

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****24 CFR Parts 200 and 203**

[Docket No. FR-4592-P-01]

RIN 2502-AH51

**Single Family Mortgage Insurance; Section 203(k) Consultant Placement and Removal Procedures**

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish placement and removal procedures for HUD's list of qualified consultants under the Section 203(k) Rehabilitation Loan Insurance program. The 203(k) Program is the Federal Housing Administration's (FHA's) primary program for the rehabilitation and repair of single family properties. A 203(k) lender may select a qualified independent consultant, who is an expert in the field of home inspection, cost estimating, and construction, to perform various tasks required for the rehabilitation of the property. Presently, there are no regulatory procedures for placing a consultant on, nor for removing a poorly performing consultant from, the list. HUD believes that the establishment of these placement and removal procedures will better protect 203(k) borrowers and lenders and safeguard FHA insurance funds.

**DATES:** *Comments Due Date:* December 24, 2001.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** Vance T. Morris, Director, Office of Single Family Program Development, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-8000; telephone (202) 708-2121 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-

free Federal Information Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:****I. Background—The Section 203(k) Rehabilitation Loan Insurance Program**

Section 203(k) of the National Housing Act (12 U.S.C. 1709(k)) authorizes HUD to insure loans for the purchase and/or rehabilitation and repair of residential properties. The 203(k) Program is HUD's primary program for the rehabilitation and repair of single family properties. Section 203(k) loan insurance enables homebuyers and homeowners to finance both the purchase (or refinance) of a house and the cost of its rehabilitation through a single mortgage. The regulations implementing the 203(k) Program are located in 24 CFR 203.50 and 24 CFR 203.440 through 203.449. The program is administered by HUD's Office of Single Family Housing-Federal Housing Administration (FHA).

The 203(k) Program fills a unique and important role for homebuyers. In the conventional loan market, a homebuyer who purchases a home that is in need of repair or modernization usually has to follow a complicated and costly process. The homebuyer must obtain financing to purchase the dwelling, additional financing for the rehabilitation work, and a permanent mortgage after rehabilitation is completed to pay off the interim loans. The interim acquisition and improvement loans often have relatively high interest rates and short repayment terms. The 203(k) Program was designed to address this situation. Under this program, a homebuyer may obtain a single loan, at a long-term fixed (or variable) rate, to finance both the acquisition and rehabilitation of the property.

The extent of the rehabilitation covered by 203(k) loan insurance may range from relatively minor (though exceeding \$5,000 in cost) to virtual reconstruction. For example, a home that has been demolished, or will be razed as part of rehabilitation, is eligible, provided that some of the existing foundation system remains in place. Section 203(k) loan insurance can also finance the rehabilitation of the residential portion of a property that has non-residential uses. In addition to typical home rehabilitation projects, the 203(k) Program can be used to convert a property of any size to a one-to four-unit dwelling.

HUD requires that properties financed under this program meet certain basic health, safety, energy efficiency and structural standards. All improvements undertaken with loan insurance under

the 203(k) Program must comply with the HUD minimum property standards and all local codes and ordinances.

**II. 203(k) Consultants**

One of the most time consuming and difficult parts of the 203(k) loan process is for the borrower to properly prepare the required cost estimate, work write-up, and architectural exhibits. A borrower using the 203(k) Program may choose to have a qualified independent consultant, who is an expert in the field of home inspection, cost estimating, and construction, perform these tasks. The use of a consultant by the borrower is not required. However, many borrowers elect to use consultants to expedite processing of their 203(k) loans.

Although the borrower determines whether to use a consultant, the lender is solely responsible for selecting the 203(k) consultant and for determining the scope of the work to be performed by the consultant. The consultant must enter into a written agreement with the lender that completely explains what services the consultant will perform for the lender. Consultant fees are set in accordance with HUD's established fee schedule. The lender may require that the borrower enter into a written agreement obligating the borrower to pay for any or all of the consultant fees, whether or not the property is rehabilitated. The fee charged by the consultant may be included in the mortgage as a part of the cost of rehabilitation.

In some cases, the lender may also request a consultant to conduct a preliminary feasibility analysis. The purpose of this analysis is to determine the extent of the rehabilitation work required, a rough cost estimate of the work, and the expected market value of the property after completion of the work. The analysis may be conducted before or after submission of the sales contract to the seller.

The consultant may perform the required draw inspections for the release of funds during the construction period. The lender may also have the consultant conduct the plan review to ensure that the architectural exhibits are acceptable and comply with all applicable program requirements. HUD notes that the plan review is a mandatory step in the processing of the 203(k) loan. There is no requirement that the consultant conduct the plan review. However, if a consultant is not used to perform this function, the borrower must hire an independent plan reviewer.

HUD, through its four Homeownership Centers (HOCs), maintains lists of qualified consultants

on the applicable HOC internet website. Only those consultants included on a HOC's list of qualified consultants may be employed by the lender as a consultant under the 203(k) Program. Currently, to apply for placement on the list of qualified consultants, a consultant must submit his or her qualifications to the appropriate HOC and demonstrate knowledge of 203(k) Program requirements.

### III. This Proposed Rule—Placement and Removal of 203(k) Consultants

#### A. Placement Procedures

This proposed rule would establish the placement and removal procedures for 203(k) consultants in subpart F to part 200 of the FHA regulations (entitled "Placement and Removal Procedures for Participation in FHA Programs"). Part 200 (entitled "Introduction to FHA Programs") prescribes requirements that apply to several of the FHA programs. The 203(k) consultant placement procedures would be located in a new § 200.191.

The proposed rule would provide that, to apply for placement on the list, a consultant must submit an application (or materials) in a form prescribed by HUD. To be eligible for placement on the list:

1. The consultant must demonstrate to HUD that it has a minimum of three years' experience as a remodeling contractor, general contractor or home inspector. A state license as a state certified engineer or architect may be submitted in lieu of the documentation of the three years' experience.

2. If located in a state that requires the licensing of home inspectors, the consultant would be required to submit proof of such licensing.

3. The consultant must submit a narrative description of the consultant's ability to perform home inspections, prepare architectural drawings, use proper methods of cost estimating and complete draw inspections.

4. The consultant must certify that it has read and fully understands the requirements of the HUD handbook on the 203(k) Program (4240.4), and all Mortgagee Letters and other instructions issued by HUD relating to the 203(k) Program. Copies of HUD Handbook 4240.4 and the HUD Mortgagee Letters concerning the 203(k) Program may be obtained by accessing the HUD internet Web site at <http://www.hud.gov>.

5. The consultant must not be listed on the General Service Administration's Suspension and Debarment List, HUD's Limited Denial of Participation List, or HUD's Credit Alert Interactive Voice Response System.

HUD also intends to develop a formal comprehensive examination on the 203(k) Program, which consultants would be required to pass before placement on the list. Consultants included on the list on the date this examination is enacted would have until 6 months following this date to pass the comprehensive test. Failure of the 203(k) consultant to pass the examination by the deadline date would constitute cause for removal from the list.

The inclusion of a consultant on the list means only that the consultant has met the qualifications and conditions prescribed by the Secretary for placement on the list of consultants qualified for the 203(k) Program. The inclusion of a consultant on the list does not create or imply a warranty or endorsement by HUD of the consultant, nor does it represent a warranty of any work performed by the consultant.

#### B. Removal Procedures

This proposed rule would also establish regulatory standards for the removal of a poorly performing consultant from the list. HUD has determined that regulatory removal procedures are necessary to better protect 203(k) lenders and safeguard FHA insurance funds. The proposed removal procedures are largely modeled on the existing and successful procedures for the removal of appraisers from the FHA Appraiser Roster (see the final rule published on April 3, 2000 (66 FR 17974)).

These procedures would supplement HUD's existing debarment, suspension and limited denial of participation remedies. The proposed removal procedure would provide a less lengthy process, and would fully protect the due process rights of consultants. The removal procedures would be located in new § 200.192 of subpart F.

The proposed rule provides that HUD may remove a consultant for any cause that HUD determines to be detrimental to HUD or its programs. Cause for removal includes, but is not limited to:

1. Poor performance on a HUD quality control field review;
2. Failure to comply with applicable regulations or other written instructions or standards issued by HUD;
3. Failure to comply with applicable Civil Rights requirements;
4. Being debarred or suspended, or subject to a limited denial of participation;
5. Misrepresentation or fraudulent statements;
6. Failure to retain standing as a state licensed architect or state-licensed engineer (unless the consultant can

demonstrate the required three years' experience as a home inspector or remodeling contractor); or

7. Serving, or having served, as the rehabilitation consultant for properties securing 203(k) mortgages of which a significant percentage are in foreclosure, default or claim status.

8. Failure to respond within a reasonable time to HUD inquiries or requests for documentation.

The removal procedure proposed by this rule would require HUD to give a consultant written notice of a proposed decision to remove the consultant from the list. This notice would state the reasons for, and the duration of, the proposed removal. The consultant would be given not less than 20 days from the date of the removal notice to submit a written response appealing the proposed removal. The consultant would also have the right to submit a written request for a conference along with the written response. This procedure would not be applicable, however, if the consultant has been debarred or suspended or subject to a limited denial of participation.

A HUD official, designated by the Secretary, would review the consultant's appeal and send the consultant a final decision either affirming, modifying, or cancelling the removal from the list. The HUD official designated by the Secretary to review the consultant's appeal would not be someone involved in HUD's initial removal decision. HUD would respond with a decision within 30 days of receiving the appeal or, if the consultant has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the consultant.

If the consultant does not submit a timely written response, the removal would become effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If the consultant submits a written response, and the removal decision is affirmed or modified, the removal would become effective on the date of HUD's notice affirming or modifying its initial removal decision.

The proposed addition of § 200.192 would not prohibit HUD from debarring, suspending, issuing a limited denial of participation, seeking a false claims action, or taking such other action against a consultant as provided for in 24 CFR part 24 (entitled "Government Debarment and Suspension and Governmentwide Requirements for Drug-Free Workplace (Grants)"), or from seeking any other remedy against a

consultant available to HUD by statute or otherwise.

A consultant who has been removed from the list may apply for placement on the list after the period for the consultant's removal from the list has expired.

*C. Small Business Concerns Related to the Removal of Consultants*

With respect to removing a consultant from the list, or taking other appropriate enforcement action against a consultant, HUD is cognizant that section 222 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121) (referred to as "SBREFA") requires the Small Business and Agriculture Regulatory Enforcement Ombudsman to "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort or other enforcement related communication or contact by agency personnel are provided with a means to

comment on the enforcement activity conducted by this personnel." To implement this statutory provision, the Small Business Administration has requested that agencies include the following language on agency publications and notices that are provided to small businesses concerns at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], call 1-888-REG-FAIR (1-888-734-3247).

As HUD stated in its notice describing HUD's actions on the implementation of SBREFA, which was published on May 21, 1998 (63 FR 28214), HUD intends to work with the Small Business Administration to provide small entities

with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD.

**IV. Findings and Certifications**

*Public Reporting Burden*

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and are pending OMB approval. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The burden of the information collections in this proposed rule is estimated as follows:

**REPORTING AND RECORDKEEPING BURDEN**

Section reference	Number of parties	Number of responses per respondent	Estimated average time for requirement (in hours)	Estimated annual burden (in hours)
200.191 (Consultant Application Package) .....	2,500	1	4	10,000
200.191(b)(6) (Consultant Proficiency Exam) .....	2,500	1	36	90,000

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Under the provisions of 5 CFR part 1320, OMB is required to make

a decision concerning this collection of information between 30 and 60 days after today's publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today's publication. This time frame does not affect the deadline for comments to the agency on the proposed rule, however. Comments must refer to the proposal by name and docket number (FR-4592) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and

Ethelene Washington, Reports Liaison Officer, Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451-7th Street, SW., Room 9114, Washington, DC 20410.

*Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this rule under

Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

*Environmental Impact*

This proposed rule would establish placement and removal procedures for HUD's list of qualified 203(k) rehabilitation loan consultants. The proposed rule would not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, in

accordance with 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

#### Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication, and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule would not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows.

The proposed rule would establish the procedure by which a consultant, who has violated FHA single family mortgage insurance program requirements, may be removed from HUD's list of qualified 203(k) consultants. Accordingly, to the extent that this proposed rule would impact small entities it will be as a result of actions taken by small entities themselves—that is, violation of single family program regulations and requirements.

Further, the proposed rule would provide several procedural safeguards designed to minimize any potential impact on small entities. For example, the rule grants consultants, selected for removal from the list, the opportunity to provide a written response and to request a conference regarding a proposed removal. The rule also specifies that the official designated by HUD to review an appeal may not be the same HUD official involved in the initial removal decision. In addition, the proposed examination requirements would be “phased-in” for consultants on the list, and not take effect until six months after the effective date of promulgation. This delayed effective date will provide consultants on the list with additional time to meet the new requirements.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

#### Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the

consultation and funding requirements of section 6 of the Executive Order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

#### Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance Number for the Section 203(k) Rehabilitation Loan Insurance program is 14.108.

#### List of Subjects

#### 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

#### 24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR parts 200 and 203 as follows:

### PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 is revised to read as follows:

**Authority:** 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

2. In subpart F as proposed to be added at 66 FR 48082, add a new undesignated centerheading and §§ 200.190 through 200.193 to read as follows:

### Subpart F—Placement and Removal Procedures for Participation in FHA Programs

Sec.

#### Section 203(k) Rehabilitation Loan Consultants

200.190 HUD list of qualified 203(k) consultants.  
200.191 Placement of 203(k) consultant.  
200.192 Removal of 203(k) consultant.  
200.193 Responsibilities of 203(k) consultants on the list.

#### Section 203(k) Rehabilitation Loan Consultants

##### § 200.190 HUD list of qualified 203(k) consultants.

(a) *Qualified consultant list.* HUD maintains a list of qualified consultants for use in the rehabilitation loan insurance program authorized by section 203(k) of the National Housing Act (12 U.S.C. 1709(k)) (referred to as the “203(k) Program”).

(b) *Consultant functions.* Only a consultant included on the list may be selected by the lender to conduct any consultant function under the 203(k) Program (see § 203.50(l) of this chapter).

(c) *Disclaimer.* The inclusion of a consultant on the list means only that the consultant has met the qualifications and conditions prescribed by the Secretary for placement on the list of consultants qualified for the 203(k) Program. The inclusion of a consultant on the list does not create or imply a warranty or endorsement by HUD of the consultant, nor does it represent a warranty of any work performed by the consultant.

##### § 200.191 Placement of 203(k) consultant.

(a) *Application.* To be considered for placement on the list, a consultant must apply to HUD using an application (or materials) in a form prescribed by HUD.

(b) *Eligibility.* To be eligible for placement on the list:

(1) The consultant must demonstrate to HUD that it either:

(i) Has at least three years' experience as a remodeling contractor, general contractor or home inspector; or

(ii) Is a state-licensed architect or state-licensed engineer;

(2) If located in a state that requires the licensing of home inspectors, the consultant must submit proof of such licensing;

(3) The consultant must submit a narrative description of the consultant's ability to perform home inspections, prepare architectural drawings, use proper methods of cost estimating and complete draw inspections;

(4) The consultant must certify that it has read and fully understands the

requirements of the HUD handbook on the 203(k) Program (4240.4) and all HUD Mortgagee Letters (*see* <http://www.hudclips.org>) and other instructions relating to the 203(k) Program;

(5) The consultant must not be listed on:

- (i) The General Service Administration's Suspension and Debarment List;
- (ii) HUD's Limited Denial of Participation List; or
- (iii) HUD's Credit Alert Interactive Voice Response System;

(6) The consultant must have passed a comprehensive examination on the 203(k) Program, if HUD has developed such an exam.

(c) *Delayed effective date of examination requirement for consultants currently on the list.*

Consultants who are included on the list on the date when the requirement for the examination described in paragraph (b)(6) of this section becomes effective have until 6 months following this date to pass the comprehensive exam.

Failure to pass the examination by the deadline date constitutes cause for removal under § 200.192.

**§ 200.192 Removal of 203(k) consultant.**

(a) *Cause for removal.* HUD may remove a consultant from the list for any cause that HUD determines to be detrimental to HUD or its programs. Cause for removal includes, but is not limited to:

- (1) Poor performance on a HUD quality control field review;
- (2) Failure to comply with applicable regulations or other written instructions or standards issued by HUD;
- (3) Failure to comply with applicable Civil Rights requirements;
- (4) Being debarred or suspended, or subject to a limited denial of participation;
- (5) Misrepresentation or fraudulent statements;
- (6) Failure to retain standing as a state licensed architect or state-licensed engineer (unless the consultant can demonstrate the required three years experience as a home inspector or remodeling contractor);
- (7) Serving, or having served, as the rehabilitation consultant for properties securing 203(k) mortgages of which a significant percentage are in foreclosure, default or claim status; or
- (8) Failure to respond within a reasonable time to HUD inquiries or requests for documentation.

(b) *Procedure for removal.* A consultant that is debarred or suspended, or subject to a limited denial of participation will be automatically removed from the list. In all other cases, the following procedure for removal will be followed:

(1) HUD will give the consultant written notice of the proposed removal. The notice will state the reasons for, and the duration of, the proposed removal.

(2) The consultant will have 20 days from the date of the notice (or longer, if provided in the notice) to submit a written response appealing 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.

(3) A HUD official will review the appeal and send a response either affirming, modifying, or cancelling the removal. The HUD official will not be someone who was involved in HUD's initial removal decision. HUD will respond with a decision within 30 days of receiving the appeal or, if the consultant has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the consultant.

(4) If the consultant does not submit a timely written response, the removal will be effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If a written response is submitted, and the removal decision is affirmed or modified, the removal will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(c) *Placement on the list after removal.* A consultant that has been removed from the list may apply for placement on the list (in accordance with § 200.191) after the period of the consultant's removal from the list has expired. An application will be rejected if the period for the consultant's removal from the list has not expired.

(d) *Other action.* Nothing in this section prohibits HUD from taking such other action against a consultant, as provided in 24 CFR part 24, or from seeking any other remedy against a consultant available to HUD by statute or otherwise.

**§ 200.193 Responsibilities of 203(k) consultants on the list.**

All consultants included on the list are responsible for:

(a) Obtaining and reading the HUD handbook on the 203(k) Program (4240.4) and any updates to the handbook.

(b) Complying with the HUD handbook on the 203(k) Program (4240.4), and any updates to the handbook, when performing any consultant function under the 203(k) Program.

(c) Obtaining and reading all Mortgagee Letters and other instructions issued by HUD relating to the 203(k) Program.

(d) Complying with all Mortgagee Letters and other instructions issued by HUD relating to the 203(k) Program, when undertaking any consultant function under the 203(k) Program.

(e) Complying with HUD's request for documentation relating to any 203(k) project on which the consultant has worked.

(f) Complying with HUD's monitoring requirements relating to the 203(k) Program.

**PART 203—SINGLE FAMILY MORTGAGE INSURANCE**

3. The authority citation for 24 CFR part 203 continues to read as follows:

**Authority:** 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

4. Add § 203.50(l) to read as follows:

**§ 203.50 Eligibility of rehabilitation loans.**

\* \* \* \* \*

(l) *Rehabilitation loan consultants.* HUD maintains a list of qualified consultants, in accordance with §§ 200.190–200.193 of this chapter. The lender may select a consultant on the list to perform one or more of the following tasks:

(1) Conduct a preliminary feasibility analysis before or after the submission of a sales contract;

(2) Prepare the cost estimate, work write-up, and architectural exhibits required for the rehabilitation of the property;

(3) Conduct a plan review; and

(4) Conduct the draw inspections for the release of funds during the construction phase of the project.

Dated: July 12, 2001.

**John C. Weicher,**

*Assistant Secretary for Housing-Federal Housing Commissioner.*

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