

HUD Form 90092 Multifamily and Healthcare Loan Sale Qualification Statement

LOCATION	CURRENT TEXT	REVISED TEXT
Box Area: Page 1, 2 nd par	Privacy Act Notice. Regulations mandating the Qualification Statements come from 24CFR290.18 and 24CFR24. Authority to sell Multifamily and Healthcare Loans come from Section 203(k) of the Housing and Community Development Amendments of 1978.	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). Note: Language above was revised to correct citation
Box Area: Page 1, 3 rd par	HUD is authorized to collect this information under 24CFR290.18 and 24CFR24.	HUD is authorized to collect this information under 12 USC 1715z-11a and 24 CFR Part 290 Note: language above was revised to correct citation
Page 1, first par, 1st sentence	MHLS	Multifamily and Healthcare Loan Sale (MHLS)
Page 1, first par, 4 th sentence	The Department of Housing and Urban Development (HUD) is authorized to collect this information by the Housing and Community Development Act of 1987 42 USC 3543.	The Department of Housing and Urban Development (HUD) is authorized to collect this information under 12 USC 1715z-11a and 24 CFR Part 290.
Page 1, 2 nd par, 2 nd sentence	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, 1007, and 1014.	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.
Page 3, section #7	Purchaser is a mortgagor with respect to one or more of the Mortgage Loans being offered in the Loan Sale and, as such, has the requisite knowledge and experience with respect to those Mortgage Loans and the properties securing those Mortgage Loans to enable it to evaluate the merits and risks of a purchase of and to make an informed decision with respect to those Mortgage Loans. The projects securing the Mortgage Loans with respect to which Purchaser is the mortgagor or is an affiliate of the mortgagor are listed below. (Checking only this box and meeting the requirements in Paragraphs J and K below will enable Purchaser to be qualified to bid only on Purchaser's Mortgage Loans as identified below). If Purchaser checked Number 7, please indicate the appropriate Mortgage Loans below:	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).

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<p>Page 4 – New Item #8</p> <p>Note: The current item #7 text was broken into #7 and #8 to clearly delineate the type of bidder</p>		<p>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 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).</p>
<p>Page 5, item E</p> <p>This revision clarifies who can qualify to bid relative to their interest or involvement in the property securing the or involvement in the origination of the loan being sold</p>	<p>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.</p>	<p>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 <i>if</i> 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) <i>unless</i> 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</p>

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		<p>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), <i>unless</i> 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.</p>
<p>Pages 5 & 6, Item F</p> <p>Essentially the current Item F is now Item G and the current item F is replaced with revised text.</p>	<p>Purchaser represents and warrants that it is not: (i) 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 household; (ii) an individual or entity that is debarred, suspended, or excluded from doing business with HUD pursuant to Title 24 of the Code of Federal Regulations, Part 24; (iii) 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; (iv) an individual who was a principal, partner, director, agent or employee of any entity or individual described in subsection (iii) above, at any time during which the entity or individual performed services for or on behalf of HUD in connection with the Loan Sale; (v) an individual or entity that uses the services, directly or indirectly, of any person or entity ineligible under subsections (i) through (iv) above to assist in preparing any of its bids on any Mortgage Loans; or (vi) an individual or entity which employs or uses the services of an employee of HUD (other than in such employee’s official capacity) who is involved in the Loan Sale.</p> <p>In addition, Purchaser represents and warrants that (i) within the two-year period prior to _____, it has not, and it is not an affiliate, principal or employee of any 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 _____, 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 _____, (x) serviced any of the Mortgage Loans or performed other services for or on behalf of HUD</p>	<p>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.</p>

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	<p>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.</p>	
<p>Page 6, Item G</p>	<p>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.</p>	<p>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 <i>if</i> 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</p>

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		<p>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.</p> <p>In addition, (xii) Purchaser represents and warrants that (i) within the two-year period prior to _____, it has not, and it is not an affiliate, principal or employee of any 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 _____, (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.</p> <p>If Purchaser satisfies any of the criteria identified in subsections (i)-(xii) above, Purchaser is ineligible to bid in the Loan Sale.</p>
Page 6, Item H	<p>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.</p>	<p>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</p>

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		therewith, Purchaser authorizes HUD and its agents to conduct credit investigations of Purchaser and all principals of Purchaser through appropriate third-party reporting agencies
Page 6, Item I	If Purchaser is a mortgagor with respect to any of the Mortgage Loans being offered in the Loan Sale, Purchaser has identified such Mortgage Loans under Number 7 above. If Purchaser has only checked Number 7 under Part II above, Purchaser acknowledges and agrees that Purchaser will only be permitted to review information concerning the Mortgage Loans identified under Number 7 above and to bid on the Mortgage Loans identified under Number 7 above.	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.
Page 6, Item J	If Purchaser is a mortgagor with respect to any of 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 fiscal years _____. If any of the _____ 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 _____. If HUD does not receive the required financial statements by _____, 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.	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.
Page 7, Item K	If Purchaser or any Related Party, as defined below, is a mortgagor in any of HUD's multifamily housing programs (regardless of whether such mortgage loan is included in the Loan Sale), Purchaser represents and warrants that: (i) neither Purchaser nor any of its Related Parties is in default (whether monetary or nonmonetary) under any HUD loan, and neither Purchaser nor any of its Related Parties 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 _____. If Purchaser does not cure such default or violation on or before _____, Purchaser will be ineligible to bid in the Loan Sale. If Purchaser or any Related Party is in default under any HUD loan or in violation of any HUD regulatory or business agreement, please check the following line and indicate on an attachment submitted with this Qualification Statement the FHA loan number, the name of the project, the name of the mortgagor, and the nature of the default or	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 fiscal years 2015 – 2017. If any of the 2015 – 2017 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 August 1, 2018. If HUD did not receive the required financial statements by _____, Purchaser will be ineligible to bid in the Loan Sale. Purchaser agrees to provide any additional information relating to such a Mortgage Loan or

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	<p>violation. _____</p> <p>For purposes of this Qualification Statement, Related Parties 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 of its Related Parties that is a mortgagor in a HUD multifamily housing program is identified on an attachment submitted with this Qualification Statement.</p>	<p>project as HUD may reasonably request in connection with the Loan Sale.</p>
<p>New Item L</p>	<p>None</p>	<p>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 August 1, 2018. 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 _____, Purchaser will be ineligible to bid in the Loan Sale.</p> <p>In addition, Purchaser represents and warrants that neither Purchaser nor any Related Party is flagged in HUD's Active Partners Performance System (APPS),</p> <p>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,</p>

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		<p>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 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 _____, Purchaser will be ineligible to bid in the Loan Sale.</p> <p>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.</p>
New Item M	None	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.
New Item N	None	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
Page 7, Last	Purchaser understands that the above certifications,	Purchaser understands that the above certifications,

