

using nationally recognized industry standards for the appraisal of residential property.

(c) *Insurance.* Properties may be sold under the following programs:

(1) *Insured.* A property that meets the Minimum Property Standards (MPS), as determined by the Secretary, for existing dwellings (Requirements for Existing Housing, One to Four Family Living Units, HUD Handbook 4905.1, which is available at the Department of Housing and Urban Development, HUD Customer Service Center, 451 7th Street, SW, Room B-100, Washington, DC 20410; by calling (202) 708-3151; or via the Internet at www.hud.gov) will be offered for sale in "as-is" condition with FHA mortgage insurance available. Flood insurance must be obtained and maintained as provided in 24 CFR 203.16a.

(2) *Insured with repair escrow.* A property that requires no more than \$5,000 for repairs to meet the MPS, as determined by the Secretary, will be offered for sale in "as-is" condition with FHA mortgage insurance available, provided the mortgagor establishes a cash escrow to ensure the completion of the required repairs.

(3) *Uninsured.* A property that fails to qualify under either paragraph (c)(1) or (c)(2) of this section will be offered for sale either in "as-is" condition without mortgage insurance available, or in "as-is" condition under section 203(k) of the National Housing Act (12 U.S.C. 1709(k)).

(d) *Financing.* (1) Except as provided in paragraph (d)(2) of this section, the purchaser is entirely responsible for obtaining financing for purchasing a property.

(2) HUD, in its sole discretion, 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.

(3) *Purchase money mortgage (PMM).* 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.

(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 for the evaluation and reduction of lead-based paint hazards contained in 24 CFR part 35 and 24 CFR part 200, subpart O.

(h) *Listings.* Any real estate broker who has agreed to comply with HUD requirements may 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.

(1) *Open listings.* Except as provided in paragraph (h)(2) of this section, properties are sold on an open listing basis with participating real estate brokers.

(2) *Asset management and listing contracts.* (i) A local HUD office 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 to HUD through the exclusive broker.

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 debarred, suspended, or otherwise precluded from doing business with HUD under 24 CFR part 24.

§ 291.205 Competitive sales of individual properties.

When HUD conducts competitive sales of individual properties to individual buyers, it will 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 requested by the purchaser in the bid, HUD will pay all or a portion of the financing and loan closing costs and the broker's sales commission, 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.

(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 greatest 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