

**HUD MULTIFAMILY AND
HEALTHCARE LOAN SALE
QUALIFICATION STATEMENT**

**U. S. Department of Housing and
Urban Development**
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0576
(exp. 01/31/2021)

Read this before you complete and sign this form HUD-90092

Public Reporting Burden. The reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Notice. Regulations authorizing the Qualification Statements come from 24 CFR Part 290. HUD is authorized to sell Multifamily and Healthcare loans under Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Appropriations Act of 1997 (12 USC 1715z-11a).

The collection of Information is necessary to ensure that bidders are qualified to bid on the assets available for sale. HUD will use the information to: (1) monitor program participants' compliance with requirements, and (2) to detect fraud. This collection is voluntary. The information requested is required to obtain and retain benefits. HUD is authorized to collect this information under 12 USC 1715z-11a and 24 CFR Part 290

The U.S. Department of Housing and Urban Development (“HUD”) is planning to sell certain HUD-held notes and mortgages secured by multifamily projects and/or healthcare facilities (the “Mortgage Loans”) in loan sale [Multifamily and/or Healthcare Loan Sale (MHLS) _____ (the “Loan Sale”). The undersigned understands and acknowledges that, before it can register for the Loan Sale, it must meet certain requirements to be a “qualified bidder.” The information requested herein is being requested for the purpose of providing HUD with information to determine whether the undersigned is a qualified bidder. All or part of the information provided on this form may also be subject to disclosure under the Privacy Act of 1974, 5 U.S.C. § 552(a). The Department of Housing and Urban Development (HUD) is authorized to collect this information under 12 USC 1715z-11a and 24 CFR Part 290. Providing the requested information is voluntary; however, failure to furnish all of the requested information may result in the prospective purchaser, or agent, if any, not being permitted to bid at the Loan Sale or other loan sale initiatives and/or not receiving notice of future loan sale initiatives.

Anyone who knowingly or willfully makes false or fraudulent statements or representations in connection with the disclosures or certifications will be referred to the Office of Inspector General and/or the appropriate law enforcement officials for investigation and legal enforcement. The penalty for knowingly making a false statement or report shall be a fine of not more than \$1,000,000 or imprisonment for not more than 30 years, or both. 18 U.S.C. Sections 1001,1012, and 1014.

The following information is being solicited with respect to the individual or entity whose name will appear on the Loan Sale Agreement as the Purchaser (“Purchaser”) and to whom the Mortgage Loans will be transferred after the Loan Sale:

I. Purchaser Information (identify Purchaser exactly as the name will appear on the Loan Sale Agreement):

A. _____
Name of Purchaser Entity (or Individual, if Purchaser is purchasing in its individual capacity)

B. _____

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Corporate or Partnership Designation and State of Formation/Origination (if applicable)

C _____
Address of Purchaser

D _____
City, State, Zip Code

E. _____ F. _____
Phone Facsimile

G. _____
Purchaser Tax I.D.

H. _____
E-mail Address

I. Please check the description that best describes Purchaser's business designation:

- | | |
|---------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> Commercial Bank | <input type="checkbox"/> Insurance Company |
| <input type="checkbox"/> Savings Association/Bank | <input type="checkbox"/> Financial Services Company |
| <input type="checkbox"/> Mortgage Banker | <input type="checkbox"/> Pension Fund |
| <input type="checkbox"/> Investment Bank | <input type="checkbox"/> Individual |
| <input type="checkbox"/> Real Estate Company | <input type="checkbox"/> Other, please describe |
| <input type="checkbox"/> Project Mortgagor | _____ |

II. Purchaser Qualification. The undersigned understands that if it is determined to be a "qualified bidder" for the Loan Sale, its status as such does not necessarily mean that it will be a "qualified bidder" for any other loans or assets offered in any other HUD sale. The undersigned also understands that its status as a "qualified bidder" for any other HUD sale does not necessarily mean that it will be a "qualified bidder" for the Loan Sale. Purchaser hereby certifies, represents and warrants to HUD that it is a "qualified bidder" based upon Purchaser's satisfaction of one or more of the following qualifying statements 1 through 7. Purchaser must check one or more of the following qualifying statements 1 through 7 to qualify as a "qualified bidder" for the Mortgage Loans being sold in the Loan Sale. (CHECK ALL THAT ARE APPROPRIATE):

(___) 1. Purchaser is a corporation, partnership, limited liability company or business trust with total assets in excess of \$5,000,000, or a wholly-owned subsidiary of such an entity, and was not formed for the specific purpose of acquiring the Mortgage Loans to be offered for sale at the Loan Sale.

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- () 2. Purchaser is a bank (as defined in Section 3(a)(2) of the Securities Act of 1933, as amended (the “Act”)); savings and loan association or other institution (as defined in Section 3(a)(5)(A) of the Act); insurance company (as defined in Section 2(13) of the Act); investment company registered under or business development company as defined in the Investment Company Act of 1940, as amended; Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Company Act of 1958, as amended; or a broker or dealer registered under Section 15 of the Securities Exchange Act of 1934 as amended.
- () 3. Purchaser is a trust with total assets in excess of \$5,000,000 not formed for the specific purpose of acquiring the Mortgage Loans to be offered for sale at the Loan Sale, whose investment decisions are directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of purchasing the Mortgage Loans offered for sale at the Loan Sale.
- () 4. Purchaser is a business entity, all of whose equity owners are either entities that are “accredited investors” as defined in Rule 501 of the Act or individuals who (i) have a net worth, or joint net worth with his or her spouse, in excess of \$1,000,000, or (ii) had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person’s spouse in excess of \$300,000 in each of those years, and has a reasonable expectation of reaching the same level of income in the current year.
- () 5. Purchaser is an individual (i) whose individual net worth, or joint net worth with his or her spouse, currently exceeds, and at the time of purchase of the Mortgage Loans will exceed, \$1,000,000, or (ii) who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person’s spouse in excess of \$300,000 in each of those years, and has a reasonable expectation of reaching the same level of income in the current year.
- () 6. Purchaser either (i) is in the business of buying, originating or selling some or all of the types of mortgage loans being offered for sale in this Loan Sale or (ii) otherwise deals in the ordinary course of Purchaser’s business in assets identical or similar to the types of mortgage loans being offered for sale in this Loan Sale.
- () 7. Purchaser is a mortgagor, or healthcare operator with respect to any HUD insured or subsidized mortgage loans (excluding the Mortgage Loan being offered in the Loan Sale). **(If checking only this box, Purchaser must meet the requirements in Paragraphs A-L, inclusive, below to be qualified to bid).**
- () 8. Purchaser is a shareholder, a limited partner or a non-managing member (including tax credit investors) with respect to the Mortgage Loan being offered in the Loan Sale. Purchaser certifies that Purchaser has the requisite knowledge and experience with respect to such Mortgage Loan and the property securing the Mortgage Loan to enable Purchaser to evaluate the merits and risks of a purchase of and to make an informed decision with

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respect to the Mortgage Loan. **(If checking only this box, Purchaser must meet the requirements in Paragraphs A-I and L-N, inclusive, to be qualified to bid).**

| <u>FHA Project No.</u> | <u>Project Name</u> |
|------------------------|---------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

By executing this Qualification Statement, Purchaser certifies, represents and warrants to HUD that EACH of the following statements A through and including K is true and correct as to such Purchaser:

- A. Purchaser is a sophisticated person or entity and, without limiting the foregoing, has such knowledge and experience in the origination, sale and/or purchase of performing and non-performing or distressed loans, including, without limitation, loans secured by real estate, as well as knowledge and experience, by itself or with its advisers, in other financial and business matters, as to enable Purchaser to utilize the information available in connection with the Loan Sale to evaluate the merits and risks of a prospective acquisition and ownership of the Mortgage Loans and to make an informed decision with respect thereto.
- B. Purchaser acknowledges, understands and is able to bear the economic risks associated with the acquisition and ownership of the Mortgage Loans, including, without limitation, the risk of a total loss of Purchaser's purchase price for and other costs and expenses and losses as might be incurred in connection with the Mortgage Loans and/or the risk that Purchaser may be required to hold the Mortgage Loans for an indefinite period of time.
- C. Purchaser acknowledges and agrees that, whether or not it chooses to review any information made available to it regarding the Mortgage Loans being offered for sale at the Loan Sale, Purchaser has the ability and shall be responsible for making its own independent investigation and evaluation of the Mortgage Loans and the economic, credit or other risks involved in a purchase of the Mortgage Loans, including, without limitation, the ability to resell or otherwise liquidate any of the Mortgage Loans purchased at the Loan Sale.

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- D. Purchaser is bidding for and will purchase the Mortgage Loans for its own account and not for or with a view toward resale (in whole or in part) in a “distribution” within the meaning of the Act, and Purchaser’s ownership and intended use and disposition of the Mortgage Loans will comply fully with all applicable federal and state laws, regulations and requirements, including, without limitation, any and all laws and/or restrictions imposed on resale of the Mortgage Loans by federal and state securities or Blue Sky laws, rules, regulations or requirements.
- E. Purchaser represents and warrants that it will not cause or allow any interest it acquires in any Mortgage Loan, or any interest it may ultimately acquire in the project secured by the Mortgage Loan, to be resold or assigned, in whole or in part, by real interest or beneficial interest, to any individual or entity who is (i) a mortgagor, including their principals, affiliates, and assigns, with respect to the Mortgage Loan being offered in the Loan Sale; (ii) an FHA-approved mortgagee, including any principals, affiliates, or assigns thereof, that has received FHA insurance benefits directly or indirectly for the same Mortgage Loan being offered in the Loan Sale; (iii) an FHA-approved mortgagee and/or loan servicer, including any principals, affiliates, or assigns thereof, that originated the Mortgage Loan being offered in the Loan Sale *if* the Mortgage Loan defaulted within two years of origination and resulted in the payment of an FHA insurance claim; (iv) an Active Shareholder, or a healthcare operator, including their principals, affiliates, assigns, and family member(s), with respect to the Mortgage Loan being offered in the Loan Sale. For the purposes of this document, Active Shareholder means any individual shareholder, or any entity that is comprised of a shareholder(s), with respect to a Mortgage Loan or the project securing such Mortgage Loan, provided such shareholder(s) had an investment in the Mortgage Loan or the project securing such Mortgage Loan being offered for sale in this Loan Sale within the two year period prior to and up through the date of the Loan Sale, and whose investment is more than 1 percent (1%) individually, or more than ten percent (10%) collectively; (v) a mortgagor or a healthcare operator, including their principals, affiliates, and assigns, with respect to any HUD insured or subsidized mortgage loan (excluding the Mortgage Loan being offered in the Loan Sale) *unless* the requirements of provisions K and L herein have been met; (vi) a shareholder whose investment in the Mortgage Loan or the project securing the Mortgage Loan provided such shareholder’s investment was one percent (1%) or less within the two year period prior to and up through the date of the Loan Sale, limited partner or non-managing member (including tax credit investors), *unless* the requirements of provision N herein have been met; or (vii) any other entity or individual that is excluded from bidding in provision G below; and (viii) Purchaser represents and warrants that it will cause any subsequent purchaser, assign, owner (including any beneficial interest owner) to adhere to this paragraph E for a term of not less than five (5) years from the date the sale of the Mortgage Loan closes.
- F. Purchaser acknowledges and agrees that (i) the proposed sale of the Mortgage Loans in the Loan Sale does not involve, nor is it intended in any way to constitute, the sale of a

“security” within the meaning of the Act or any applicable federal or state securities laws, (ii) no inference as to whether the Mortgage Loans are or are not “securities” under such federal or state securities laws shall be drawn from any of the certifications, representations or warranties made by Purchaser in this Qualification Statement for purposes of qualifying Purchaser as a “qualified bidder” at the Loan Sale, (iii) it is not contemplated that any filing will be made with the Securities and Exchange Commission or pursuant to the Blue Sky or securities laws of any jurisdiction, and (iv) if the Mortgage Loans are securities, they may not be resold or otherwise transferred by Purchaser except in accordance with any and all applicable securities and Blue Sky laws.

- G. Purchaser represents and warrants that it is not: (i) a mortgagor, including its principals, affiliates, family members, and assigns, with respect to the Mortgage Loans being offered in the Loan Sale; (ii) a mortgagor, including its principals, affiliates, family members, and assigns, with respect to any HUD insured or subsidized mortgage loan (excluding the Mortgage Loans being offered in the Loan Sale) who is in violation, default, or noncompliance with any HUD mortgage, regulatory or business agreement that cannot satisfy the requirements of provisions K and L herein; (iii) an individual or entity that is debarred, suspended, or excluded from doing business with HUD pursuant to Title 2 of the Code of Federal Regulations, Part 2424; (iv) a contractor, subcontractor and/or consultant or advisor (including any agent, employee, partner, director, principal or affiliate of any of the foregoing) who performed services for, or on behalf of, HUD in connection with the Loan Sale; (v) an FHA-approved mortgagee, including any principals, affiliates, or assigns thereof, that has received FHA insurance benefits for the Mortgage Loans being offered in the Loan Sale; (vi) an FHA-approved mortgagee and/or loan servicer, including any principals, affiliates, or assigns thereof, that originated the Mortgage Loans being offered in the Loan Sale *if* the Mortgage Loan(s) defaulted within two years of origination and resulted in the payment of an FHA insurance claim; (vii) a healthcare operator with respect to the Mortgage Loans being offered in the Loan Sale, including its principals, affiliates, assigns, or member(s) of such individuals’ family and its Related Party; (viii) an employee of HUD, a member of such employee’s household, or an entity owned or controlled by any such employee or member of such an employee’s family; (ix) a limited partner or non-managing member (including tax credit investors), including any of its principals, affiliates, assigns, or member(s) of such individual(s)’s family, with respect to the Mortgage Loans being offered for sale in the Loan Sale that cannot satisfy the requirements of provisions A-I and L-N, inclusive; (x) an Active Shareholder, or a healthcare operator, including their principals, affiliates, assigns, and family member(s), with respect to the Mortgage Loans being offered in the Loan Sale or (xi) an individual or entity that uses the services, directly or indirectly, of any person or entity ineligible under subsections (i) through (x) above to assist in preparing its bid on the Mortgage Loans.

In addition, (xii) Purchaser represents and warrants that (i) within the two-year period prior to the sale date, it has not, and it is not an affiliate, principal or employee of any

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person or entity that, within such two-year period, serviced any of the Mortgage Loans or performed other services for or on behalf of HUD with respect to any of the Mortgage Loans, (ii) within the two year period prior to August 1, 2018, it was not a contractor or subcontractor to and it did not otherwise have access to information concerning the Mortgage Loans or provide services to any person or entity which, within such two-year period, had access to information with respect to the Mortgage Loans, and (iii) no employee, officer, director or any other person that provides or will provide services to Purchaser with respect to such Mortgage Loans during any warranty period established for the Loan Sale, within the two-year period prior to sale date, (x) serviced any of the Mortgage Loans or performed other services for or on behalf of HUD with respect to any of the Mortgage Loans or (y) had access to information concerning the Mortgage Loans or provided services to any person or entity which, within such two-year period, serviced, performed services for HUD or otherwise had access to information with respect to the Mortgage Loans.

If Purchaser satisfies any of the criteria identified in subsections (i)-(xii) above, Purchaser is ineligible to bid in the Loan Sale.

- H. Purchaser acknowledges and agrees that HUD has the right to request additional or updated information at any time, including, without limitation, financial statements, bank references, corporate brochures, experience resume, etc., and/or confirmation of the representations, warranties and certifications made herein, and, in its sole discretion, to refuse to qualify any prospective bidder who, in HUD's sole judgment, does not have the requisite financial capability to complete the purchase of the Mortgage Loans and/or knowledge and experience to enable such prospective bidder to evaluate the merits and risks of purchasing and to make an informed decision with respect to the purchase of the Mortgage Loans to be offered for sale at the Loan Sale. The undersigned further understands that this Qualification Statement is being furnished to permit HUD to qualify Purchaser and, in connection therewith, Purchaser authorizes HUD and its agents to conduct credit investigations of Purchaser and all principals of Purchaser through appropriate third-party reporting agencies
- G. Purchaser represents and warrants that, if it is an entity, it has full authority to deliver this Qualification Statement and that the individual executing this Qualification Statement has full authority to do so on behalf of the undersigned and all principals thereof, and that, to the best of such undersigned's knowledge, all information provided herein is true, complete and correct.
- H. If Purchaser is a mortgagor or a healthcare operator with respect to any HUD insured or subsidized mortgage loans (excluding the Mortgage Loans being offered in the Loan Sale), Purchaser has identified such Mortgage Loans under Number 7 above.

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- K. If Purchaser is a mortgagor or a healthcare operator with respect to any HUD insured or subsidized mortgage loans (excluding the Mortgage Loans being offered in the Loan Sale), before executing this Qualification Statement, Purchaser has submitted to HUD, in accordance with HUD's regulations and the regulatory agreements relating to the projects securing such Mortgage Loans, the annual audited financial statements for each such project for the three most recent fiscal years prior to the sale date. If any of three most recent audited financial statements for a project securing a Mortgage Loan have not already been submitted to HUD, Purchaser must meet the requirement for electronic submission of the audited financial statements and HUD must receive the completed Qualification Statement on or before the first day of the month of the sale. For example, if the date of the sale is July 15 the audited financial statement must be received by July 1.. **If HUD did not receive the required financial statements by its due date Purchaser will be ineligible to bid in the Loan Sale.** Purchaser agrees to provide any additional information relating to such a Mortgage Loan or project as HUD may reasonably request in connection with the Loan Sale.
- L. If Purchaser or any Related Party, as defined below, is a mortgagor in any of HUD's multifamily housing programs or a mortgagor or operator in any of HUD's healthcare programs (excluding the Mortgage Loans being offered in the Loan Sale) and Purchaser is not otherwise disqualified under paragraph G above, Purchaser represents and warrants that: (i) neither Purchaser nor any Related Party is in default (whether monetary or nonmonetary) under any HUD loan, and neither Purchaser nor any Related Party has been notified by HUD that it is in violation of, or not in compliance with, any regulatory or business agreements with HUD; or (ii) if such a default or violation exists, Purchaser shall cure such default or violation on or before the first day of the month of the sale. For example, if the date of the sale is July 15, all such default or violation must be cured by July 1. Curing any nonmonetary default means specific performance in accordance with instructions provided by HUD. Curing any monetary default includes repaying HUD for any monetary amounts that may have been advanced by HUD or by an FHA approved mortgagee or servicer that subsequently received FHA insurance benefits with respect to the Mortgage Loan. **If Purchaser does not cure such default or violation on or before the due date, Purchaser will be ineligible to bid in the Loan Sale.**

In addition, Purchaser represents and warrants that neither Purchaser nor any Related Party is flagged in HUD's Active Partners Performance System (APPS),

If Purchaser or any Related Party is in default under any HUD loan, in violation of any HUD regulatory or business agreement, or is flagged in APPS, **please check the following line** _____ and on an attachment submitted with this Qualification Statement either (A) indicate the FHA loan number, the name of the project, the name of the mortgagor, and the nature of the default, violation, or flag; or (B) provide a complete listing or organizational chart of any known Related Party or affiliates. HUD will

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undertake a review, to determine whether Purchaser or any Related Party is in default under or has violated any HUD loan, HUD regulatory agreement or other HUD business agreement, or has been flagged by HUD in APPS. HUD reserves the right, in its sole and absolute discretion, to refuse to qualify a prospective bidder if the Purchaser or any Related Party is in default under any HUD loan, in violation of any HUD regulatory or business agreement, or is flagged in APPS prospective bidder shall be final and not subject to appeal. **Subject to paragraph G above, if Purchaser does not cure (or cause to be cured) such violation on or before the due date, Purchaser will be ineligible to bid in the Loan Sale.**

For purposes of this Qualification Statement, Related Party shall include any principal of Purchaser, any affiliate of Purchaser, and any principal of any affiliate of Purchaser. An affiliate is any party that controls, is controlled by, or is under common control with Purchaser. A principal in a partnership is any general partner, or a limited partner with a 25% or greater equity or ownership interest. A principal in a corporation is any officer or director, and any stockholder with a 10% or greater equity or ownership interest. A principal in a limited liability company is any manager, officer or director, and any owner with a 10% or greater equity interest. Purchaser represents and warrants that each Related Party that is a mortgagor in a HUD multifamily housing program or a mortgagor or operator in a HUD healthcare program is identified on an attachment submitted with this Qualification Statement.

- M. If Purchaser is a shareholder, a limited partner or non-managing member (including tax credit investors) with respect to a Mortgage Loan being offered in the Loan Sale, Purchaser has checked Number 8 above.
- N. Notwithstanding the definition of Related Party above, if Purchaser checked Number 8 under Part II above, with respect to a Mortgage Loan, Purchaser represents and warrants that: (i) Purchaser, or any Related Party, is not an Active Shareholder as defined in paragraph E above; (ii) prior to the loan becoming a HUD-held asset, Purchaser's and any of its Related Party's involvement in the property securing the Mortgage Loan was solely financial; and (iii) Purchaser and any Related Party did not participate directly or indirectly in the ongoing management of the property (or properties) securing the Mortgage Loan

Purchaser understands that the above certifications, representations, and warranties are made for the purpose of qualifying Purchaser as a "qualified bidder" at the Loan Sale.

Purchaser also agrees to update this Qualification Statement submission if any material changes occur that in any way alters the information and responses provided herein, between the execution date of this Qualification Statement and the date that Purchaser's deposit is returned or the date that the sale of the Mortgage Loan closes, whichever occurs first.

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Purchaser hereby represents that the above certifications, representations, and warranties are true and correct in all respects as of the time they are made and as of the time Purchaser purchases any of the Mortgage Loans offered for sale at the Loan Sale and understands that HUD is relying upon the truthfulness and correctness of such statements.

WARNING: Any person who knowingly presents materially false, fictitious, or fraudulent statements in a matter within the jurisdiction of HUD is subject to penalties, sanctions, or other regulatory actions, including but not limited to: _____

- (i) Fines and imprisonment under 18 U.S.C. §§ 287, 1001, 1010, 1012, which provides for fines of a maximum of \$25,000 for individual and \$500,000 for organizations or imprisonment for up to 5 years or both; or
 - (ii) Civil penalties and damages under 31 U.S.C. § 3729, of not less than \$5,000 and not more than \$10,000 plus 3 times the amount of damages which the government sustains; and
 - (iii) Administrative sanctions, claims, and penalties by HUD pursuant to 24 C.F.R. Parts 24, 28, and 30.
- The Bidder and the person signing on behalf of the Bidder certify that the information provided on this form and in any accompanying documentation is true and accurate. _____

The Bidder and the person signing on behalf of the Bidder certify that the information provided on this form and in any accompanying documentation is true and accurate.

Dated: _____,

PURCHASER:

(Print name – must match Entity Name on Confidentiality Agreement)

By:
(signature)

Print Name:

Print Title:

Note: Bidder eligibility criteria may change from sale to sale. As a result, some or all of the statements listed in Section I and II may be utilized for any particular sale. Additionally, HUD's Office of Multifamily Housing and/or HUD's Office of Healthcare Programs may, in their sole discretion, require additional criteria for any sale. The eligibility criteria for any particular sale will be determined prior to the date on which potential bidders for that particular sale are able to access information on any asset being offered in that sale. Once determined and distributed to the potential bidders, the eligibility criteria may not be changed unless distributed to all potential bidders in an amendment to this Form 90092 and subsequently acknowledged in writing by each potential bidder.