

FHA Handbook Excerpt 203k Consultant Requirements

FHA SINGLE FAMILY HOUSING POLICY LIBRARY > Federal Housing Administration (24 CFR 200 to 299) > SUBCHAPTER A: GENERAL > PART 200: INTRODUCTION TO FHA PROGRAMS (12/16/16) > Part 200, Subpart F: Placement and Removal Procedures for Participation in FHA Programs (04/01/03) > FHA INSPECTOR ROSTER (04/01/04)

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§200.190: HUD list of qualified 203(k) consultants (04/01/03)

- (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 USC 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 title).
- (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.

[67 FR 52380, Aug. 9, 2002]

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§200.191: Placement of 203(k) consultant (04/01/03)

- (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 and other instructions relating to the 203(k) Program.
 - (5) The consultant must not be listed on:
 - (i) The General Services 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.

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§200.192: Removal of 203(k) consultant (04/01/08)

- (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;

FHA Handbook Excerpt 203k Consultant Requirements

- (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) Failure to retain standing as a state licensed home inspector, if the consultant is located in a state that requires such licensing; 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 canceling 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 2 CFR part 2424, or from seeking any other remedy against a consultant, available to HUD by statute or otherwise.

[67 FR 52380, Aug. 9, 2002, as amended at 72 FR 73494, Dec. 27, 2007]

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§200.193: Responsibilities of 203(k) consultants on the list (04/01/03)

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.

[67 FR 52381, Aug. 9, 2002]

FHA SINGLE FAMILY HOUSING POLICY LIBRARY > Federal Housing Administration (24 CFR 200 to 299) > SUBCHAPTER A: GENERAL > PART 200: INTRODUCTION TO FHA PROGRAMS (12/16/16) > Part 200, Subpart F: Placement and Removal Procedures for Participation in FHA Programs (04/01/03) > NONPROFIT ORGANIZATIONS (04/01/03)

NONPROFIT ORGANIZATIONS (04/01/03)

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§200.194: Placement of nonprofit organization on Nonprofit Organization Roster (04/01/03)

- (a) *Nonprofit Organization Roster.* HUD maintains a roster of nonprofit organizations that are qualified to participate in certain specified FHA activities. In order to be recognized as a nonprofit organization for purposes of single-family regulations in this chapter, an organization must:
 - (1) Be included in the Roster; and
 - (2) Comply with any requirements stated in a specific applicable provision of the single-family regulations in this chapter.
- (b) *Application.* To be included in the Roster, a nonprofit organization must apply to HUD using an application (or materials) in a form prescribed by HUD (which may require an affordable housing program narrative for the activities the nonprofit organization proposes to carry out). The nonprofit organization must specify in its application the FHA activities it proposes to carry out.
- (c) *HUD response to application.* HUD's review of the application will result in one of the following:
 - (1) Approval of the nonprofit organization to participate in all, or some, of the FHA activities specified in its application and the addition of the nonprofit organization to the Roster.

FHA Handbook Excerpt 203k Consultant Requirements

- (2) Rejection due to deficiencies in the application. HUD will provide the nonprofit organization with a period to correct these deficiencies.
- (3) Rejection due to the nonprofit organization's failure to submit a program that complies with applicable single-family regulations in this chapter, Mortgagee Letters, or other standards or instructions issued by HUD.
- (d) *Reapplication after two years.* The placement of a nonprofit organization on the Roster expires after two years. The nonprofit organization must reapply for placement on the Roster, in accordance with paragraph (b) of this section, before expiration of the two-year period.

[67 FR 39239, June 6, 2002]

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§200.195: Removal of nonprofit organization from Nonprofit Organization Roster (04/01/08)

- (a) *Cause for removal.* HUD may remove a nonprofit organization from the FHA Nonprofit Organization Roster established under §200.194. Removal may be for any cause that HUD determines to be detrimental to FHA or any of its programs, including but not limited to:
 - (1) Failure to comply with applicable single-family regulations in this chapter, Mortgagee Letters or other written instructions or standards issued by HUD;
 - (2) Failure to comply with applicable Civil Rights requirements;
 - (3) Holding a significant number of FHA-insured mortgages that are in default, foreclosure, or claim status (in determining the number considered "significant," HUD may compare the number of insured mortgages held by the nonprofit organization against the similar holdings of other nonprofit organizations);
 - (4) Being debarred or suspended, subject to a limited denial of participation, or otherwise sanctioned by HUD;
 - (5) Failure to further all objectives described in the affordable housing program narrative;
 - (6) Misrepresentation or fraudulent statements; or
 - (7) Failure to respond within a reasonable time to HUD inquiries, including recertification requests or other requests for further documentation.
- (b) *Procedure for removal.* A nonprofit organization that is debarred or suspended or subject to a limited denial of participation will be automatically removed from the FHA Nonprofit Organization Roster. In all other cases, the following procedure for removal applies:
 - (1) HUD will give the nonprofit organization written notice of the proposed removal. The notice will include the reasons for the proposed removal and the duration of the proposed removal.
 - (2) The nonprofit organization 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 provide an informal conference if requested. The HUD official will send a response either affirming, modifying, or canceling 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 response, or, if the nonprofit organization 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 nonprofit organization.
 - (4) If the nonprofit organization 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 initial 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 Roster after removal.* A nonprofit organization that has been removed from the FHA Nonprofit Organization Roster may apply for placement on the Roster (in accordance with §200.194) after the nonprofit organization's removal from the Roster has expired. An application will be rejected if the period for the nonprofit organization's removal from the Roster has not expired.
- (d) *Other action.* Nothing in this section prohibits HUD from taking such other action against a nonprofit organization, as provided in 2 CFR part 2424, or from seeking any other remedy against a nonprofit organization, available to HUD by statute or otherwise.

[67 FR 39239, June 6, 2002, as amended at 72 FR 73494, Dec. 27, 2007]