Appendix 10.3

General Contractor's Monthly
Requisition Procedures

A. ~~A.~~ Contractor's Monthly Requisition must be made on ~~the~~Form HUD-92448-ORCF Contractor's Requisition~~ — Project Mortgages.~~. The Contractor's Prevailing Wage Certificate on the form's reverse side must be signed. ~~The ~~Form HUD-92448-ORCF Contractor's Requisition ~~ — Project Mortgages ~~shall be a 2-sided form executed by the General Contractor~~,~~ and Supervisory Architect. The HUD Contract Inspector must then review for acceptability and any modifications and execute the document. If acceptable, the document is forwarded to the Lender's mortgage credit analyst for further processing, and inclusion in the Application for Insurance of Advance of Mortgage Proceeds.

1. Eligible items for inclusion on the Contractor's Requisition – Project Mortgages.
   a. Acceptably completed onsite work, i.e~~.~~., in full compliance with contract documents;
   b. Materials acceptably stored onsite itemized by quantity and cost with supporting invoices;
   c. Components acceptably stored offsite, where provisions are made at initial closing (including an acceptable Assurance of Completion for Offsite Improvements), and requirements of Paragraph B below are met~~.~~;
   d. The Architect determines amounts due by job site observation of acceptable work. (The Contract Inspector makes the determination if there is no Architect.)
   e. The Contract Inspector:
      ~~(1)~~i. Checks the Architect's determination using the Contractor's and/or Mortgagor's Cost Breakdown~~,~~ (Form HUD-92328-ORCF), and trade item cost breakdowns (guides) to assure that amounts are reasonable for acceptable work and those funds remain for unacceptable and incomplete work;
      ~~(2)~~ii. Spot checks the count of stored onsite items, determines that storage is acceptable, and assures that amounts are reasonable for approval;
      ~~(3)~~iii. Checks the invoice and certificate for stored off-site items~~,~~ and approves payment after assuring that funds remain for transportation to the site and erection.

2. Ineligible items for inclusion on the Contractor's Requisition ~~—~~ Project Mortgages.
   a. Noncompliant work and work supported or dependent upon noncompliant work. Work changes completed in anticipation of future change order approvals are noncompliant work.

44   b. Additive change orders. See Production, Chapter 10.9.

45   c. Off-site work. See Paragraph C below for the contractor's requisition of

46   payment, and release of funds to the Borrower for acceptably completed

47   offsite work.

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49

50   3. Modification of Contractor's Requested Amount.

51   Where there is disagreement with the requisition, the <u>HUD </u>Contract Inspector may

52   modify the contractor's requested amount by:

53   a. Entering trade item modification(s) on the Contractor's Requisition – Project

54   Mortgages;

55   b. Explaining the modification(s) in the HUD Representative's Trip Report.

56   c. <s>Completion of</s><u>Modifying</u> the Contractor's Requisition <s>– Project Mortgages,</s>

57   <s>Items (1) through (13) are made by the Lender.</s><u>(Form HUD-92448-ORCF).</u>

58

59   4. Supporting Documentation.

60   a. In order to help the <u>HUD </u>Contract Inspector reconcile differences with

61   contractor claims, the contractor will submit receipts, bills of lading for onsite

62   deliveries, billings for onsite work, evidence of onsite payrolls, etc.

63   b. Surveys <s>may</s><u>must</u> be submitted with each contractor's requisition for

64   improvements not previously shown on a survey, especially regarding:

65   <s>(1)</s><u>i.</u>   Where the structures site or setting of finished floor elevations are

66   questioned;

67   <s>(2)</s><u>ii.</u> Location of materials stored onsite.

68   c. A survey is required for the next‑‑to‑‑last advance.

69

70 B. Components Stored Off-site.

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72   1. Eligible Building Components. Only "building components" qualify for insurance of

73   advances when stored offsite.

74   a. An "eligible building component" is a manufactured or pre-assembled

75   building element which, by reason of bulk, size or weight, vulnerability to

76   weather conditions or lack of space at the site, is impractical to store at the

77   site.

78   b. Eligible building components comprise, but are not limited to:

79   <s>(1)</s><u>i.</u>   Precast concrete floor, wall, and roof panels;

80   <s>(2)</s><u>ii.</u> Assembled bath and/or kitchen core units;

81   <s>(3)</s><u>iii.</u> Fully fabricated structural steel beams and columns.

82   c. Items that are not eligible "building components" are (but not limited to):

83   kitchen appliances, carpeting, wood roof trusses, etc.

84

85   2. Basic Requirements for insured advances.

86   a. The Lender must have agreed to the necessary provisions at initial closing,

87   including an acceptable Assurance of Completion for Offsite Improvements.

88   b. ~~The~~Form HUD-92442-ORCF, Construction Contract, must include the rider
89   "Amendment to the Construction Contract for Payment for Components
90   Stored Offsite."
91   c. Payments are limited to the invoice value of the components.
92   d. The contractor and its surety bear full responsibility for fraudulent claims for
93   payment and fraudulent disposition of such payments. Safeguards are to
94   protect against premature payments, against materials that do not meet
95   contract requirements and against losses not covered by insurance.
96   e. The construction contract must be secured by a 100 percent performance and
97   payment bond.
98   f. Components must be stored at a location approved by the Lender and HUD.
99
100 3. Lender's Responsibilities.
101   a. File Uniform Commercial Code (UCC)-1, financing statements with the
102   proper office in the proper jurisdiction.
103   b. Make whatever additional filings are necessary to maintain a first lien on the
104   components until they are incorporated into the building(s).
105   c. Release the financing statement filings as appropriate.
106   d. Unconditionally certify by letter to HUD that the security instrument(s) is
107   (are) a "first lien" on the components covered by the instrument(s). The
108   Lender's certification must be supported by an opinion from the Lender's
109   counsel.
110   e. In the event of default under the mortgage, either assigns its security interest
111   to HUD or acquires title through foreclosure to the components intended for
112   use or incorporation into the building(s) and conveys title to HUD.
113
114 4. General Contractors' Responsibilities.
115   a. All direct and indirect costs associated with the storage and transportation of
116   components stored offsite;
117   b. Obtaining a risk of loss insurance policy which covers the components~~.~~;
118   Evidence of this policy must be submitted to the Lender prior to approval of
119   any advance for components stored offsite;
120   c. Assurance that there is a valid security agreement that is a first lien on the
121   components.
122
123 ~~5.~~5. General Contractor's Requisition. All requests for payment for components
124 stored offsite must be submitted on the Contractor's Requisition ~~–~~- Project
125 Mortgages, accompanied by the following:
126   a. A statement from the Borrower's Architect certifying that:
127   ~~(1)~~i. He/she has visited the storage site and inspected the components
128   for which payment has been requested;
129   ~~(2)~~ii. The components are in good condition and they comply with the
130   contract requirements;
131   ~~(3)~~iii. The components are properly stored and protected;

132   (4) iv. The components are segregated, in an easily identified manner from
133   other materials stored at the same site and are marked for
134   identification;.

135   b. A bill of sale accompanied by an itemized invoice transferring title of the
136   components to the Borrower;
137   c. A copy of the security agreement provided to the mortgagee by the Borrower;
138   d. A copy of the financing statement or statements filed by the Lender in
139   accordance with the Uniform Commercial Code;
140   e. A warrantee from the Lender that the security instruments represent a first lien
141   on the building components;
142   f.   An opinion from the Lender's attorney that he/she has reviewed the security
143   agreement and associated documents relative to the building components and
144   that the security agreement creates a valid security interest in the collateral
145   and that when the financing statement or statements is (are) duly filed, the
146   secured party will have a first lien.

147

148   6. Review of Contractor's Requisition.
149   a. The HUD Contract Inspector must request an inventory of the "stored
150   components" and a breakdown of the line item of which the stored
151   components are a part before approving payment for the components stored
152   offsite. The breakdown must state:
153   (1)i. Cost of Components (invoice value).
154   (2)ii. Cost of transportation from the offsite storage location to the
155   construction site.
156   (3)iii. Cost of Installation.
157   (4)iv.   Costs of any other items included in the line item.
158   b.   The breakdown is to insure a remaining undisbursed balance sufficient to
159   cover the costs of transportation and installation, and any other items included
160   in the line item.
161   c. Do not approve payment for components stored offsite where a contractor's
162   performance is marked by serious deviations from the contract documents, or
163   if payment will cause excessive additional interest costs.
164   d. Do not approve any insured advances for components stored offsite where the
165   contractor does not have a 100 percent performance and payment bond.
166   e. Do not approve insured advances for components stored offsite in an amount
167   exceeding 50 percent of the contract amount.
168   f.   The minimum advance is $10,000.
169   g. Limit advances for components stored offsite to the cost of components
170   (invoice value) less the usual 10 percent holdback.

171

172 C. Offsite Construction. Separate from work done under the Construction Contract for the
173   project. Where offsite work is completed by the Borrower, rather than by a municipality or
174   utility company, a separate construction contract is required, even if completed by the project
175   contractor. Offsite work must also be funded from sources outside the mortgage, except that
176   an escrow for its completion may be funded from available excess mortgage proceeds.
177

178   1. Completion Monitoring is performed by the Contract Inspector and reported on
179   ~~the~~Form HUD-95379-ORCF, HUD Representative's Trip Report.
180

181   2. Contractor's Requisition is by letter to the Borrower. Do not use the Contractor's
182   Requisition – Project Mortgages to reflect the value of acceptably completed offsite
183   work, even if completed by the project contractor. Request for Approval of Advance
184   of Escrowed Funds is used.
185

186   3. Construction Changes for offsite work must be requested by letter. Form HUD-
187   92437-ORCF, Request for Construction Changes on Project Mortgages, may be used
188   as a guide, but the form itself must not be used for offsite change orders. Any
189   additive change order for off-site construction will result in a corresponding increase
190   to the required escrow.
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