdivision of a State.

[81 FR 53003, Aug. 11, 2016]

§ 291.510 Overview of the GNND Sales Program.

(a) *General.* The GNND Sales Program enables a full-time law enforcement officer, teacher, or firefighter/emergency medical technician to purchase a specifically designated HUD-acquired home located in a HUD-designated revitalization area:

(1) At a 50 percent discount from the list price; and

(2) With a downpayment of \$100, but only if the law enforcement officer, teacher, or firefighter/emergency medical technician finances the home through a Federal Housing Administration (FHA) insured mortgage.

(b) *Eligible properties.* Under the GNND Sales Program, single-unit properties acquired by HUD located in HUD-designated revitalization areas (except occupied properties, those located in Asset Control Areas, or those that HUD has determined will be sold

through an alternative sales method) will be made available to interested law enforcement officers, teachers, and firefighters/emergency medical technicians prior to listing the properties for sale to other purchasers.

(c) *Multiple bids.* In the event that several bids are received on a single property, HUD will randomly select a winning offer by lottery and will also randomly select two backup bids, to be utilized in the order selected, in the event the winning purchaser is unable to close on the property. If both of the backup purchasers are also unable to close on the property, the property will then be made available for sale to purchasers through other sales methods.

(d) *Real estate brokers.* Law enforcement officers, teachers, and firefighters/emergency medical technicians must submit bids through a participating real estate broker. Any real estate broker who has agreed to comply with HUD requirements may participate in the GNND Sales Program. Real estate brokers may submit unlimited numbers of bids on an individual property provided each bid is from a different prospective purchaser.

(e) *Cap on sales.* The number of HUD-acquired homes sold under the GNND Sales Program in a fiscal year shall not exceed 5 percent of the number of “Part A” mortgage insurance conveyance claims paid by HUD in the prior fiscal year. The cap shall apply on a national basis, but HUD reserves the right to geographically apportion the cap to address regional or local differences in the number of homes sold through the GNND Sales Program. Additionally, HUD may adjust the percentage of the cap for any fiscal year. Any HUD determination to geographically distribute the cap, change a current geographic distribution, or adjust the percentage of the cap will be announced by HUD through publication of a notice in the FEDERAL REGISTER at least 30 days before the revision takes effect.

[71 FR 64426, Nov. 1, 2006, as amended at 73 FR 1974, Jan. 11, 2008]

§ 291.515 Purchaser qualifications.

To qualify to purchase a home through the GNND Sales Program:

(a) The person must be employed as a law enforcement officer (as described in § 291.520), teacher (as described in § 291.525), or firefighter/emergency medical technician (as described in § 291.530) at the time he/she submits a bid to purchase a home through the program and at the time of closing on the purchase of the home;

(b) The person must certify to his/her good faith intention to continue employment as a law enforcement officer (as described in § 291.520), teacher (as described in § 291.525), or firefighter/emergency medical technician (as described in § 291.530) for at least one year following the date of closing;

(c) The person must make an earnest money deposit at the time of signing the contract for purchase of the home, as described in § 291.535;

(d) The person must agree to own, and live in as his/her sole residence, the home for the entire duration of the owner-occupancy term, as described in § 291.540, and to certify to that occupancy, as described in § 291.565;

(e) The person must agree to execute a second mortgage and note on the home, as described in § 291.550, for the difference between the list price and the discounted selling price;

(f) Neither the person (nor his/her spouse) may have owned any residential real property during the year prior to the date of submitting a bid on the home being acquired through the GNND Sales Program;

(g) Neither the person (nor his/her spouse) must ever have purchased another home under the GNND Sales Program or under the predecessor Officer Next Door Sales and Teacher Next Door Sales Programs; and

(h) Although both spouses, if otherwise eligible, may submit a bid on a single home made available for sale under the GNND Sales Program, HUD will approve a bid from only one spouse.

§ 291.520 Eligible law enforcement officers.

A person qualifies as a law enforcement officer for the purposes of the GNND Sales Program if the person is:

(a) Employed full-time by a law enforcement agency of the federal government, a state, a unit of general

local government, or an Indian tribal government;

(b) In carrying out such full-time employment, the person is sworn to uphold, and make arrests for violations of, federal, state, tribal, county, township, or municipal laws and

(c) The full-time employment in paragraph (a) of this section must, in the normal course of business, directly serve the locality in which the home is located.

[71 FR 64426, Nov. 1, 2006, as amended at 81 FR 53003, Aug. 11, 2016]

§ 291.525 Eligible teachers.

A person qualifies as a teacher for the purposes of the GNND Sales Program if the person is:

(a) Employed as a full-time teacher by a state-accredited public school or private school that provides direct services to students in grades pre-kindergarten through 12; and

(b) The full-time employment in paragraph (a) of this section must, in the normal course of business, serve students from the locality where the home is located.

[71 FR 64426, Nov. 1, 2006, as amended at 81 FR 53003, Aug. 11, 2016]

§ 291.530 Eligible firefighter/emergency medical technicians.

A person qualifies as a firefighter/emergency medical technician for the purposes of the GNND Sales Program if the person is:

(a) Employed full-time as a firefighter or emergency medical technician by a fire department or emergency medical services responder unit of the Federal Government, a State, unit of general local government, or an Indian tribal government; and

(b) The full-time employment in paragraph (a) of this section must, in the normal course of business, directly serve the locality where the home is located.

[81 FR 53003, Aug. 11, 2016]

§ 291.535 Earnest money deposit.

(a) *General.* The earnest money deposit is the sum of money that must be paid by the law enforcement officer,

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teacher, or firefighter/emergency medical technician at the time of submitting a bid to purchase a property under the GNND Sales Program. Each bid must be accompanied by a certification from the real estate broker that the earnest money deposit has been deposited in the broker's escrow account.

(b) *Amount of earnest money deposit.* The amount of the earnest money deposit required is an amount equal to one percent of the list price, but no less than \$500 and no more than \$2,000.

(c) *Acceptance or rejection of offer.* If an offer is accepted, the earnest money deposit will be credited to the purchaser at closing. If the offer is rejected, the earnest money deposit will be returned. Earnest money deposits are subject to total forfeiture for failure of the participant to close a sale.

§ 291.540 Owner-occupancy term.

(a) *General.* The owner-occupancy term is the number of months a participant in the GNND Sales Program must agree to own, and live in as his/her sole residence, a home purchased through the GNND Sales Program.

(b) *Start of owner-occupancy term.* The owner-occupancy term is 36 months, commencing either:

(1) Thirty days following closing if HUD determines that the home requires no more than \$10,000 in repairs prior to occupancy;

(2) Ninety days following closing if HUD determines that the home requires more than \$10,000, but not more than \$20,000 in repairs prior to occupancy; or

(3) One hundred and eighty days following closing if HUD determines that the home requires more than \$20,000 in repairs prior to occupancy.

(c) *Interruptions to owner-occupancy term—(1) General.* HUD may, at its sole discretion, allow interruptions to the 36-month owner-occupancy term if it determines that the interruption is necessary to prevent hardship, but only if the law enforcement officer, teacher, or firefighter/emergency medical technician submits a written and signed request to HUD containing the following information:

(i) The reason(s) why the interruption is necessary;

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(ii) The dates of the intended interruption; and

(iii) A certification from the law enforcement officer, teacher, or firefighter/emergency medical technician that:

(A) The law enforcement officer, teacher, or firefighter/emergency medical technician is not abandoning the home as his/her permanent residence; and

(B) The law enforcement officer, teacher, or firefighter/emergency medical technician will resume occupancy of the home upon the conclusion of the interruption and complete the remainder of the 36-month owner-occupancy term.

(2) *Timing of written request to HUD.* The written request for approval of an interruption to the owner-occupancy term must be submitted to HUD at least 30 calendar days before the anticipated interruption. Military service members protected by the Servicemembers Civil Relief Act need not submit their written request to HUD 30 days in advance of an anticipated interruption, but should submit their written request as soon as practicable upon learning of a potential interruption, in order to ensure timely processing and approval of the request.

§ 291.545 Financing purchase of the home.

(a) *Purchase using conventional financing.* If the law enforcement officer, teacher, or firefighter/emergency medical technician uses conventional financing to purchase a home under the GNND Sales Program, the amount of the mortgage may not exceed the discounted sales price of the home.

(b) *Purchase with FHA-insured mortgage.* (1) A law enforcement officer, teacher, or firefighter/emergency medical technician using an FHA-insured mortgage to finance purchase of the home may finance reasonable and customary closing costs with the FHA-insured mortgage.

(2) The amount of the FHA-insured mortgage may not exceed the discounted sales price of the home plus:

(i) The closing costs; and

(ii) The costs of rehabilitating and/or improving the home, where purchase of the home is being financed with an

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FHA-insured 203(k) rehabilitation loan (see 24 CFR part 203).

(c) *Closing costs and selling broker's commissions.* In no event will HUD pay a buyer's closing costs on the purchase of a property or a selling broker's commission through the GNND Sales Program.

§ 291.550 Second mortgage.

(a) *General.* The second mortgage is a mortgage and note, payable to HUD, on the home purchased through the GNND Sales Program in the amount of the difference between the list price of the home and the discounted selling price.

(b) *Second mortgage term.* The term of the second mortgage is equal to the owner-occupancy term (36 months) plus 30, 90, or 180 days, as provided in § 291.540(b). The amount of the second mortgage will be reduced by 1/36th on the last day of each month of occupancy following the occupancy start date. At the end of the 36th month of occupancy, the amount of the second mortgage will be zero.

(c) *Sale or vacancy of home.* If the law enforcement officer, teacher, or firefighter/emergency medical technician sells his/her home or stops living in the home as his/her sole residence prior to the expiration of the owner-occupancy term, he/she will owe HUD the amount due on the second mortgage as of the date the property is either sold or vacated.

§ 291.555 Refinancing.

(a) *General.* A law enforcement officer, teacher, or firefighter/emergency medical technician may refinance the mortgage and note used to purchase the home. However, the total of the refinanced mortgage and the remaining principal balance of the second mortgage may not exceed 95 percent of the value of the property, as appraised at the time of the refinancing. Unless HUD permits subordination pursuant to paragraph (b) of this section, the second mortgage described in § 291.550 must hold a superior lien position to the refinanced mortgage.

(b) *Subordination of second mortgage.* HUD may permit subordination of the second mortgage to the refinanced mortgage, but only if HUD, at its sole discretion, determines that the refi-

nancing will satisfy one of the following:

(1) Will result in a lower annual percentage rate (APR) on the first mortgage;

(2) Will be undertaken pursuant to HUD's Section 203(k) Rehabilitation Loan Insurance Program in order to rehabilitate or repair the home; or

(3) Is necessary to prevent the law enforcement officer, teacher, or firefighter/emergency medical technician from defaulting on the first mortgage.

§ 291.560 Ineligibility of multiple-unit properties.

Only single-unit properties are eligible for the GNND Sales Program.

§ 291.565 Continuing obligations after purchase.

To remain in compliance with the GNND Sales Program, the law enforcement officer, teacher, or firefighter/emergency medical technician must, for the entire duration of the owner-occupancy term:

(a) Continue to own, and live in as his/her sole residence, the home purchased through the GNND Sales Program; and

(b) Certify initially and once annually thereafter during and at the conclusion of the owner-occupancy term that he/she was at all times fully in compliance with paragraph (a) of this section.

Subpart G—Sale of HUD-Held Single Family Mortgage Loans

SOURCE: 89 FR 99716, Dec. 11, 2024, unless otherwise noted.

§ 291.601 Definitions.

For purposes of this subpart, the following definitions apply:

Aggregate Loan Database (ALD) means the electronic data file containing Single Family Loan information available for Qualified Participants to review before a Single Family Sale.

Bidder Information Package (BIP) means the documents prepared for participants in a Single Family Sale, which may include, but are not limited

to, the following: an executive summary of the Programs; the Single Family Sale post-sale servicing and reporting requirements published by HUD; due diligence information and reports; Single Family Loan information; the Conveyance, Assignment and Assumption Agreement (CAA); bidding and settlement information; and necessary information and requirements as determined by the Secretary.

Bidder Qualification Statement means HUD Forms 9611 and 9612, or any form approved for similar purpose in the future as prescribed by the Secretary. (OMB number 2502–0576)

Claim Date means, with respect to each Single Family Loan, the date on which the Single Family Sale assignment claim is paid by HUD to the P-Servicer.

Competitive Sale of Single Family Loans means a sale of an individual or group of Single Family Loans to Qualified Participants through a bid process prescribed by the Secretary in competition with other Qualified Participants in accordance with § 291.609.

Confidentiality Agreement means a nondisclosure agreement under which the individual or entity seeking to participate in Single Family Sales agrees that Single Family Loan data and documentation shared with the individual or entity as due diligence will remain confidential in accordance with the terms of the agreement as determined by the Secretary.

Conveyance, Assignment and Assumption Agreement (CAA) means the contract between HUD and a Purchaser, along with all applicable exhibits and riders, that governs the terms of the Single Family Sale as prescribed by the Secretary. The CAA will include any sale-specific post-sale servicing and outcome requirements, representations, repurchase requirements, schedule of dates, and reporting requirements published by the Secretary for the Single Family Sale through a Sale Notice.

Cut-off date or claim submission cut-off date means the last date specified by the Secretary on which the P-Servicer is permitted to submit to HUD a Single Family Sale insurance claim for payment under 24 CFR 203.413 and 206.130.

Desk Guide means the technical manual included in the PSA detailing the P-Servicer's steps for submitting Single Family Loans related to a Single Family Sale, including but not limited to the process for identifying eligible Single Family Loans, uploading due diligence files, and submitting insurance claims.

Direct Sale of Single Family Loans means a sale of an individual or group of Single Family Loans to a Qualified Participant through the process described in § 291.619.

Home Equity Conversion Mortgage (HECM) means reverse mortgages insured in accordance with 24 CFR part 206 under the FHA Home Equity Conversion Mortgage insurance program.

Interim Servicing Agreement (ISA) means the agreement between a Purchaser and P-Servicer that governs the servicing and administration of the purchased loans, including but not limited to transfer of mortgage information and loss mitigation evaluations, during the Interim Servicing Period in accordance with the terms prescribed by the Secretary.

Interim Servicing Period means the period commencing with Claim Date and ending with the Servicing Transfer Date.

Low-value means, in reference to a Mortgage, the value minimum stated in the Participating Servicer Agreement (PSA).

Nonprofit organization means an entity that is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C.A. 501(c)(3)) and meets the qualification requirements prescribed by the Secretary for participation in a Single Family Sale.

Participating Servicer (P-Servicer) means a mortgagee that complies with § 291.605 and submits Single Family Loans for a Single Family Sale.

Participating Servicer Agreement (PSA) means the agreement between HUD and a P-Servicer that governs the P-Servicers submission of Single Family Loans to be sold in a Single Family Sale on terms as prescribed by the Secretary.

Purchaser means a Qualified Participant to which HUD has awarded one or more Single Family Loans through a

Single Family Sale, as of the date of notification of the award.

Qualified Participant means an individual or entity that satisfies the requirements in § 291.607 for participation in Single Family Sales.

Sale Notice means an announcement published by HUD for an upcoming Single Family Sale and includes any stated mission objectives and additional sale, participant qualification, and loan eligibility requirements; representations; post-sale servicing, outcomes, and reporting requirements; and repurchase requirements for inclusion in the Qualification Statement, PSA, ISA, and CAA as applicable.

Servicing Transfer Date means, with respect to any Single Family Loan, the date on which the actual servicing duties for such Single Family Loan has been or will be transferred from the P-Servicer to the Purchaser's servicer. The latest Servicing Transfer Date will be set forth in a schedule of dates prescribed by the Secretary and included in the PSA, ISA, and CAA.

Single Family Loan means any HUD-selected eligible forward mortgage loan insured under Section 203 of the National Housing Act (12 U.S.C. 1709) that has or will be assigned to HUD and any HUD-selected eligible HECM insured under section 255 of the National Housing Act (12 U.S.C. 1715z-20) that has or will be assigned to HUD, or any other eligible single family mortgage loans owned by the Secretary that will be sold in a Single Family Sale.

Single Family Sale means a Competitive Sale of Single Family Loans or Direct Sale of Single Family Loans conducted by HUD in accordance with this subpart.

Vacant means a mortgaged property is determined to be vacant or abandoned in accordance with the requirements of 24 CFR part 203 and FHA policy.

§ 291.603 Purpose, scope, and applicability.

The sale of Single Family Loans is at the discretion of the Secretary. All Single Family Loans will be sold without recourse to HUD and without FHA insurance. HUD may sell individual Single Family Loans or groups of Single Family Loans to Qualified Particip-

pants as a Competitive Sale of Single Family Loans, § 291.609, or as a Direct Sale of Single Family Loans, § 291.619. Nothing in this section shall be construed to prevent HUD from grouping Single Family Loans with other types of HUD assets for sale, including grouping any associated HUD-held mortgages subordinate to the respective assets. The procedures set out in this subpart, including any cross-referenced regulations, documentation, and published notices detailed in this subpart, govern the Single Family Sales.

§ 291.605 Participating Servicers.

(a) *Participation.* To participate in a Single Family Sale, a Participating Servicer must:

- (1) Be an FHA-approved Mortgagee contributing eligible Single Family Loans and assigning loans to HUD; and
- (2) Execute a PSA and agree to execute an ISA, as needed.

(b) *Sale.* For each Single Family Sale, the Participating Servicer must:

- (1) Identify mortgages that meet the eligibility criteria in accordance with terms of the PSA;
- (2) Conduct all sale activities in accordance with the PSA and ISA;
- (3) Comply with any Single Family Sale and Loan Sale Notification requirements as prescribed by the Secretary through notice; and
- (4) Comply with the terms of the Sale Notice.

(5) Ensure the Loan Sale Notification is provided to each borrower and any other parties as required by the Secretary and the Loan Sale Notification complies with all applicable law. Loan Sale notification requirements will be announced to the Participating Servicer through notice.

(c) *Claim payment requirements.* The Participating Servicer must comply with the claim payment process and requirements for Single Family Sales in accordance with the PSA and processes outlined in §§ 203.413 and 206.130, as applicable.

(d) *Interim servicing.* During the Interim Servicing Period, the Participating Servicer must service the purchased Single Family Loans on behalf of the Purchaser in accordance with the ISA.

(e) *Transfer documents and servicing.* The Participating Servicer must conduct the servicing transfer of the Single Family Loans in accordance with the requirements of the PSA and ISA and must service the purchased Single Family Loans in accordance with all applicable state and Federal law requirements, including applicable Consumer Finance Protection Bureau (CFPB) requirements.

§ 291.607 Qualified participants.

(a) *Confidentiality Agreement and Bidder Qualification Statement.* Individuals or entities must become a Qualified Participant before they may bid or purchase Single Family Loans in a Single Family Sale. An individual or entity seeking to participate in a Single Family Sale must sign a Confidentiality Agreement and complete a Bidder Qualification Statement. The Secretary will specify which Bidder Qualification Statement form(s) are applicable to a particular Single Family Sale and any additional sale specific qualification criteria through notice. HUD will only provide access to sensitive Single Family Sale materials to Qualified Participants.

(b) *Process for determining Qualified Participant.* HUD will qualify any individual or entity seeking to participate in a Single Family Sale if they have met the qualification requirements and executed the applicable Bidder Qualification Statement for the Single Family Sale.

§ 291.609 Bidding process.

(a) *Sale notice.* The Secretary will prescribe requirements for a Single Family Sale through the Sale Notice. For each Single Family Sale, HUD will publish the PSA Addendum, Desk Guide, ISA Addendum, CAA Addendum, and Sale Notices on HUD's public website.

(b) *Submission of bids.* All bids by a Qualified Participant must be submitted to HUD in accordance with the Sale Notice and the instructions in the BIP. By submitting a bid, the Qualified Participant is considered to have made an offer to purchase Single Family Loans as presented in the BIP. Submission of a bid constitutes acceptance of the terms and conditions set forth in

the BIP. Along with the bid, the Qualified Participant must submit an executed copy of the CAA and ISA, as applicable.

(c) *Bids by brokers or agents.* Any bid submitted by a broker or agent for a Qualified Participant must be made in the name of the Qualified Participant and signed by the broker or agent as the attorney-in-fact for the Qualified Participant. All such bid documents must bind the Qualified Participant. Each bid must also include a power of attorney satisfactory to HUD as to form and content.

(d) *Earnest money deposits.* The Qualified Participant must submit to HUD, along with its bid, an earnest money deposit, as required in the CAA or Sale Notice. The earnest money deposit is nonrefundable for a Qualified Participant whose bid is selected for award and will be credited toward the purchase price. If a Qualified Participant's bid is not selected for any award, their earnest money will be returned.

(e) *Timing for withdrawal of bids.* A Qualified Participant may withdraw a submitted bid in accordance with the instructions in the BIP for a Single Family Sale. However, a previously submitted bid may not be withdrawn once the bidding has closed.

(f) *Termination of Single Family Sale.* HUD reserves the right to terminate a Single Family Sale in whole or in part at any time before the bid date.

(g) *Withdrawal of Single Family Loans.* HUD reserves the right to withdraw Single Family Loans from a Single Family Sale prior to the settlement date. Any earnest money deposits made by a Purchaser relating to withdrawn Single Family Loans will be retained by the Secretary and credited toward the total purchase price of the remaining Single Family Loans in the pool, in accordance with the CAA and BIP. After the bid date, HUD can withdraw Single Family Loans or not deliver all the Single Family Loans for settlement for any reason, including those set forth in the BIP and CAA.

(h) *Rejection of bids.* At HUD's discretion, any bid may be rejected under the following circumstances:

(1) The bid does not conform with the instructions in the BIP;

(2) HUD determines that an award based on the bid would not be in the best interests of the Secretary because the award would not further HUD's fiduciary responsibility to the mutual mortgage insurance fund (MMIF) or any stated mission objectives in the Sale Notice; or

(3) HUD can also issue a conditional rejection that would provide the opportunity for the bid to be amended and resubmitted for acceptance upon fulfillment of HUD's requests.

§ 291.611 Post-bid process and HUD's execution of the CAA.

After HUD evaluates conforming bids, HUD may request an adjustment to a bid in accordance with the BIP. After any bid adjustments, HUD will select bids for award and provide notice of award in a manner set forth in the BIP. After selection of a Purchaser, HUD will execute the CAA.

§ 291.613 Settlement requirements.

(a) *Settlement payment.* On the settlement date of a Single Family Sale, the Purchaser must pay to HUD the settlement payment, consisting of the balance of the amount due on the bid price, as adjusted in accordance with the CAA.

(b) *Settlement statement.* When the Purchaser delivers to HUD the documents required at settlement and the settlement payment in paragraph (a) of this section, HUD will execute and deliver to the Purchaser a settlement statement and updated Single Family Loan schedule for the CAA to document the Single Family Loans sold to the Purchaser in the Single Family Sale.

(c) *Endorsement and assignment.* HUD may grant a temporary Limited Power of Attorney to the Purchaser to effect endorsement and assignment of the Single Family Loans to the Purchaser.

(d) *Purchaser's special purpose entity.* HUD may allow a Purchaser to endorse and assign Single Family Loans from HUD to Purchaser's special purpose entity acquisition vehicle on terms permitted in the CAA.

§ 291.615 Purchaser servicing requirements.

(a) *Purchaser post-sale servicing.* The Purchaser and its servicer, and any subsequent transferee of or servicer for the Single Family Loan, must comply with the terms of the CAA and the Sale Notice post-sale loss mitigation and outcome requirements. Post-sale requirements will include a requirement that any Single Family Loan that converts to real estate owned property via foreclosure or deed-in-lieu of foreclosure be offered for sale through a first look program, providing an exclusive listing period for owner occupant, nonprofit organization, governmental entities, and other prospective buyers as permitted by HUD. Post-sale requirements will also include requirements that Purchasers offer borrowers loss mitigation options that are as or more generous than the FHA loss mitigation options, a prohibition on reselling real estate owned property through a contract for deed or similar financing mechanism, a requirement that the Purchaser obtain prior approval from HUD before entering into a lease-purchase agreement with a prospective purchaser, and a prohibition on releasing liens on particular categories of properties, including vacant properties. Purchasers must take all lawful steps to service the Single Family Loans and collect amounts due in accordance with requirements as set forth by the CAA and all state and Federal law requirements, including applicable CFPB requirements.

(b) *Purchaser reporting requirements.* Purchasers must report on the post-sale servicing actions and outcomes obtained for each Single Family Loan purchased as prescribed by the CAA. HUD will publish reports for the public on loan and property outcomes and will include a breakdown of outcomes in different geographies. HUD will prescribe the reporting period as a specified period after settlement in the CAA.

(c) *Remedy for performance failures.* HUD may pursue appropriate remedies, including, but not limited to, the ability to deny future participation in loan sales, for a Purchaser's failure to comply with Single Family Sale requirements, including CAA obligations.

§ 291.617 General policy—Direct Sale of Single Family Loans.

The Secretary may pursue a Direct Sale of Single Family Loans to individuals or entity type the Secretary determines may be eligible to qualify as set forth in the Sale Notice. The Direct Sale of Single Family Loans will be subject to the requirements of this subpart, excluding §§ 291.609 and 291.611. The Secretary will publish in the Sale Notice, sale specific Single Family Loan eligibility criteria.

§ 291.619 Direct Sale of Single Family Loans process.

(a) *Sale Notice.* The Secretary will prescribe requirements for a Direct Sale of Single Family Loans through a Sale Notice.

(b) *Sale feasibility.* In all stages of the Direct Sale of Single Family Loans process, HUD may determine whether continuation with the Direct Sale of Single Family Loans is feasible and in HUD's interest, consistent with HUD's fiduciary responsibility to the MMIF and any stated mission objectives.

(c) *Direct Sale of Single Family Loans process.* An individual or entity interested in purchasing Single Family Loans through a Direct Sale of Single Family Loans must:

(1) Meet the Secretary's prescribed requirements for the Direct Sale of Single Family Loans in the Sale Notice;

(2) Submit a letter of interest to the Secretary that includes, at a minimum:

(i) The description of the individual or entity and a statement about how it would be able to satisfy the participant eligibility requirements and mission objectives, if any;

(ii) The geographic area of interest where the party wishes to purchase the loans;

(iii) The individual or entity's goals and how this purchase would assist in achieving these goals through post-sale outcomes;

(iv) The approximate timeframe for the purchase;

(v) The approximate number of loans or, alternatively, the approximate gross sale amount desired; and

(vi) The organizational documents for an entity including, but not limited

to organizational documents, any required authorizing resolutions, and disclosure of all nonprofit organization or private entity partnership interests in the Direct Sale of Single Family Loans transaction.

(d) *HUD determination.* Upon receipt of a letter in paragraph (c)(2) of this section, HUD will respond in writing to the submitter to confirm receipt of the letter and, if necessary, request additional information needed for a final determination.

(e) *Secretary's determination to proceed.*

(1) If the Secretary makes a final determination to proceed, the Secretary will request from the individual or entity, a business plan proposal from the individual or entity that details its ability to meet any stated mission objectives in the Sale Notice along with its goals and how these goals will be achieved with post-sale outcomes. Business plans must be received by HUD within 30 business days of request.

(2) Upon receipt and review of business plan proposal, HUD will:

(i) Reject the business plan proposal;

(ii) Issue a conditional rejection that would provide the opportunity for a business plan proposal to be amended and resubmitted for approval upon fulfillment of HUD's request; or

(iii) Approve the business plan proposal.

(3) Upon approval of such business plan proposal, HUD and the individual or entity will begin the Direct Sale of Single Family Loans process that includes:

(i) An executed Confidentiality Agreement;

(ii) An executed Bidder Qualification Statement;

(iii) A P-Servicer executed PSA; and

(iv) Review of Single Family Loans from P-Servicer(s) or HUD.

(4) HUD and the individual or entity reviews the ALD and will agree on the Single Family Loan Sale List for the Direct Sale of Single Family Loans.

(f) *Direct Sale of Single Family Loans.* After satisfaction of the requirements in paragraph (d) of this section, HUD will conduct its valuation review, and issue a final price determination and a CAA, containing an estimated settlement date, to the individual or entity. If accepted, a final Settlement date is

scheduled, and the Single Family Loan List is appended to the CAA.

(g) *Settlement.* HUD and the Purchaser will execute the CAA for settlement. The remaining settlement and transfer requirements will follow those in § 291.613.

§ 291.621 Disqualifications.

(a) *Fraudulent information.* If HUD determines there is any information indicating any certification or required document provided by any party participating in a Single Family Sale, including but not limited to P-Servicer, Purchaser, Qualified Participant, or a Purchaser's servicer, is false, misleading, or constitutes fraud or misrepresentation, HUD will not approve that party's participation in the Single Family Sale and will revoke any prior approval. The submission of false information or misrepresentation by an approved lender or mortgagee may result in the referral of the mortgagee to the Mortgage Review Board.

(b) *Participant ineligibility.* An individual or entity is ineligible to participate in a Single Family Sale if, at the time of the Single Family Sale, that individual or entity is suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under 2 CFR part 180 or 2424, 24 CFR part 25, 48 CFR part 9, subpart 9.4, or under similar procedures of any other Federal agency.

(c) *Future participation.* Purchasers that made misrepresentations in the qualification process or failed to meet their contractual obligations under CAAs, including failing to meet post-sale requirements, for previous Single Family Sales in which they participated may be disqualified from participation in one or more future Single Family Sales or for a set period of time at the discretion of the Secretary.

PARTS 292–299 [RESERVED]