
CHAPTER 5 - ESCROW PROCEDURES

- 5-1. GENERAL. Escrow requests on proposed and existing cases are reviewed by the Architectural Branch when extenuating circumstances (beyond contractor's control) warrant acceptance of delayed completion items. Direct Endorsement (DE) Lenders are responsible for approval of escrows; however, after closing documents are submitted, HUD Field Office will monitor completion. The following methods are provided:
- A. Mortgagee's Assurance of Completion (Use Form [HUD 92300](#), for deferred on-site and limited off-site work).
 - B. Escrow Agreement for Postponed Off-Site Improvements (For deferred off-site work only, use Form HUD 92606).
 - C. Assurance of Completion by a Public Authority (For deferred off-site work only).

An assurance of completion using either Forms [HUD 92300](#) or 92606 will be supported by an escrow of cash or an irrevocable commercial letter of credit (Bonds are unacceptable).

- 5-2. MORTGAGEE'S ASSURANCE OF COMPLETION (Form [HUD 92300](#)). Submit in HUD case binder according to instructions on form and in Handbook 4190.1 and 4000.4. Prepare escrow only after issuance of clear final inspection report (Form [HUD 92051](#)) by the fee inspector.
- A. Conditions of Use. The following must prevail for a clear final inspection:
 - 1) The record of the mortgagee for fulfilling previous assurances of completion must warrant approval of submitted form.
 - 2) The dwelling on the mortgaged premises is habitable, safe, and essentially complete;

Items essential for customary occupant use and enjoyment, or for property safety or durability, may not be escrowed.

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- 3) The deferred work cannot be acceptably completed in a reasonable period before closing, due to weather or other extenuating circumstances; but there is assurance it can be completed within no more than eight months.

Completion cannot be later than the date established on Compliance Inspection Report, Form [HUD 92051](#);

- 4) The work involved in the escrow arrangement is minor and uncomplicated; and
 - 5) All other conditions of the commitment, including specific conditions not subject to field inspection, have been fulfilled by compliance or by an acceptable assurance of completion (i.e., off-site improvements).
- B. Instructions for Completing Form [HUD 92300](#) are on the form and in the Single Family Underwriting Reports and Forms Catalog (Handbook 4190.1).
- C. Minimum Amount of Cash/Irrevocable Letter of Credit Requirement is \$500 or 1-1/2 times the cost of the deferred item, whichever is greater.
- D. Mortgagee's Responsibilities (HUD Processed):
- 1) Provide written request for all escrows to HUD Field Office. DE lender must get written request from builder; and
 - 2) Assure completion of the deferred work. If the escrow proves insufficient, the lender must pay for the deficit; and
 - 3) Call fee inspector; obtain a Compliance Inspection Report (Form [HUD 92051](#)).
- E. Extension of the Completion Date is allowed when Office Manager (or Director of Housing) determines that the deferred work could not have been

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completed within the established time frame. When an extension is granted, the tickler file date is amended.

- F. Receiving Clerk Responsibility is to forward all escrow requests to the Architectural Branch for disposition.
- G. Architectural Branch Responsibility is to review all escrow requests for HUD processed cases. Consult with the Valuation Branch, if necessary, on existing properties. DE underwriter is responsible to review all escrows on DE cases.
 - 1) If acceptable, prepare an office report on Form [HUD 92051](#), Compliance Inspection Report, marking Item 13 - Part I.
 - a. Provide a description of the acceptable escrow item(s) in Part II of form; include cost estimate of each item;
 - b. Provide the name and phone number of a fee inspector for the mortgagee to contact upon completion of escrow item(s) or mark Item 12 - Part I, allowing the mortgagee to certify;
 - c. Provide the total amount of the escrow and the date of completion in Item B - Part IV;
 - d. Place a stamp "92300 Escrow Acceptable" (3/8" high letters) on the front cover of the case binder.
 - 2) If unacceptable, note such on mortgagee's request; initial and date it; then return to the mortgagee.
- H. Closing Clerk Responsibility:
 - 1) Review Form [HUD 92300](#) for completeness.

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- 2) If completion date shown on the form has passed, do not issue Mortgage Insurance Certificate

unless the Director of Housing (Supervisor, or designee) grants an extension, in writing.

- 3) Enter "92300 Escrow" and the escrow amount directly below endorsement stamp on the note.
- 4) Prepare a supplementary binder showing "FHA case number", followed by "92300 Escrow". Place Parts 1 and 2 of Form [HUD 92300](#) inside the binder.
- 5) Deliver the binder to the Architectural branch.

I. Monitoring Function. Architectural Branch is responsible on all proposed and existing property escrows, including those accepted by DE Lenders.

- 1) At least 5 percent of the mortgagee assurances of completion must be field reviewed to determine reliability.
- 2) Maintain a list of acceptable certifiers (mortgagees) as well as those certifiers making false or otherwise unacceptable certifications. When administrative sanctions are necessary, follow HUD Handbook 4060.2.
- 3) After receipt of the supplementary binder, set up a tickler card file to trigger the mailing of Part 2 (Form [HUD 92300](#)) 15 days before the designated completion date. When an extension is granted, the tickler card is revised to reflect the new date.
 - a. When Part 4 of Form [HUD 92300](#), and Form HUD 92051 is received from the lender, then:
 1. Pull the supplementary binder.

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2. Remove the original Part 1 (Form HUD 92300), staple it to the certified Part 4, with Form [HUD 92051](#).
3. Mail the forms to Central Files in Headquarters. Instructions are in Handbook 4165.1.

4. Destroy the supplementary binder.

- b. When tickler date is reached and Part 4 of Form [HUD 92300](#) and Form [HUD 92051](#), Compliance Inspection Report, have not been received from the mortgagee, send Part 2 of the form to the mortgagee as a reminder.

The tickler card is refiled with a 30 day due date.

- c. If Part 4 is not returned with the required certification before the second date has passed, prepare a letter to the mortgagee for the Director's signature stating that:
1. The mortgagee may not use the HUD escrow procedure in the future until the subject case deficiency is resolved.
 2. If deferred work is not completed within 30 days, the case will be referred to the Mortgagee Participation and Compliance Division in Headquarters.
 3. If the property goes into foreclosure, the claim will be reduced by the amount of escrow established for any incomplete work.

- J. Properties Acquired by HUD before completion of escrow procedure will be handled according to repair instructions in Handbook 4310.5. The insurance claim will be reduced accordingly.

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- K. Revision of Deferred Completion Items.

- 1) Mortgagee (including DE lender) submits request for waiver or substitution of required work items. Mortgagor approval must be provided.
- 2) Architectural Branch consults with Valuation to consider acceptability of property changes and effect, if any, of proposed changes on value.

- 3) If approved, and value is adversely affected, all or any excess of escrow funds must be applied as a mandatory prepayment to mortgage principal.
 - 4) Notify mortgagee of decision, including prepayment requirements, with a copy to Central Records in Headquarters.
- 5-3. ESCROW AGREEMENT FOR POSTPONED OFF-SITE IMPROVEMENTS.
Instructions are in Handbook 4115.1, Administrative Instructions and Procedures, Chapter 3. Use Form HUD 92606.
- 5-4. ASSURANCE OF COMPLETION BY A PUBLIC AUTHORITY.
Instructions are in Handbook 4135.1, Procedures for Approval of Single Family Proposed Construction Applications in New Subdivisions.