

## **Appendix 2**

# **Guidelines for a Lender Quality Control Plan; Identity of Interest Examples**

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### **I. Guidelines for a Lender Quality Control Plan**

#### **A. Background**

As a condition of receiving or continuing to receive both Title II lending and MAP lending privileges, MAP Lenders must adopt and maintain a Quality Control Plan (QC Plan) for the origination, underwriting, closing, construction loan administration and loan servicing, if applicable, of FHA insured mortgages processed under the MAP program and procedures. Each MAP Lender must develop and maintain an acceptable QC Plan and conduct quality control using the guidelines below.

On December 30, 2016, the Department issued HUD Handbook 4000.1, Single Family Housing Policy, in which Chapter 1A: Doing Business with FHA; FHA Lenders and Mortgagees, and Chapter V A-E: Quality Control, Oversight and Compliance; Quality Control of Lenders and Mortgagees, apply to multifamily MAP Lenders and are incorporated herein by reference. All MAP Lenders must also comply with the applicable provisions of HUD Handbook 4000.1 and with the QC provisions in Chapter 2 and in this Appendix.

#### **B. Submission of QC Plan; Compliance with QC Plan**

A QC Plan is a required exhibit in the lender's application package for MAP approval and must be included as Exhibit M and be submitted in electronic PDF format, signed by an authorized signatory of the lender. The MAP Lender must annually review and update its QC Plan and, whenever the plan is revised, the lender must send updated PDF copies to MACOD.

The Lender must comply with its QC Plan and with the underwriting, monitoring and servicing requirements of the MAP program on a continuous basis to maintain MAP eligibility. Failure to comply with these requirements or with its QC Plan may result in revocation of MAP privileges and/or other administrative sanctions.

C. Policy Objectives

The primary objectives of the QC Plan are to assure that:

1. The MAP Lender operates at a high-performance level in the origination, underwriting, closing, construction loan administration and servicing (as applicable) of MAP processed loans.
2. The MAP Lender operates in full compliance with the National Housing Act (NHA), HUD-FHA and MAP requirements, and with its own internal policies and procedures.
3. The MAP Lender adheres to the MAP Guide policies and procedures, clarifications and revisions in Frequently Asked Questions (FAQ), applicable regulations, Mortgagee Letters, HUD Notices and HUD Handbooks, and its own internal controls. These policies and procedures must be distributed to and consistently followed by the Lender's personnel and must be supported internally by appropriate training and staff development activities.
4. The MAP Lender's third-party contractor(s) involved in a MAP loan are familiar with, understand and adhere to the MAP Lender's own policies and procedures regarding quality control.
5. The MAP Lender's operating procedures are revised in a timely manner to:
  - a. Accurately reflect any changes in HUD-FHA and MAP regulations, policies, directives or instructions;
  - b. Keep all affected, accountable personnel informed and trained so as to guarantee compliance therewith; and
  - c. Assure that all employees and third-party contractors are held accountable for performance failures, errors and omissions.
6. The MAP Lender utilizes a program of internal and/or external audits that provide for an independent review by lender's staff and/or contractor(s) who are knowledgeable and have no direct MAP loan origination, underwriting, construction loan administration, and/or loan servicing responsibilities, as applicable.

D. General Requirements of a QC Plan

The QC Plan must clearly describe the requirements for MAP loan origination, underwriting, closing, construction loan administration and loan servicing (as applicable), and must describe the actions the MAP Lender will take to assure acceptable oversight of and risk management in the MAP lending process.

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Each office of the MAP Lender, including its branches, must maintain or have direct access to copies of the NHA and all HUD issuances, including Part 24 CFR regulations, HUD handbooks, Mortgagee Letters, HUD Notices, the MAP Guide, MAP Frequently Asked Questions (FAQs), etc. which are relevant to the MAP Lender's origination, underwriting, closing, construction loan administration and loan servicing activities (as applicable). These documents must be accessible to all employees and third-party contractor(s) and must be periodically reviewed with them.

The QC Plan must confirm that the lender's operations are conducted in a professional, business-like environment, that its office is properly and clearly identified, it has adequate office space and equipment, it is separated from any other business entity by walls or partitions and it is accessible to persons with mobility impairments.

### E. Required Notifications and Certifications

1. The MAP Lender must notify MACOD of any change in the MAP Lender's:
  - Point-of-contact for the MAP procedures
  - Contact information for Asset Management/Loan Servicer
  - Name
  - Address
  - Email address
  - Telephone and/or FAX numbers
  - MAP Underwriter(s)
  - Construction loan administrator(s), if applicable; and
  - Authorized signatory(s).
2. The MAP Lender must provide annual certifications signed by an authorized signatory of the MAP Lender and submitted to MACOD electronically in PDF format no later than June 30th of each year. The certification must include:
  - a. The names of the lender's approved MAP Underwriter(s), construction loan administrator(s) and authorized signatory(s) to bind the lender on MAP loan applications. Servicing lenders must also list the name(s) of the primary servicing point of contact.
  - b. The names of the lender's originators.
  - c. A statement that the MAP Lender is currently a HUD-approved multifamily mortgagee.
  - d. A description of any corrective actions taken as a result of its most recent QC reviews.

- e. A summary of loans underwritten by new MAP underwriters (who were approved within the last fiscal year).
- f. Contain the following language: **“WARNING: Federal law provides that anyone who submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424. The signatory certifies that the information provided herein is true and accurate.”**

F. Suspension, Debarment and Limited Denial of Participation

- 1. The MAP Lender must maintain, have access to and regularly review the latest Limited Denial of Participation (LDP) list, which is available at the following website: [https://www5.hud.gov/Ecpcis/main/ECPCIS\\_List/main/ECPCIS\\_List.jsp](https://www5.hud.gov/Ecpcis/main/ECPCIS_List/main/ECPCIS_List.jsp).

The MAP Lender must also maintain, have access to and regularly review the government- wide list of excluded parties for persons or entities who have been suspended or debarred by the federal government. This information is found in the System for Award Management (SAM) online at the following website: <https://www.sam.gov/SAM/pages/public/index.jsf>.

- 2. The MAP Lender may not:
  - a. Conduct FHA-HUD related business with any persons, as defined in 2 CFR Part 2424 and 24 CFR Part 24, who are debarred, suspended or subject to a Limited Denial of Participation.
  - b. Employ or have contact with any individuals or firms to perform FHA-HUD related services in origination, processing and underwriting or construction loan servicing who are restricted from participation in HUD/FHA programs. The MAP Lender must check their employee list and third-party contractors every six months to ensure compliance with this requirement.

G. Independence of QC Reviews and Reviewers

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The QC review function must be independent of the lender's loan origination, processing and servicing functions, and may be accomplished in several ways. QC review functions may be performed by using:

1. In-house staff: Lenders may establish a special unit that is dedicated solely to QC. Staff performing QC reviews must not be involved in the day-to-day processes that they are reviewing.
2. Outside firms: MAP Lenders may use knowledgeable outside, independent firms to prepare the QC reviews.
  - a. Services provided by an outside firm must comply with the Department's QC requirements and must provide written reports to the MAP Lender's senior management. The MAP Lender is responsible for ensuring these requirements are met.
  - b. The firm working on the QC review may not be used by the lender in underwriting MAP loans.
  - c. Certified Public Accounting (CPA) firms may perform the QC review, which would be considered non-audit services. However, the same CPA firm cannot also provide auditing services for the MAP Lender since the CPA firm will be reviewing its own work, in part, which is a violation of the Independence standard of the Auditing Standards.
  - d. Any agreement with the outside review firm must be in writing, state the roles and responsibilities of each party and be available for review by MACOD.

### H. Review of QC Reviews by Lender's Senior Management Committee; Submission to MACOD; File Retainage

The QC reviewing official(s) must document all positive and negative findings in writing and present its QC Review at the lender's next designated senior management committee meeting.

1. The senior management committee must meet on a semiannual basis to hear the findings and recommendations of the QC Review, or more frequently if serious quality control issues are present.
2. Committee members must receive written notification of any deficiencies found as a result of a QC Review before the meeting.

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3. At the meeting, the committee must carefully review and analyze the findings of the QC Review and undertake corrective actions as necessary, including:
  - a. Prompt initiation of corrective actions to address all deficiencies, including any procedural problems identified.
  - b. Formal documentation of the corrective actions taken by citing each deficiency, identifying the cause of the deficiency and providing management's response or actions taken.
  - c. Affected third party contractor(s), employees and departments must be notified in writing of such findings and the corrective actions taken to assure senior management that repeated or recurring actions will not reoccur.
  - d. Prompt distribution to all MAP loan origination, underwriting, closing and construction loan administration personnel and/or servicing personnel, as applicable, including contractor(s), of the corrective instructions for the identified deficiencies.
  - e. Promptly implement training for the prevention of such activities in the future.
  - f. Review all remedial actions for compliance at the next regularly scheduled committee meeting.
  
4. The MAP Lender must report the results of its QC Reviews to MACOD, including the corresponding corrective action plans, and must provide assurance that the information being reported is accurate, complete and has been reported promptly. The MAP Lender must also report to MACOD the minutes of the senior management committee meeting that reviewed the QC Review and of any follow up meetings.

The MAP Lender must promptly notify MACOD of any violation of law or regulation, false statements or program violations by the lender, its employees, its contractors or any other party to the transaction that was found during the QC Review. A MAP Lender's QC Plan must ensure that findings discovered by employees during the normal course of business and by the QC staff during reviews/audits of MAP loans are reported to MACOD within 60 days of their initial discovery. If there is a finding of fraud or other serious violation, the finding must be submitted in writing to MACOD. If HUD staff is suspected of involvement, the lender should refer the matter to the Office of Inspector General, Department of Housing and Urban Development, 451 7th Street, SW, Room 8256, Washington, DC 20410.

5. The MAP Lender must retain any QC Reviews and follow-ups, including the review findings, corrective actions taken and procedural information about the review (such as the percentage of loans reviewed, the basis for the selected loans and who performed the review) for a period of 7 years and must be made available to HUD on request. The MAP Lender must retain a copy of the entire case file pertaining to each MAP loan origination, underwriting and/or construction loan administration, for at least 7 years from the Final Endorsement date, either in hard copy or in a generally accepted electronic storage format.

I. Specific Requirements of a QC Plan

1. For MAP origination and underwriting functions

- a. The QC Plan must address how quality control is integrated into the MAP Lender's loan production process. For example, before sending the AE&C analyst and the appraiser out to perform a review, a pre-performance meeting should be held, which is an important first step to document how the lender is enforcing QC in the production process. At a minimum, the following functions must be addressed in the QC Plan and the loan file must include documentation supporting any decisions made for these functions.
- b. The QC Plan must address how the MAP Lender will exercise prudence and due diligence in determining that the mortgagor is an acceptable credit risk, and with the project's ability to make payments on the loan obligation.
- c. The QC Plan must address how the MAP Lender will exercise prudence and due diligence in determining that the general contractor, if applicable, is an acceptable credit risk, with a reasonable expectation of completing construction of the project.
- d. The QC Plan must address how the MAP Lender will exercise prudence and due diligence in determining that the property's estimated value, market demand, income potential, operating expenses and warranted cost of the property will be analyzed to ensure that they are adequate to support a long-term HUD insured mortgage.
- e. The QC Plan must address how the MAP Lender will exercise prudence and due diligence in determining that new construction/substantial rehabilitation project's design meets all applicable design standards and usability by the intended resident population.
- f. The QC Plan must address how the MAP Lender will exercise prudence and due diligence in determining that the project's construction/rehabilitation or repair costs are reasonable.
- g. The QC Plan must address how the MAP Lender will exercise prudence and due diligence in assuring that it has not established minimum loan amounts or "floors," below which they will not lend since this is a violation of Section 535 of the National Housing Act.
- h. The QC Plan must address how the MAP Lender will exercise prudence and due

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diligence in determining that it is in compliance with Section 2.7 of the MAP Guide dealing with prohibited Identity-of-Interest relationships. Identity of interest relationships that have been approved by MACOD must be properly documented in the QC plan, and evidence of the approvals must be provided with the application for the HUD processing office's review.

- i. The QC Plan must address how the MAP Lender will exercise prudence and due diligence in assuring that the lender's loan originators cannot:
  - i. Perform the role of underwriter for projects they originate.
  - ii. Hire contractors on behalf of the underwriter.
  - iii. Interact with, or otherwise act to influence, the preparation or conclusions of third-party contractors' reports (including the lender's internal staff tasked with third-party like duties).
  - iv. Have an Identity of Interest with a third-party contractor, the borrower or borrower entity.

The QC Plan shall require that all of the MAP Lender's loan originators certify for each loan that no conflicts-of-interest exist with the proposed mortgagor or other transaction participants.

- j. The QC Plan must stipulate that all HUD approved MAP Underwriters are full-time employees of the MAP Lender.
- k. The QC Plan must address how the MAP Lender will exercise prudence and due diligence in assuring that the MAP Lender's technical staff and/or third-party contractor(s) are knowledgeable about HUD's requirements. Where required by state or local law or regulation, the technical staff or third-party contractor must be properly licensed in the jurisdiction where the project is located.

### 2. For MAP construction loan administration function

- a. The QC Plan must address how the MAP Lender will exercise prudence and due diligence in determining that construction loan administration is performed in accordance with accepted practices of prudent lending institutions and with HUD's requirements.
- b. The QC Plan must stipulate that the HUD approved MAP construction loan administrator(s) is a full-time employee of the MAP Lender.
- c. The QC Plan must provide for a review of the construction loan administration function in order to:



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- i. Determine that construction loan administration records are promptly established and maintained after loan closing and that the servicing records contain the information necessary to properly service the loan.
- ii. Determine that inquiries from borrowers concerning their individual loan accounts are responded to promptly.

3. The QC Plan for Lenders with Delegated Non-Critical Repair Escrow Administration and/or Delegated Administration of Reserve for Replacement Account Disbursement functions must describe how they will address the quality control of these activities.

### J. Quality Control Reviews

#### 1. Scope, timing and format of QC Reviews

QC audits or reviews of the lender's MAP operation are to be performed annually. The review must be a written, self-contained analysis prepared by a competent, knowledgeable and properly licensed professional and should be sufficient in scope to enable the lender to evaluate the performance of its MAP operation and its compliance with MAP program requirements. The review should provide an independent evaluation of the MAP Lender's origination, underwriting, closing, construction loan administration and loan servicing processes and procedures. The reviews must document whatever deficiencies are found, as well as any significant oversights and/or deficiencies in loan servicing which are found as a result of problem loan reviews. The scope of a QC review should be expanded where instances of alleged misrepresentation or fraudulent activities by the borrower team, or patterns of serious deficiencies in the lender's underwriting, construction loan administration or loan servicing, are identified.

The annual QC review must also address the following:

- Track all MAP loans presented by individual loan originators and underwriters.
- Evaluate the lender's overall QC Plan for adequacy and the lender's operation for compliance with its QC Plan.
- Perform audits of individual loan transactions.

The appraisal review must be prepared by a Certified General Appraiser who is competent and licensed in the appropriate jurisdiction and must be prepared to USPAP review standards. Cost/architectural reviewers must meet MAP experience requirements found in the Guide. The underwriting and cost/A&E and loan servicing reviews should contain sufficient information to ascertain the level of analysis performed and the conclusions reached by the reviewer. The underwriting review must provide sufficient documentation to confirm that the reviewer has evaluated the underwriter's analysis of

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the project strengths, weaknesses, risks and mitigants in all technical areas, as well as an overall assessment.

### 2. Production tracking

As part of the annual QC review, MAP lenders must track all MAP loans presented or processed by individual loan originators and underwriters. The term loan originator includes mortgage broker, loan correspondent or loan consultant. No later than June 30th of each year, the MAP lender must submit an electronic copy of its production tracking report to MACOD.

Annual production tracking reports for each underwriter must include the following information:

- FHA Number
- Project Name (identification)
- Initial/ Final Endorsement Dates
- Mortgage Insurance Program
- Original Principal Balance
- Loan Servicer
- Loan Status
- Whether the loan has any of the following issues:
  - Waivers
  - Master Lease
  - Is located in an Underserved Area
  - Criterion 5 (debt service) controlled mortgages
- Any government housing subsidies (i.e. LIHTC, Section 8, etc.)

### 3. QC Plan reviews

The QC Plan review must evaluate the lender's overall QC Plan for adequacy. It should include an analysis of:

- a. The lender's operation and its compliance with the QC Plan;
- b. Whether the lender's QC Plan incorporates a system that is adequate to ensure that FHA underwriting and servicing requirements are followed;
- c. Whether the lender is following the QC Plan it has adopted;
- d. Whether the lender has completed the correct number of loan audit reviews; and
- e. Whether the lender is adequately staffed to implement the QC Plan.

### 4. QC loan file and commitment reviews

- a. The QC review must include reviews of individual loan files and commitments, as

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follows:

- i. For MAP Lenders with a total of 20 or more MAP Firm Commitments in the applicable year of review, reviews must be completed for 5% of all closed loans. The maximum number of required loan reviews will be the lesser of 5% of all closed loans or three reviews.
    - ii. MAP Lenders with fewer than 20 Firm Commitments in the applicable year of review must perform one QC loan review.
    - iii. The required number of QC reviews will be performed on loans with the greatest Risk Assessment Score as defined below.
  - b. MAP Lenders are not required to perform a QC review for each Section of the National Housing Act used.
  - c. MAP Lenders are not required to perform a QC review for each underwriter, so long as the minimum prescribed number of loans is reviewed. QC reviews shall evaluate the quality of work performed by the MAP originators, underwriters and technical staff and/or third-party contractor(s).
  - d. All appraisals reviewed must receive a field review performed by either a qualified senior staff member not involved in origination or underwriting or by a review appraiser employed on a contract basis.
  - e. For QC reviews involving new construction/substantial rehabilitation projects, the review should provide an analysis of whether MAP construction loan servicing policies and requirements have been met.
  - f. The review appraiser or appraisal firm performing the QC appraisal review may not have provided appraisal services for any MAP loans underwritten by the lender.
5. QC loan ranking factors and review selection

The QC reviewer will assign a risk assessment score to each loan originated in the previous reporting cycle and loan reviews will be targeted to loans with the highest scores that therefore represent the greatest degree of risk to the Department. Points are cumulative and will be assigned for the following risk indicators:

<u>Risk Indicators</u>	<u>Scores</u>
Loans that are troubled, defaulted or assigned	20 Points
Mortgage amounts over \$15,000,000	15 Points
Mortgage amounts over \$10,000,000	10 Points

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Mortgage amounts over \$5,000,000	5 Points
Mortgage amount over \$1,000,000	1 Point
New Construction Loans	15 Points
Substantial Rehabilitation Loans	10 Points
Acquisition Loans	5 Points
Refinance Loans	1 Point
Loans that are not typical in size (low or high number of units)	5 Points
Loans in which Criterion 5, Debt Service Coverage, established the Maximum Loan Amount	5 Points
Loans underwritten by MAP underwriters who were initially approved within the last three years	10 Points
Loans underwritten by MAP underwriters with a loan default in the previous three reporting cycles	10 Points
Loans that have waivers	5 Points
Unsubsidized, market rate properties	5 Points
Properties with a Master Lease	10 Points

### 6. QC Reviews of assigned or problem loans

In addition to the above review requirements, as part of the QC review process, the originating MAP Lender must also undertake a comprehensive review and re-examination of any MAP loan it underwrote that is assigned either during construction or within four years after Final Endorsement. This must be done in all cases, including those in which the MAP Lender no longer has the loan in its portfolio. If the originating lender does not initiate the review, MACOD may direct that the review be performed. In addition to all other requirements of a QC review outlined herein, reviews of assigned loans shall include the following:

- a. The review should include a timeline spanning application engagement to assignment of the loan, and should identify the dates of pertinent actions and events, such as the date of engagement, application submission, firm commitment, initial endorsement and should identify the date of the events that are determined to have contributed to the assignment (for ex, loss of the management agent, contractor walk-off, etc.).
- b. The review should include the identification of all parties or entities involved in preparing and processing the application, including:
  - i. Principals of the borrower, sponsoring entity(ies), and development team members
  - ii. The property management agent
  - iii. The lender's originator(s) or loan correspondent(s)
  - iv. The lender's underwriter(s)
  - v. Third party contractors that worked on the application

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- c. The review should include an analysis of the probable cause of the assignment, including identifying all relevant contributory factors. To the extent possible, the reviewer should interview the project's owner, the originating lender's underwriter and the HUD processing center familiar with the application and include an analysis of each party's opinion of the probable cause of default, reconciled with the reviewer's opinion of the cause. The review and re-examination must include a re-underwriting of the loan given the currently known facts and circumstances that contributed to the assignment and discuss the lessons learned from the assignment.

### 7. Specific Requirements for QC Reviews of Loan Underwriting

Each individual loan review must be a written, self-contained analysis whose purpose is to determine the accuracy and completeness of the underwriting conclusions, third-party deliverables and loan documentation. Each portion of the review should contain sufficient information to ascertain the level of analysis performed and the conclusions developed. The appraisal review is to be prepared to USPAP review standards. The underwriting review must provide sufficient documentation to ascertain that the reviewer has evaluated the underwriter's identification of the project strengths, weaknesses, risks and mitigants in all technical areas and overall. For the underwriting portion of the review, at a minimum, the following requirements must be met for loans underwritten using the MAP procedures:

- a. All processing and underwriting must comply with the applicable provisions of the NHA, Title 24 of the Code of Federal Regulations, the MAP Guide and MAP FAQs.
- b. All Identity-of-Interest certifications were properly filed. Review the loan closing statement to determine if any inappropriate inducements or prohibited IOI disbursements were paid.
- c. Determine whether each loan file contains all HUD required loan processing, underwriting and legal documents including supporting reports, and that all required documents were provided to HUD with the application.
- d. Determine if there was a violation of the Department's prohibition of referral fees paid to a party who is not a loan consultant, loan correspondent or mortgage broker.
- e. Determine if anything of value was paid directly or indirectly to any person or entity who has received any other compensation from the mortgagor, seller, builder or any other person for services related to the transaction or related to the purchase or sale of the mortgaged property. Exception can be made where services were actually rendered, the name of the broker is furnished and there is no Identity of Interest between the mortgagee and the broker or the mortgagor and the broker. The broker's fee must be included on the Mortgage Certificate.

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- f. Determine if staff allowed third parties to represent the MAP Lender in meeting(s) with the HUD area office to discuss specific MAP project issues.
- g. Determine if excess and unallowable fees are being charged to mortgagors. Examples include charging discount points not disclosed on the Mortgagee's Certificate, Form HUD-2434, or at firm commitment, or charging higher fees than are permitted by HUD/FHA.
- h. If new construction or substantial rehabilitation, did the pre-application submission include an acceptable narrative summary of the market study and the extent of market competition, and describe any features of the proposal which may present issues, such as zoning, ground leases and environmental conditions?
- i. Did the Lender's pre-application submission list the proposed MAP Lender reviewers? Were any proposed reviewers rejected by the Hub, and, if so, why?
- j. In the application for the Firm Commitment, did the Lender provide a narrative analysis which discussed the characteristics of the project for which mortgage insurance was sought, presenting the reasons that the Lender recommended the loan for mortgage insurance?
- k. Did the Lender's narrative analysis for the Firm Commitment application discuss the risk factors?
- l. Did the narrative analysis for the Firm Commitment application properly evaluate the multifamily housing experience and financial capacity of the principals of the borrower?
- m. If the application is for a refinancing or purchase loan, did the narrative provide a satisfactory description of the property?
- n. Did the Lender's narrative provide a satisfactory analysis of the market, the rents, expenses and, for new construction projects, the estimated rent-up costs and operating deficit?
- o. Did the Lender determine the adequacy of the reserve for replacement?
- p. Did the underwriter recommend any changes to the appraisal or technical reports' findings, conclusions and/or recommendations? If so, what were they, what was the justification and was it documented fully and supported by data?

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- q. At the Lender's request, were any waivers requested from the HUD area office for any MAP requirements? If so, was the request approved or rejected, what requirements were waived and what were the justifications for the waivers?
- r. Did the Lender obtain the necessary certifications from the individual reviewers?
- s. Did the Lender certify that the proposed loan represented an acceptable risk to the Department (Section 220, or 221d3, 221d4 or 231) or is economically sound (Section 223(f)), based upon the Lender's analysis, and that the loan complied with all FHA statutory, regulatory and administrative requirements?
- t. Did the Lender prepare a Master HUD 92264 signed by the Lender's underwriter?
- u. Did the Lender submit an application for a Firm Commitment within 120 days of the date of the invitation letter? If not, did it request an extension and provide justification for the request?
- v. Were credit reports obtained on all businesses, individuals and on all required principals who are parties to the transaction?
  - i. Determine whether the loan file contains a comprehensive analysis of the borrowing entity to identify the business and individual credit report(s) that are required on the appropriate principals of the borrowing entity, sponsor, mortgagor and general contractor, if applicable.
  - ii. Determine if more than one credit report was ordered on the same principal/company and, if so, whether the most current credit reports were submitted with the loan application.
  - iii. Determine whether any outstanding judgments shown on the credit report(s) were accompanied by an explanation and supporting documentation. If delinquent Federal debt existed, the Lender must have included a letter from the Federal agency in accordance with Section 8.3G of the MAP Guide.
- w. Determine whether verifications of deposit and trade references were sent, received and considered in the project underwriting.
- x. Determine whether all conflicting information or discrepancies were reconciled and properly documented in writing.
- y. Determine that the loan file contains a financial statement(s) on the principals, sponsor, and on the mortgagor. If the project involved new construction or substantial

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rehabilitation, determine if a financial statement was obtained from the general contractor.

- z. Determine that the financial statements were analyzed following generally accepted business practices to determine financial capability.
- aa. Verify that the MAP underwriter determined that the sponsor and/or general contractor had a sufficient level of experience for the type and/or size of project that was approved.
- bb. Determine if all material negative information about the project and individuals or entities involved in the transaction was disclosed to HUD in the underwriter's written summary.
- cc. Determine if the MAP underwriter performed QC over the work of the MAP Lender's other staff and/or third-party contractors which participated in underwriting the project, and determine if:
  - i. The preparers of the forms/reports/reviews are qualified as required by the MAP Guide, and have insurance, if required by the Guide.
  - ii. The forms/reports/reviews were prepared in the manner required by the MAP Guide and that the forms/reports/reviews are complete and accurate.
  - iii. The proposed loan represents an acceptable risk based on the underwriter's review and analysis.
  - iv. The required reports and documentation flowed in a timely manner from one discipline to another.
- dd. Determine that the underwriter analyzed the project's proposed management plan, including a review of the management agent's past experience, capacity and track record, to assure that the development would be managed in a prudent, efficient and cost-effective manner.
- ee. Determine if the underwriter verified that the professional used in the environmental review was qualified for the assigned responsibilities.
- ff. Determine if the underwriter provided HUD with a narrative report and supporting documentation that addressed all HEROS (HUD Environmental Review Online System) requirements, including the Phase I Environmental Site Assessment (ESA) and the Phase II ESA, if required.
- gg. Determine if the loan met the criteria for a reduced MIP for Green Building loans.



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hh.. Determine the scope of any deficiencies that were identified by the HUD review staff. Did the initially submitted Firm Commitment and/or closing package substantially meet HUD's requirements or were significant revisions required? Did any deficiencies they identified significantly impact the overall processing?

### 8. Specific Requirements for QC Reviews of Appraisals

For the appraisal review portion of the QC review:

- a. Determine if the appraiser was properly certified in the appropriate jurisdiction where the property is located. (Temporary certifications may be acceptable so long as the appraiser meets all competency requirements).
- b. Provide the review appraiser's opinion as to the completeness of the material under review.
- c. For Section 220, 221(d), 231 or 241 appraisal processing:
  - i. Does the appraiser meet the qualification and competence requirements outlined in the MAP Guide?
  - ii. Is the appraisal a narrative self-contained report that is inclusive of and supportive of all required HUD Form Documentation (HUD-92264, HUD-92264-A, HUD-92264-T, HUD-92273 and HUD-92274)?
  - iii. Does the appraisal have an effective date within 120 days before the date of the Firm Commitment?
  - iv. Does the appraisal include the appraiser's USPAP required certification?
  - v. Did the primary appraiser designated by the lender perform the property inspection and sign the appraisal report and supporting form documentation?
  - vi. Did the appraisal include photographs of the subject, the comparable sales and comparable rentals?
  - vii. Does the appraisal adequately describe and analyze the geographic area, neighborhood, rental competition, sales comparables, the site and the subject improvements?
  - viii. Does the appraisal establish the project's "Replacement Cost" in accordance with Chapter 7, Section 7.4 of the MAP Guide, and Form HUD-92264?

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- ix. Substantial Rehabilitation – Does the appraisal include a supplemental HUD-92264 that identifies the “As Is” and “As Complete” Values of the improvements, supported by the income and direct sales comparison approaches, as defined in HUD Handbook 4465.1 and the MAP Guide?
  - x. New Construction – Does the appraisal identify the “Warranted Price of Land” as defined in HUD Handbook 4465.1 and the MAP Guide?
  - xi. Does the appraisal identify the “Estimate of Market Rent by Comparison,” as of the appraisal date, arrayed in the included HUD-92273 and as defined in the Form’s instructions?
  - xii. Does the appraisal identify the project’s estimated potential gross income and stabilized occupancy ratio in the included HUD-92264?
  - xiii. If commercial facilities are located within the project, does the appraisal include a separate analysis of the effect the commercial space will have on the project, as outlined in the MAP Guide, and does the commercial space meet the income and floor area limitations outlined in the MAP Guide?
  - xiv. If any comparables have rent concessions, did the appraisal account for them in the market rental analysis as required by the MAP Guide?
  - xv. Does the appraisal identify the project’s estimated operating expenses, based upon at least three expenses comparables arrayed in the included HUD-92274 and as required by the Form’s instructions?
  - xvi. Does the appraisal properly update the expense comparables, meet disclosure requirements for the comparables, and have the subject property’s expenses been trended to the date of the appraisal per Form HUD-92274 instructions?
  - xvii. Does the appraisal identify the estimated operating deficit and replacement reserve requirements, as defined in the MAP Guide?
9. Specific Requirements for QC Reviews of Section 223(f) appraisals
- a. Does the appraiser meet the qualification and competence requirements outlined in the MAP Guide?
  - b. Is the appraisal a narrative self-contained report that is inclusive of and supportive of all required HUD Form Documentation (HUD-92264, HUD-92264-A, HUD-92264-T, HUD-92273 and HUD-92274)?
  - c. Does the appraisal have an effective date within 120 days before the date of the

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submission of the application?

- d. Does the appraisal include the appraiser's USPAP certification?
- e. Did the primary appraiser designated by the lender and approved by HUD perform the property inspection and sign the appraisal report and supporting form documentation?
- f. Did the appraisal include photographs of the subject, the comparable sales and comparable rentals?
- g. Does the appraisal adequately describe and analyze the geographic area, neighborhood, rental competition, sales comparables, the site and the subject improvements?
- h. Does the appraisal establish the project's fair market value supported by reconciliation of the cost, income and sales comparison approaches in accordance with the MAP Guide and Form HUD-92264?
- i. Does the appraisal establish a total estimated replacement cost (if warranted due to the age of the property) and apply all applicable forms of depreciation for use in the final reconciliation process?
- j. Does the appraisal identify the "Warranted Price of Land" as defined in HUD Handbook 4465.1 and the MAP Guide?
- k. Does the appraisal identify the "Estimate of Market Rent by Comparison," as of the appraisal date, arrayed in the included HUD-92273 and as defined in the Form's instructions?
- l. Does the appraisal include the current rent roll, a statement of current occupancy and does it identify the project's estimated potential gross income and stabilized occupancy ratio in the included HUD-92264?
- m. If commercial facilities are located within the project, does the appraisal include a separate analysis of the effect the commercial space will have on the project and does the commercial space meet the income and floor area limitations outlined in the MAP Guide?
- n. If any comparables have rent concessions, did the appraisal account for them in the

market rental analysis as required by the MAP Guide?

- o. Does the appraisal present at least three years of historic expenses and have the forecasted expenses been based upon the historic operation of the property supported by at least three expense comparables arrayed in the included HUD-92274 and as required by the Form's instructions?
- p. Does the appraisal properly update the expense comparables, meet disclosure requirements for the comparables, and have the subject property's expenses been trended to the date of the appraisal per Form HUD-92274 instructions?
- q. If applicable, does the appraisal identify the estimated operating deficit and replacement reserve requirements, as defined in the MAP Guide?

10. Specific Requirements for QC Reviews of Market Studies

For the Market Study review, the review appraiser should provide their opinion as to the completeness of the material under review and determination of the overall compliance with market study processing requirements:

- a. Does the market analyst meet the qualification and competence requirements outlined in the MAP Guide?
- b. Is the market study a narrative self-contained report?
- c. Does the market study have an effective date within 120 days before the date of submission of the pre-application or, for a refinancing, within 120 days of submission of the application for a Firm Commitment?
- d. Does the market study adequately describe and analyze the geographic boundaries and general characteristics of the market area, specific market conditions, characteristics of projects under construction and in the planning stages, and contain a supply and demand estimate and analysis and estimated absorption time (if applicable)?
- e. Is the market study prepared in accordance with the information supplied by the MAP lender as described in the appropriate MAP Guide Appendix?
- f. Is the market study prepared in accordance with the format prescribed in the appropriate MAP Guide Appendix?

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- g. Does the market study include the market analyst's certification?
- h. Provide the review appraiser's opinion as to the adequacy and relevance of the market data and the propriety of any adjustments made to the data.
- i. Provide the review appraiser's opinion as to the appropriateness of the analysis methods and techniques used by the market analyst.
- j. Provide the review appraiser's opinion as to the market analyses, opinions and conclusions.

### 11. Specific Requirements for QC Reviews of the Architectural Review

For the architectural portion of the QC review of Sections 220, 221(d), 231 or 241, Lender's Architectural Analyst review report:

- a. Does the Architectural Analyst meet the qualification and competence requirements outlined in the MAP Guide?
- b. Has the Architectural Analyst determined that the Mortgagor's Architect (or other persons or organizations providing architectural services) is qualified to provide the design services to the project and to administer the construction contract?
- c. Review the Owner-Architect Agreement (AIA Document B108); indicate if separate Agreements are required for design and construction services.
  - i. Are all necessary services included without deletion?
  - ii. Is the compensation other than a fixed fee?
- d. Review of Architectural Standards. Does the Lender's Architectural Analyst review report address:
  - i. HUD minimum property standards?
  - ii. Applicable building codes?
  - iii. Accessibility laws: Fair Housing Act; UFAS (if Section 504 is applicable); 2010 ADA Standards (if Title II or III of the ADA are applicable)?
  - iv. Energy efficiency?
- e. Does the report address the mortgagor's A&E exhibits?
  - i. Are drawings and specs complete and correct?

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- ii. Are utility services available?
- f. Review of the experience and qualifications of the general contractor:
  - i. Did the Lender's architectural analyst prepare a written review of the general contractor?
  - ii. Does the review indicate acceptance?
- g. Did the Lender's architectural analyst perform an IOI review as required by the MAP Guide?
  - i. Is there a description of any and all IOIs that exist between the owner's architect or engineer, the owner and the general contractor?
  - ii. Is there a description of any and all IOIs that exist between the general contractor, subcontractor(s) and material supplier(s)?
  - iii. If no IOIs exist, is this stated?
- h. Does the site visit report address?
  - i. Physical features (existing construction, topography, drainage, etc.)?
  - ii. Unusual site conditions, demolition, offsite construction?
  - iii. Environmental conditions/hazards?
- i. Establishing an architectural liaison with the mortgagor's architect:
  - i. Is there a processing record of architectural/engineering actions?
  - ii. Is there an acceptable journal of architectural actions?
  - iii. Is there an organized file of HUD applications, forms and documents?
  - iv. Is there a record of meetings and contacts with the mortgagor's Architect?
  - v. Is there clear documentation?
- j. Did the liaison with HUD labor relations staff verify the applicable Davis-Bacon wage rates?
- k. Was there a liaison established with the Lender's cost analyst?
- l. Review of the Firm Commitment architectural/engineering exhibits:
  - i. Is there a clear and complete exhibit review list?
  - ii. Is there a statement indicating that the Firm Commitment architectural exhibits

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are acceptable without condition, and that all deficiencies have been acceptably corrected?

- iii. Does report address:
  - Completeness of contract documents?
  - Conformance to local building codes and HUD standards?
  - Accessibility for persons with disabilities?
  - Site design?
  - Building design?
  
- m. Review the preparation of the architectural portions of Form HUD-92264:
  - i. Is there a Form HUD-92264 with all architectural portions complete?
    - Section A – Architectural portions
    - Section B - Architectural portions
    - Section C - Unit breakdown with net areas
    - Section D - Architectural portions
  - ii. Has the architectural analyst signed the form?
  
- n. Review the report to the Lender’s underwriter:
  - i. Has the architectural analyst submitted a report on the project to the underwriter?
  - ii. Does the report contain an analysis of the project?
  - iii. Does the report recommend: acceptance or negotiated changes with the mortgagor or rejection?
- o. Did the Lender’s architectural analyst submit a Standard Certification (MAP Section 11.2.G)?
  
- p. Is there a Design Architect’s Certification (MAP Appendix 5H)?
  
- q. For substantial rehabilitation projects:
  - i. Has the Lender’s architectural analyst submitted a report of the Joint Inspection?
  - ii. Does the report indicate that a complete and thorough inspection was conducted on all features of the project site and on a sufficient number of living units?
  - iv. Has the Lender’s architectural analyst prepared a report on the mortgagor’s Architect’s Detail Work Write-up?
  - v. Does the report address:
    - All general or specific work requirements?
    - Clarity or vagueness of work requirements?
    - Historic requirements?
  - vi. Has the Lender’s architectural analyst indicated whether there are engineering reports?
  - vii. Has the mortgagor been notified of any requirements?
  - viii. Has the exact nature of the engineering report been covered?
  - ix. Were there any special tests, such as seismic resistance in applicable seismic zones?

12. Specific Requirements for QC Reviews of the Lender's Architectural Analyst review report
- a. Liaison with Lender's cost analyst: Is there documentation of contacts regarding:
    - Nature and cost of repairs?
    - Replacement reserve items?
  - b. Lender review of Property Capital Needs Assessment (PCNA): Does the Physical Inspection Report (PIR) address:
    - Adequacy of number of dwelling units inspected?
    - Condition of project?
    - Repair work write-up?
    - Critical and non-critical repairs?
    - Expected component replacement and major maintenance needs for the near term, long term and remaining useful life?
    - Compliance with accessibility laws and standards, including the Fair Housing Act (for projects designed and constructed for first occupancy after March 13, 1991 built after 3/13/1991); UFAS (for projects with federal financial assistance); 2010 ADA Standards (for projects that are a program or activity of a state or local government or a place of public accommodation)?
  - c. Does the Statement of Resources and Needs address:
    - Review and possible adjustment to the PIR?
    - Identification of critical and non-critical repairs?
  - d. Is there evidence that all critical repairs have been adequately completed and inspected?
  - e. Review of mortgagor's exhibits:
    - Has Lender's architectural analyst prepared a review report of mortgagor's exhibits?
    - Does report indicate whether exhibits are complete and correct?
  - f. Preparation of architectural portions of Form HUD-92264:
    - i. Is there a Form HUD-92264 with all architectural portions complete, including:
      - Section A – Architectural portions
      - Section B - Architectural portions
      - Section C - Unit breakdown with net areas
      - Section D - Architectural portions
    - ii. Has the architectural analyst signed the form?
  - g. Report to the Lender's Underwriter:



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- i. Has the architectural analyst submitted a report on the project to the lender's underwriter?
  - ii. Does the report contain an analysis of the project?
  - iii. Does the report recommend acceptance, negotiated changes with the mortgagor or rejection?
- h. Has the lender's architectural analyst submitted a Standard Certification (MAP Section 11.2.I)

### 13. Specific Requirements for QC Reviews of the Cost Review

- a. For the Cost Review of Sections 220, 221(d), 231 or 241 loans, lender's Cost Analyst review report: Did the lender hire a qualified construction cost estimator with experience in multifamily cost estimating?
- b. A detailed independent cost estimate must provide:
  - i. Documentation of the method of estimation and data source.
  - ii. To be summarized on Form HUD-92326:
    - Detailed structure(s) and land improvement cost estimates, and costs of any unusual site development
    - Contractor's General Requirements
    - Contractor's General Overhead
    - Contractor's Profit (for non-BSPRA cases)
    - Architect's Design and Supervision fees
    - Bond Premium and Mortgagor's and Contractor's
    - Other Fees
    - Onsite demolition costs
    - Offsite improvements costs
    - Project's Cost Not Attributable (CNA) to dwelling use
    - For sub rehab projects, complete Rehab CNA Worksheet (MAP Appendix 5J).
- c. Preparation of cost portions of Form HUD-92264:
  - i. Is there a Form HUD-92264 with all cost portions completed?
    - Section G – Cost portions
    - Section M
  - ii. Has the cost analyst signed the form?
- d. Review of Form HUD-2328, Contractor's and/or Mortgagor's Cost Breakdown:
  - i. Is HUD-2328 complete and signed by all parties?
  - ii. Has lender's cost reviewer prepared a comparison of Form HUD-2328 and the independent cost estimate on Form HUD-92326?

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- Line item comparison on Form FHA-2331-B?
  - Written documentation of resolution of significant differences in lender's HUD-92326 and contractor's HUD-2328 cost estimates?
  - Has lender's cost reviewer prepared a written recommendation of approval or disapproval of contractor's HUD-2328?
- e. Review of the Property Insurance Schedule, Form HUD-92329:
- i. Has Form HUD-92329 been prepared and signed?
  - ii. Is there a backup worksheet indicating how the Insurable Value(s) of the project structure(s) were determined?
14. Specific Requirements for QC Reviews of the Identity of Interest (IOI) Review
- a. Has the lender's cost reviewer been supplied with IOI information by lender's architectural reviewer?
  - b. For an identified general contractor:
    - Does the cost estimate indicate "BSPRA" under Builder's Profit?
    - Has the 50-75% rule been applied to determine whether the contractor qualifies for general overhead and profit or BSPRA, or should it be replaced by the dominant subcontractor?
  - c. For identified subcontractors and/or material suppliers:
    - Is there documentation that the IOI subcontract(s) were submitted to HUD for prior approval of overhead and profit?
    - If any subcontract(s) were not submitted, has overhead and profit been deleted from the accepted contract amount?
    - Have letter(s) of approval/disapproval been prepared for the mortgagor and general contractor?
15. Specific Requirements for QC Reviews of the Report to the Underwriter
- a. Has the cost analyst submitted a report on the project to the lender's underwriter?
  - b. Did the report contain an analysis of the project costs?
  - c. Did the report recommend acceptance, negotiated changes with the mortgagor or rejection?
  - d. Did the lender's cost analyst submit a Standard Certification (MAP Section 11.2.G)?
16. Specific Requirements for QC Reviews of Substantial Rehabilitation projects
- a. Joint Inspection Report and Architect's detailed work write-up:
    - Does the lender's cost analyst have a copy of the Joint Inspection report?

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- Does the lender's cost analyst have a copy of the mortgagor's Architect's Detailed Work Write-up?
- Do the Joint Inspection Report and Architect's Detailed Work Write-up include Reserve for Replacement (R4R) items?
- Is there an itemized breakdown of R4R items?
- Does the breakdown indicate the age and remaining useful life of the R4R items?
- b. Detailed Cost Estimate:  
Does the lender's cost analyst's detailed cost estimate clearly reflect all the scope of work items in the Detail Work Write-up?
- c. Reserve for Replacement estimate:
  - Has the lender's cost analyst provided an R4R cost estimate?
  - Is the R4R cost estimate itemized and incorporate the remaining useful life for the R4R items?
  - Is there a replacement schedule for the R4R items?

### 17. Specific Requirements for QC Reviews of Section 223(f) loans

- a. Are the qualifications of the Cost Analyst and Needs Assessor acceptable?
- b. Liaison with lender's architectural analyst: Is there documentation of contacts regarding the PCNA?
- c. Summary of cost estimate for hypothetical "as new" building:
  - i. Documentation of method of estimation and data source.
  - ii. Summary "bottom-line" cost estimate:
    - Structure(s) and land improvement cost estimates, for hypothetical "as new" building:
      - Contractor's General Requirements
      - Contractor's General Overhead
      - Contractor's Profit
      - Architect's Design and Supervision fees
      - Bond Premium and Mortgagor's and Contractor's Other Fees
- d. Preparation of cost portions of Form HUD-92264:  
Is there a Form HUD-92264 with all cost portions complete?
  - Section G – Cost portions (hypothetical "as new" costs)
  - Section M must be blank.
  - Are critical and non-critical repair costs summarized in Section O?
  - Has the cost analyst signed the form?
- e. Review of PCNA.
  - i. Did the lender's cost analyst prepare a written report reviewing:
    - Cost portions of Project Inspection Report (PIR), including the costs of Critical and Non-critical repairs?  
For all deferred non-critical repairs, estimate the required escrow amount.
  - ii. Expected cost of expected component replacement and major maintenance needs for:
    - Near term

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- Long term
- iii. Statement of Resources and Needs recommending:
  - Initial Deposit to the Reserve for Replacement, if any
  - Annual (or monthly) deposit to the Reserve for Replacement
  - Near Term replacement schedule indicating annual deposits, itemized expenditures and remaining funds at the end of each year.
- f. Documented advice to Lender concerning the PCNA:  
Lender's cost analyst must provide opinions and recommendations for acceptance or change to the PCNA regarding cost items:
  - Critical and Non-critical repairs
  - Funding schedules in Near Term and Long-Term items in the Reserve for Replacement account
- g. Property Insurance Schedule, Form HUD-92329:
  - i. Has the Lender's cost analyst prepared and signed Form HUD-92329?
  - ii. Is there a backup worksheet indicating how the Insurable Value(s) of the project structure(s) were determined?
- h. Report to Lender's Underwriter.
  - i. Did the cost analyst submit a report on the project to the Lender's underwriter?
  - ii. Does the report contain an analysis of the PCNA?
  - iii. Does the report recommend acceptance, negotiated changes with the mortgagor or rejection?
- i. Has the Lender's cost analyst submitted a Standard Certification (MAP Section 11.2. I)?

### 18. Specific Requirements for QC Reviews of Construction Loan Administration

The QC review of the Lender's construction loan administration must, at a minimum, meet the following requirements.

- a. Analyze loans for general compliance with the construction loan administration requirements found in the MAP Guide and MAP FAQs.
- b. Analyze escrow administration to assure that the escrows are properly funded and that the funds are only used for their intended purposes.
- c. Analyze procedures for collection and recordation of payment receipts, escrow bills, disbursements from escrow and claim submissions.
- d. Analyze procedures that were used for handling any letters of credit.

- e. Analyze procedures that were used for handling the investment of construction loan escrows.
- f. Analyze the procedures for processing construction loan advances, change orders and notification of surety, cost certifications and post endorsement escrows.
- g. Analyze any delinquent loans and loans in foreclosure to determine compliance with HUD-FHA fiscal requirements and procedures, such as timely assignments and extension requests, property preservation requirements and inspections.
- h. Review any claim submissions on projects that have not reached final endorsement to assure that all efforts have been exhausted to “work-out” the loan and that all claims are properly documented, supported and filed in accordance with HUD-FHA requirements.

## II. Identity of Interest **Examples**

### A. MAP Lender’s and Borrower’s Team

- a) *Example 1:* The Borrower’s spouse is an employee of the MAP Lender. A prohibited IOI is created.
- b) *Example 2:* The Management Agent is owned by the Borrower. A prohibited IOI is not created, but the IOI must be disclosed.
- c) *Example 3:* The General Contractor has an ownership interest in the Borrower. A prohibited IOI is not created. The relationship must be disclosed, whether or not the loan includes BSPRA (versus Builder Profit).
- d) *Example 4:* A principal of the Borrower owns 1,000 shares of a large publicly traded bank at \$50 per share. A subsidiary of the bank is acting as the MAP Lender. The Borrower inherited the stock, and it has been in his family for 30 years. This is not considered an IOI as the ownership interest is de minimis.
- e) *Example 5:* A MAP Lender recommends an attorney to borrowers (as borrower counsel) to facilitate closing because of their familiarity with HUD requirements. The attorney has represented the Lender on other transactions. This is not an IOI, unless the attorney is also advising the Lender on this transaction, or has a direct financial or family relationship with, or is, an employee or principal of the Lender.

### B. Secondary Financing Relationships

A Bank Holding Company that is an affiliate of the MAP Servicing Lender wants to offer a Borrower a Letter of Credit to meet the cash requirements of an FHA insured new construction project. This creates a conflict of interest: during the construction period, the MAP lender’s responsibility is representing FHA, not providing credit to meet Borrower cash requirements.

### C. Bridge Loans and Balance Sheet Loans

An affiliate of a MAP Lender made a short-term loan to a Borrower on a property with a cap rate of 3 in a strong market. The market crashed, cap rates went up dramatically and vacancy rates skyrocketed. The Borrower was not able to pay the debt off when it matured and it was extended indefinitely with a high interest rate and unpaid amounts accruing. The MAP Lender has a conflict of interest in the property's valuation and thus has an IOI. The MAP Lender must disclose the relationship in the underwriting to MACOD and particular attention will be paid to the valuation analysis.

D. Inducements

An IOI is created when there exists or comes into being any side deals, agreements, contracts or undertakings entered into or contemplated, that would amend, alter, negate or cancel any provision of the HUD-required closing documents.

E. Gifts

- a) *Example 1:* A bill at dinner celebrating a closing would not be considered a prohibited gift that could create an IOI so long as the amount of the bill was customary and typical.
- b) *Example 2:* A Non-Profit Borrower is considering proposals for refinancing their transactions. A MAP Lender gives a board member of a Non-Profit Borrower an expensive Swiss wristwatch so the Borrower will be influenced to select the lender to process the MAP transaction. MACOD would conclude that this is a prohibited inducement.
- c) *Example 3:* For Christmas, the principals of a MAP Lender and of a Borrower exchange inexpensive gifts because they have been friends for 20 years and often do activities together with their families. There is an exemption for gifts that are clearly demonstrated to be based on a longstanding or purely personal relationship, which would appear to be the situation here. Factors to be considered are the reciprocal nature of the relationship, timing and whether the amounts involved are de minimis and typical of social relationships outside of the industry.

F. Charitable Donations

- a) *Example 1:* A \$10,000 donation given by the MAP Lender to a charity run by the wife of a principal in the Borrower's entity around the time of a project's application engagement or closing, would be presumed to create a prohibited IOI. The MAP Lender would have to prove that such an IOI does not exist.
- b) *Example 2:* A MAP Lender donated \$5,000 to a charity run by the Borrower 10 years ago. An IOI would likely not be created.
- c) *Example 3:* A Map Lender donates money to a charitable foundation researching health care or seniors aging issues. A Non-profit Borrower has a substantial interest in the foundations and its work. The lender's contributions were \$2,000 each of the past four years. The lender intends to continue such donations. Such a contribution would not be a prohibited IOI.
- d) *Example 4:* A MAP Lender donated \$100,000 to a museum. The MAP Lender made no prior donations to the museum. The museum is a charitable organization in which a principal of the Borrower or one of their close relations has an active and significant participation as a volunteer, board member or donor. This would be presumed to

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create a prohibited inducement and a conflict of interest, which the MAP Lender would have to prove does not exist. /