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- 1-1. PURPOSE. This Handbook applies to programs administered by the Office of Housing and supplements Ethics Letter 91-5 and OMB's Interim Final Rule (See Attachment I) of February 26, 1990 (55 FR 6736) and its supplementing Notice 55 FR 24540 (See Attachment II) of June 15, 1990 (see 24 CFR Part 87 for HUD's restrictions on lobbying). These Directives require compliance with the restrictions on lobbying called for by Section 319 (referred to as the Byrd Amendment) of Public Law 101-121. The Byrd Amendment prohibits all applicants and recipients of Federal contracts, grants, loans and cooperative agreements from using Federally appropriated funds for lobbying; and it requires disclosure of lobbying with other than Federally appropriated funds by each person who receives or requests financial assistance in the form of a contract, grant, loan, cooperative agreement or commitment for loan insurance or loan guaranty which exceeds the minimum dollar thresholds.
- 1-2. APPLICABILITY. The Byrd amendment and the guidance in this Handbook apply to applicants, recipients, contractors and subcontractors of contracts, grants, or cooperative agreements exceeding \$100,000 as well as loans or commitments to insure a loan exceeding \$150,000 as follows:
- A. Multifamily Mortgage Insurance Programs. All multifamily insurance, property management and disposition programs pursuant to Title II of the National Housing Act. (Property Disposition contracting procurements are subject to Byrd Amendment requirements, as implemented through the Federal Acquisition Regulation (FAR).)
 - B. Assisted Housing Programs. Rent Supplement, Section 236 (including non-insured Section 236) and Flexible Subsidy, Rental Assistance Payments, Section 8 (including Loan Management Set-aside, Property Disposition Set-aside, State Agency Set-aside, New Construction Set-aside for Section 515 Rural Rental Projects), Section 811, Special Purpose Grants, Section 202.
 - C. Other Housing Programs. Section 106(b) loans, Hope for Elderly Independence Program, Congregate Housing Services Program and Housing Counseling Program with single family mortgage insurance.
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D. FHA Exceptions. Section 319 of the 1993 Department of the Interior and Related Agencies Appropriations Act changed the Byrd Amendment to say that insured single family mortgages which do not exceed \$150,000 or the single family mortgage limit for affected programs, whichever is greater are exempt from the Byrd requirements.

FHA-insured single family mortgages are exempt from the Byrd Amendment reporting requirements, and lenders and borrowers no longer have to execute any of the certifications required by Mortgagee Letters 93-5 and 90-31 in connection with FHA-insured single family mortgages.

1-3. REQUIRED REPORTING. The OMB regulations require a certification that Federally appropriated funds are not being or have not been used in violation of Section 319 and that disclosure will be made of payments for lobbying with other than Federally appropriated funds. This certification is to be submitted by applicants as part of the application process for the "covered Federal actions" described above. Civil penalties from \$10,000 to \$100,000 can be assessed for noncompliance.

A. Standard certification information is included in paragraph II A 2 of attached Ethics Letter 91-5 .

B. Please note that the certification/statement and disclosure form must be submitted with each application, if required above. In addition, at the end of each quarter, a disclosure form shall be filed when an event requires disclosure or when previously filed disclosure information is inaccurate. It is up to the applicant to determine whether it is to be submitted.

1-4. REQUIRED ACTION. Subcontractors and sub-recipients are also subject to these requirements. They must submit their certifications and disclosure forms prior to subcontract execution or receipt of funds to the next higher tier above them. All forms must be submitted up from tier to tier until they are submitted to HUD.

- A. The Field Office must review each certification which it receives and determine that it is complete prior to the award of loan or grant funds or the issuance of commitments to insure loans. Each certification submitted to the Field Office must be kept in the project or program file.
- B. The Field Office shall send the original of any disclosure forms (Standard Form - LLL) received directly and immediately to the Office of Ethics in Headquarters and retain a copy in the application, project or program file.
- C. It must be emphasized that even if the loan or grant amounts are not large enough to trigger the certification and disclosure requirements, the prohibitions against the use of Federally appropriated funds for influencing or attempting to influence the actions of Federal officials apply. Accordingly, Field Office staff must be alert to possible violations, which must be reported to the Office of Ethics.